

By: Robertson

To: Judiciary

SENATE BILL NO. 3130
(As Passed the Senate)

1 AN ACT TO PROTECT VICTIMS OF FELONY PARENTAL CHILD SEXUAL
2 ABUSE; TO ENACT STANDARDS; TO CREATE A LOCAL REGISTRY; TO ENACT
3 PENALTIES; AND FOR RELATED PURPOSES.

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

5 SECTION 1. (1) (a) For purposes of this act, a conviction
6 of felony parental child sexual abuse shall include any nolo
7 contendere plea, guilty plea or conviction at trial to any offense
8 enumerated in Section 93-15-103(3)(g) or any other statute of the
9 State of Mississippi whereby a parent may be penalized as a felon
10 on account of sexual abuse of his or her own child; and shall
11 include any conviction by plea or trial in any other state of the
12 United States to an offense whereby a parent may be penalized as a
13 felon for sexual abuse of his or her own child under the laws of
14 that state, or which would be so penalized for such conduct had
15 the act or acts been committed in the State of Mississippi.

16 (b) A certified copy of the court order or judgment
17 evidencing such a conviction shall be accepted by any public
18 office with responsibilities pursuant to this act, and by any
19 court in the State of Mississippi, as conclusive evidence of the
20 conviction.

21 (2) (a) No person who has been convicted of felony parental
22 child sexual abuse shall contact or attempt to contact the victim
23 child without the prior express written permission of the child's
24 then legal custodian, who may be the other parent, a guardian,
25 person in loco parentis or person with legal or physical custody
26 of a child.

27 (b) No person who has been convicted of felony parental
28 child sexual abuse shall harass, threaten, intimidate or by any
29 other means menace the victim child or any legal custodian of the
30 child, who may be the other parent, a guardian, person in loco
31 parentis or person with legal or physical custody of a child.

32 (c) Any person who believes that a person who has been
33 convicted of felony parental child sexual abuse may violate the
34 provisions of subsection (2)(a) or (2)(b) hereof may register with
35 the sheriff and any municipal law enforcement agency of the
36 child's county and municipality of residence, setting forth the
37 factual basis for that belief which shall include a certified copy
38 of the court order or judgment evidencing the conviction of the
39 child sexual abuse felon. The sheriff's office of each county and
40 all municipal law enforcement agencies shall maintain a separate
41 and distinct register for the purpose of recording the data
42 required herein, and shall advise the reporting party of how
43 emergency contact can be made with that office at any time with
44 respect to a threatened violation of subsection (2)(a) or (2)(b)
45 hereof. Immediate response with police protection shall be
46 provided to any emergency contact made pursuant to this section,
47 which police protection shall be continued in such reasonable
48 manner as to deter future violations and protect the child and any
49 person with legal custody of the child.

50 (d) Any person who has been convicted of felony
51 parental child sexual abuse who violates subsection (2)(a) hereof
52 shall, upon conviction, be punished by imprisonment in the county
53 jail for not more than one (1) year. Any person who has been
54 convicted of felony parental child sexual abuse who violates
55 subsection (2)(b) hereof shall, upon conviction, be punished by
56 imprisonment in the state penitentiary for not more than five (5)
57 years.

58 (3) No person who has been convicted of felony parental
59 child sexual abuse shall be entitled to have parental or other

60 visitation rights as to that child who was the victim, unless he
61 or she files a petition in the chancery court of the county in
62 which the child resides, reciting the conviction, and joining as
63 parties defendant any other parent, guardian, person standing in
64 loco parentis or having legal or physical custody of the child. A
65 guardian ad litem shall be appointed to represent the child at
66 petitioner's expense. The court shall appoint a qualified
67 psychologist or psychiatrist to conduct an independent examination
68 of the petitioner to determine whether contact with that person
69 poses a physical or emotional risk to the child, and report to the
70 court. Such examination shall be at petitioner's expense. The
71 court shall require any such petitioner to deposit with the court
72 sufficient funds to pay expenses chargeable to a petitioner
73 hereunder, the amount of such deposit to be within the discretion
74 of the chancellor. Any defendant and the child through his or her
75 guardian ad litem shall be entitled to a full evidentiary hearing
76 on the petition. In no event shall a child be required to testify
77 in court or by deposition, or be subjected to any psychological
78 examination, without the express consent of the child through his
79 or her guardian ad litem. Such guardian ad litem shall consult
80 with the child's legal guardian or custodians before consenting to
81 such testimony or examination. At any hearing there is a
82 rebuttable presumption that contact with the child poses a
83 physical and emotional risk to the child. That presumption may be
84 rebutted and visitation or contact allowed on such terms and
85 conditions that the chancery court shall set only upon specific
86 written findings by the court that:

87 (a) Contact between the child and the offending parent
88 is appropriate and poses minimal risk to the child;

89 (b) If the child has received counseling, that the
90 child's counselor believes such contact is in the child's best
91 interest;

92 (c) The offending parent has successfully engaged in

93 treatment for sex offenders or is engaged in such treatment and
94 making progress; and

95 (d) The offending parent's treatment provider believes
96 contact with the child is appropriate and poses minimal risk to
97 the child. If the court, in its discretion, allows visitation or
98 contact it may impose such conditions to the visitation or contact
99 which it finds reasonable, including supervision of contact or
100 visitation by a neutral and independent adult with a detailed plan
101 for supervision of any such contact or visitation.

102 SECTION 2. This act shall take effect and be in force from
103 and after July 1, 2000.