



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 23, 2023

Raymond L. Edwards, Esq.
City Prosecutor, Pass Christian
Post Office Box 277
Pass Christian, Mississippi 39571

Re: Registered Sex Offenders and Public Beaches

Dear Mr. Edwards:

The Office of the Attorney General has received your request for an official opinion.

Questions Presented

1. Is a registered sex offender in violation of the law by residing less than five hundred feet from a public beach?
2. Is a public beach within the definition of “playground, ballpark or other recreational facility” in Mississippi Code Annotated Section 45-33-25(4)(a)?

Brief Response

1. A registered sex offender who wishes to reside less than five hundred feet from a public beach must receive advance approval from the Director of the Department of Public Safety Sex Offender Registry pursuant to Section 45-33-26, which provides that registered sex offenders may not lawfully be in or about a public beach without advance approval.
2. Whether a public beach fits within the definition of “playground, ballpark or other recreational facility” as set forth in Section 45-33-25(4)(a) requires a factual determination upon which this office may not opine.

Applicable Law and Discussion

Section 45-33-26(1)(b) provides, in pertinent part, that “[i]t is unlawful for a person required to register as a sex offender under Section 45-33-25 *to visit or be in or about any public beach or public campground where minor children congregate without advance approval from the Director*

of the Department of Public Safety Sex Offender Registry.” (Emphasis added). The statute does not contemplate the residence of a sex offender in relation to a public beach, but it does prohibit a sex offender from “be[ing] *in or about* any public beach” without approval. *Id.* (Emphasis added). Therefore, a registered sex offender would be required to have advance approval to reside less than five hundred feet from a public beach.

In response to your second question, Section 45-33-25(4)(a), which contemplates the residence of a sex offender, does not explicitly address residence in relation to a public beach. It does, however, prohibit a sex offender from residing within three thousand feet of “the real property comprising a public or nonpublic elementary or secondary school, a child care facility, a residential child-caring agency, a children’s group care home or any playground, ballpark *or other recreational facility* utilized by persons under the age of eighteen (18) years.” (Emphasis added).

Although “recreational facility” is not defined in that chapter or elsewhere in the Code, “[a]ll words and phrases contained in the statutes are used according to their common and ordinary acceptance and meaning; but technical words and phrases according to their technical meaning.” Miss. Code Ann. § 1-3-65. “Recreation” is defined as “refreshment of one’s mind or body after work through activity that amuses or stimulates; play.” *The American Heritage Dictionary of the English Language* (4th ed. 2006). “Facility” is defined as “something created to serve a particular function.” *Id.* Whether a public beach fits within the definition of “recreational facility” as used in Section 45-33-25(4)(a) requires a factual determination which we are unable to make by official opinion. Miss. Code Ann. § 7-5-25. Such determination should be made by the governing authority subject to review by a court of competent jurisdiction.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Abigail C. Overby*

Abigail C. Overby
Special Assistant Attorney General