



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 4, 2025

The Honorable Charlie Sims
Sheriff, Forrest County
55 Arena Drive
Hattiesburg, Mississippi 39401

Re: Mississippi Sex Offenders Registration Law

Dear Sheriff Sims:

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

Background

According to your request, you are seeking to clarify some of the terms and restrictions set forth in the Mississippi Sex Offenders Registration Law so that you can set the boundaries needed to properly confirm or deny residency requests for sex offenders. Miss. Code Ann. §§ 45-33-21, *et seq.*

Questions Presented

1. Is a “park” the same as a playground or recreational facility as referenced in Mississippi Code Annotated Section 45-33-25(4)?
2. Is a state park or national forest considered a prohibited area, and if so, should the 3000-foot zone begin at the property line or from the playground/ballpark/recreational facility located on its grounds?
3. Are the terms playground, ballpark, or recreational facility defined in any other statutes that could be applied to this situation?
4. Is a walking track/hiking trail considered a prohibited area?

Brief Response

1. As noted by the Mississippi Court of Appeals, the “Legislature took care to use the most expansive word it could when prohibiting sex offenders from living near playgrounds by

forbidding residency by “any playground.” *Taylor v. State*, 353 So. 3d 1114, 1121 (Miss. Ct. App. 2023) (emphasis in original). In determining whether a specific piece of property is a playground, the Court looked to how an ordinary person would see the defined area in question. *Id.* at 1122. Consistent with the Court’s description of playground in *Taylor* and our opinion in MS AG Op., *Edwards* at *1 (June 23, 2023), many properties may be included within the statutory parameters of “any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years” in Section 45-33-25(4)(a). However, whether a specific park, forest, walking track or trail constitutes a playground or recreational facility for the purposes of the Mississippi Sex Offenders Registration Law is a factual determination to be made by the local authorities.

2. See Response 1. The 3000-foot zone should be “measured from the nearest real property line of the sex offender's residence to the nearest real property line of the prohibited place.” *Taylor v. State*, 353 So. 3d at 1124.

3. See Response 1. The Mississippi Sex Offenders Registration Law does not define the terms playground, ballpark, or recreational facility. Whether a specific piece of property constitutes a playground, ballpark, or recreational facility is a factual determination to be made by the local authorities.

4. See Response 1.

Applicable Law and Discussion

The Mississippi Sex Offenders Registration Law requires persons convicted of certain enumerated offenses (“sex offenders”) to register or provide certain information to the responsible agency and the Department of Public Safety. Miss. Code Ann. §§ 45-33-21, *et seq.* “[T]he purpose of the Mississippi Sex Offenders Registration Law is to assist law enforcement and protect the community and vulnerable populations.” *L.B.C. v. Forrest Cnty. Youth Ct.*, 339 So. 3d 111, 117 (Miss. 2017). Pursuant to Section 45-33-25(4)(a):

A person required to register under this chapter shall not reside within three thousand (3,000) 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.

In *Taylor v. State*, the defendant, a registered sex offender, argued that the Mississippi Sex Offenders Registration Law was unconstitutionally vague because it does not contain a definition of the word playground and because it does not provide guidance or definitions on how the required distance should be measured. *Taylor*, 353 So. 3d at 1120. The Court of Appeals disagreed:

Pursuant to the statute, registered sex offenders cannot live within 3,000 feet of “any playground.” Our precedent requires “a . . . statute must define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement.”

An ordinary person would understand a registered sex offender is prohibited from residing within 3,000 feet of a playground, whether located by a church, standing alone in a neighborhood, or otherwise. The Legislature took care to use the most expansive word it could when prohibiting sex offenders from living near playgrounds by forbidding residency by “any playground.”

Id. at 1121 (internal citations omitted) (emphasis in original). Notably, the Court did not define “playground”; rather it determined that based on the physical features and equipment of the specific property, an ordinary person would see the defined area in question as a playground. *Id.* at 1122. When asked whether a public beach fits within the definition of a playground, ballpark or other recreational facility, this office stated:

Although “recreational facility” is not defined . . . 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.

MS AG Op., *Edwards* at *1 (June 23, 2023). Consistent with the Court’s description of playground in *Taylor* and our opinion in *Edwards*, many properties may be included within the statutory parameters of “any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years” in Section 45-33-25(4)(a). However, whether a specific park, forest, walking track or trail constitutes a playground or recreational facility for the purposes of the Mississippi Sex Offenders Registration Law is a factual determination to be made by the local authorities.

In response to your question regarding how to measure the 3000-foot distance, the Court in *Taylor* held: “those places listed in the statute are measured from the nearest real property line of the sex offender's residence to the nearest real property line of the prohibited place for purposes of determining compliance with the 3,000 feet prohibition.” *Taylor* at 1124 (citing MS AG Op., *Trowbridge* at *1 (May 18, 2007)).

As an additional resource, should you have any further questions, you may wish to contact the Mississippi Department of Public Safety, which has regulatory authority with respect to the Mississippi Sex Offenders Registration Law and maintains the Mississippi’s sex offender registry, pursuant to Section 45-33-35.

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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION