

By: Representatives Robinson (84th),
Cameron, Chaney, Davis, Denny, Eaton,
Ellington, Formby, Howell, Hudson, Janus,
King, Manning, Martinson, McElwain, Moore,
Read, Roberson, Rotenberry, Smith (35th),
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To: Judiciary B

HOUSE BILL NO. 990
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-25-49, MISSISSIPPI CODE OF 1972,
2 TO PROHIBIT THE WRONGFUL ACCESS TO TELECOMMUNICATIONS MESSAGES BY
3 PERSONS OTHER THAN THE INTENDED RECIPIENT OF SUCH MESSAGES; TO
4 PROVIDE FOR THE INADMISSIBILITY OF INFORMATION OBTAINED IN
5 VIOLATION OF THIS SECTION; TO REVISE PENALTIES; TO PROHIBIT
6 PHOTOGRAPHING OR FILMING ANOTHER PERSON WITHOUT PERMISSION WHEN
7 THERE IS AN EXPECTATION OF PRIVACY AND PROVIDE PENALTIES FOR
8 VIOLATIONS; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 97-25-49, Mississippi Code of 1972, is
11 amended as follows:

12 97-25-49. (1) A person who commits either of the following
13 offenses shall be punished by a fine of not more than One Thousand
14 Dollars (\$1,000.00), or by imprisonment in the county jail not
15 exceeding six (6) months, or both:

16 (a) Wrongfully obtains, or attempts to obtain, any
17 knowledge of a private telecommunications message by gaining
18 access to the origination, transmission, emission or reception of
19 signs, signals, data, writings, images and sounds or intelligence
20 of any nature by cellular telephone, when such person is not the
21 lawfully intended recipient of the message or is not authorized to
22 have access to such message, or by connivance with a clerk,
23 operator, messenger or other employee of a telecommunications
24 company; or

25 (b) Being such clerk, operator, messenger or other
26 employee, uses, or suffers to be used, or willfully divulges to
27 anyone but the person for whom it was intended, the contents of a
28 cellular phone message * * *.

29 (c) The provisions of this subsection shall not apply

30 to the use of a telephone monitoring device by either a law
31 enforcement agency acting pursuant to a valid court order or to a
32 corporation or other business entity engaged in marketing research
33 or telephone solicitation conversations by an employee of the
34 corporation or other business entity when the monitoring is used
35 for the purpose of service quality control and the monitoring is
36 used with the consent of at least one (1) person who is a party to
37 the conversation.

38 (d) The provisions of this subsection shall not apply
39 to an employee of a cellular telephone company who discloses or
40 uses an intercepted communication in the normal course of business
41 as a necessary incident to providing service or to the protection
42 of the rights or property of the employer or who provides
43 assistance to an investigative or law enforcement officer acting
44 under a valid court order.

45 (2) Any information obtained in violation of this section
46 shall not be admissible in any civil proceeding unless the
47 information was obtained by the lawful owner of the device that
48 obtained the information.

49 SECTION 2. Any person who with lewd, licentious or indecent
50 intent secretly photographs, films, videotapes, records or
51 otherwise reproduces the image of another person without the
52 permission of such person when such a person is located in a place
53 where a person would intend to be in a state of undress and have a
54 reasonable expectation of privacy, including, but not limited to,
55 private dwellings or any facility, public or private, used as a
56 restroom, bathroom, shower room, tanning booth, locker room,
57 fitting room, dressing room or bedroom shall be guilty of a felony
58 and upon conviction shall be punished by a fine of Five Thousand
59 Dollars (\$5,000.00) or by imprisonment of not more than five (5)
60 years in the custody of the Department of Corrections, or both.

61 SECTION 3. This act shall take effect and be in force from
62 and after July 1, 1999.