

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 995

By Senator(s) Committee

8 **Amend by striking all after the enacting clause and inserting**
9 **in lieu thereof the following:**

10

11 SECTION 1. It shall be unlawful for any person to report a
12 crime or any element of a crime to any law enforcement officer or
13 any officer of any court, by any means, knowing that such report
14 is false. A violation of this section shall be punishable by
15 imprisonment in the county jail not to exceed one (1) year or by
16 fine not to exceed One Thousand Dollars (\$1,000.00), or both. In
17 addition to any fine and imprisonment, and upon proper showing
18 made to the court, the defendant shall be ordered to pay as
19 restitution to the law enforcement agency reimbursement for any
20 reasonable costs directly related to the investigation of the
21 falsely reported crime and the prosecution of any person convicted
22 under this section.

23 SECTION 2. Section 19-5-317, Mississippi Code of 1972, is
24 amended as follows:

25 19-5-317. (1) When there is not an emergency, no person
26 shall make a telephone call to an emergency telephone service and
27 knowingly or intentionally:

28 (a) Remain silent;

29 (b) Make abusive or harassing statements to an
30 emergency telephone service employee;

31 (c) Report the existence of an emergency; or

32 (d) Falsely report a crime.

33 (2) No person shall knowingly permit a telephone under his
34 control to be used by another person in a manner described in
35 subsection (1) of this section.

36 (3) Conviction of a first offense under this section is
37 punishable by a fine not to exceed Five Thousand Dollars
38 (\$5,000.00) or by imprisonment for a period of time not to exceed
39 one (1) year, or by both such fine and imprisonment. Conviction
40 of any subsequent offense under this section is punishable by a
41 fine not to exceed Ten Thousand Dollars (\$10,000.00) or by
42 imprisonment for a period of time not to exceed three (3) years,
43 or by both such fine and imprisonment.

44 (4) For the purpose of this section, "emergency telephone
45 service" shall mean a service established under Section 19-5-301
46 et seq., Mississippi Code of 1972, or established under the
47 provisions of a local and private act enacted prior to October 20,
48 1987.

49 (5) The penalty provided for in this section shall be in
50 addition to the penalty provided in Section 1 of House Bill No.
51 1995, 2000 Regular Session.

52 SECTION 3. (1) As used in this section, unless the context
53 clearly requires otherwise:

54 (a) "Home repair" means the fixing, replacing,
55 altering, converting, modernizing, improving of or the making of
56 an addition to any real property primarily designed or used as a
57 residence.

58 (i) Home repair shall include the construction,
59 installation, replacement or improvement of driveways, swimming
60 pools, porches, kitchens, chimneys, chimney liners, garages,
61 fences, fallout shelters, central air conditioning, central
62 heating, boilers, furnaces, hot water heaters, electrical wiring,
63 sewers, plumbing fixtures, storm doors, storm windows, awnings and
64 other improvements to structures within the residence or upon the
65 land adjacent thereto.

66 (ii) Home repair shall not include the sale,
67 installation, cleaning or repair of carpets; the sale of goods or
68 materials by a merchant who does not directly or through a
69 subsidiary perform any work or labor in connection with the
70 installation or application of the goods or materials; the repair,
71 installation, replacement or connection of any home appliance
72 including, but not limited to, disposals, refrigerators, ranges,
73 garage door openers, television antennas, washing machines,
74 telephones or other home appliances when the person replacing,
75 installing, repairing or connecting such home appliance is an
76 employee or agent of the merchant that sold the home appliance; or
77 landscaping.

78 (b) "Person" means any individual, partnership,
79 corporation, business, trust or other legal entity.

80 (c) "Residence" means a single or multiple family
81 dwelling, including, but not limited to, a single family home,
82 apartment building, condominium, duplex, townhouse or mobile home
83 which is used or intended to be used by its occupants as their
84 dwelling place.

85 (2) A person commits the offense of home repair fraud when
86 he knowingly:

87 (a) Enters into an agreement or contract, written or
88 oral, with a person for home repair, and he knowingly:

89 (i) Misrepresents a material fact relating to the
90 terms of the contract or agreement or the preexisting or existing
91 condition of any portion of the property involved, or creates or
92 confirms another's impression which is false and which he does not
93 believe to be true, or promises performance which he does not
94 intend to perform or knows will not be performed;

95 (ii) Uses or employs any deception, false pretense
96 or false promises in order to induce, encourage or solicit such
97 person to enter into any contract or agreement;

98 (iii) Misrepresents or conceals either his real
99 name, the name of his business, or his business address; or

100 (iv) Uses deception, coercion or force to obtain

101the victim's consent to modification of the terms of the original
102contract or agreement.

103 (b) Damages the property of a person with the intent to
104enter into an agreement or contract for home repair; or

105 (c) Misrepresents himself or another to be an employee
106or agent of any unit of the federal, state or municipal government
107or any other governmental unit, or an employee or agent of any
108public utility, with the intent to cause a person to enter into,
109with himself or another, any contract or agreement for home
110repair.

111 (4) Intent and knowledge shall be determined by an
112evaluation of all circumstances surrounding a transaction and the
113determination shall not be limited to the time of contract or
114agreement.

115 (5) Substantial performance shall not include work performed
116in a manner of little or no value or work that fails to comply
117with the appropriate municipal, county, state or federal
118regulations or codes.

119 (6) Violation of this section shall be punished as follows:

120 (a) By imprisonment in the custody of the Department of
121Corrections not to exceed two (2) years when the amount of the
122fraud is more than One Thousand Dollars (\$1,000.00) but less than
123Five Thousand Dollars (\$5,000.00).

124 (b) By imprisonment in the custody of the Department of
125Corrections not to exceed five (5) years when the amount of the
126fraud is Five Thousand Dollars (\$5,000.00) or more but less than
127Ten Thousand Dollars (\$10,000.00).

128 (c) By imprisonment in the custody of the Department of
129Corrections not to exceed ten (10) years when the amount of the
130fraud is Ten Thousand Dollars (\$10,000.00) or more.

131 (d) As a misdemeanor punishable by imprisonment in the
132county jail for not more than six (6) months when the amount of
133the fraud is One Thousand Dollars (\$1,000.00) or less.

134 (3) In addition to any other sentence it may impose,
135the court shall order that the defendant shall make restitution to

136the victim, either within a specified period of time or in
137specified installments. The order shall not be enforceable during
138the period of imprisonment unless the court expressly finds that
139the defendant has assets to pay the amounts ordered at the time of
140sentencing. Intentional refusal to obey the restitution order or
141a failure by a defendant to make a good faith effort to make such
142restitution may be considered a violation of the defendant's
143probation and may be cause for revocation of his probation or
144suspension of sentence.

145 SECTION 4. This act shall take effect and be in force from
146and after July 1, 2000.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE CRIME OF FALSE REPORTING OF A CRIME AND
2PRESCRIBE PENALTIES THEREFOR; TO AMEND SECTION 19-5-317,
3MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO CREATE THE
4OFFENSE OF HOME REPAIR FRAUD; TO ENACT EXCEPTIONS; TO ENACT
5DEFINITIONS; TO PRESCRIBE THE ELEMENTS OF THE OFFENSE AND THE
6PUNISHMENT THEREFOR; AND FOR RELATED PURPOSES.