

By: Senator(s) Wiggins, McDaniel, Smith, Massey, Doty, Tollison, Ward, Watson, Polk, Clarke, Gandy, Gollott, Harkins, Hill, Hudson, Jackson (15th), Longwitz, Moran, Simmons (12th), Tindell

To: Judiciary, Division B

SENATE BILL NO. 2376

1 AN ACT TO AMEND SECTION 97-29-61, MISSISSIPPI CODE OF 1972,
2 TO CREATE A FELONY LEVEL OF THE OFFENSE OF VOYEURISM WHEN THE
3 VICTIM IS A CHILD UNDER A CERTAIN AGE; TO AMEND SECTION 97-29-63,
4 MISSISSIPPI CODE OF 1972, TO CREATE A FELONY LEVEL OF THE OFFENSE
5 OF PHOTOGRAPHING OR FILMING ANOTHER WITHOUT PERMISSION WHEN THE
6 VICTIM IS A CHILD UNDER A CERTAIN AGE; TO AMEND SECTION 45-33-23,
7 MISSISSIPPI CODE OF 1972, TO CONFORM THE DEFINITION OF SEX OFFENSE
8 UNDER THE SEX OFFENDER REGISTRATION LAW FOR THE PURPOSES OF THIS
9 ACT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 97-29-61, Mississippi Code of 1972, is
12 amended as follows:

13 97-29-61. (1) Any person who enters upon real property
14 whether the original entry is legal or not, and thereafter pries
15 or peeps through a window or other opening in a dwelling or other
16 building structure for the lewd, licentious and indecent purpose
17 of spying upon the occupants thereof, shall be guilty of a
18 felonious trespass, and upon conviction shall be imprisoned in the
19 custody of the Department of Corrections not more than five (5)
20 years.

21 (2) When one or more occupants spied upon is a child under
22 sixteen (16) years of age, a person who violates subsection (1) of
23 this section shall be guilty of felonious trespass, and upon
24 conviction shall be imprisoned in the custody of the Department of
25 Corrections not more than ten (10) years.

26 **SECTION 2.** Section 97-29-63, Mississippi Code of 1972, is
27 amended as follows:

28 97-29-63. (1) Any person who with lewd, licentious or
29 indecent intent secretly photographs, films, videotapes, records
30 or otherwise reproduces the image of another person without the



31 permission of such person when such a person is located in a place
32 where a person would intend to be in a state of undress and have a
33 reasonable expectation of privacy, including, but not limited to,
34 private dwellings or any facility, public or private, used as a
35 restroom, bathroom, shower room, tanning booth, locker room,
36 fitting room, dressing room or bedroom shall be guilty of a felony
37 and upon conviction shall be punished by a fine of Five Thousand
38 Dollars (\$5,000.00) or by imprisonment of not more than five (5)
39 years in the custody of the Department of Corrections, or both.

40 (2) Where the person who is secretly photographed, filmed,
41 videotaped or otherwise reproduced is a child under sixteen (16)
42 years of age, a person who violates subsection (1) of this section
43 shall be guilty of a felony and upon conviction shall be punished
44 by a fine of Five Thousand Dollars (\$5,000.00) or by imprisonment
45 of not more than ten (10) years in the custody of the Department
46 of Corrections, or both.

47 **SECTION 3.** Section 45-33-23, Mississippi Code of 1972, is
48 amended as follows:

49 45-33-23. For the purposes of this chapter, the following
50 words shall have the meanings ascribed herein unless the context
51 clearly requires otherwise:

52 (a) "Conviction" shall mean that, regarding the
53 person's offense, there has been a determination or judgment of
54 guilt as a result of a trial or the entry of a plea of guilty or
55 nolo contendere regardless of whether adjudication is withheld.
56 "Conviction of similar offenses" includes, but is not limited to,
57 a conviction by a federal or military tribunal, including a
58 court-martial conducted by the Armed Forces of the United States,
59 a conviction for an offense committed on an Indian Reservation or
60 other federal property, a conviction in any state of the United
61 States, the District of Columbia, the Commonwealth of Puerto Rico,
62 Guam, American Samoa, the Northern Marianna Islands or the United
63 States Virgin Islands, and a conviction in a foreign country if



64 the foreign country's judicial system is such that it satisfies
65 minimum due process set forth in the guidelines under Section
66 111(5) (B) Public Law 109-248.

67 (b) "Jurisdiction" means any court or locality
68 including any state court, federal court, military court, Indian
69 tribunal or foreign court, the fifty (50) states, the District of
70 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,
71 the Northern Marianna Islands or the United States Virgin Islands,
72 and Indian tribes that elect to function as registration
73 jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh
74 Child Safety Act.

75 (c) "Permanent residence" is defined as a place where
76 the person abides, lodges, or resides for a period of fourteen
77 (14) or more consecutive days.

78 (d) "Registration" means providing information to the
79 appropriate agency within the time frame specified as required by
80 this chapter.

81 (e) "Registration duties" means obtaining the
82 registration information required on the form specified by the
83 department as well as the photograph, fingerprints and biological
84 sample of the registrant. Biological samples are to be forwarded
85 to the State Crime Laboratory pursuant to Section 45-33-37; the
86 photograph, fingerprints and other registration information are to
87 be forwarded to the Department of Public Safety immediately.

88 (f) "Responsible agency" is defined as the person or
89 government entity whose duty it is to obtain information from a
90 criminal sex offender upon conviction and to transmit that
91 information to the Mississippi Department of Public Safety.

92 (i) For a criminal sex offender being released
93 from the custody of the Department of Corrections, the responsible
94 agency is the Department of Corrections.



95 (ii) For a criminal sex offender being released
96 from a county jail, the responsible agency is the sheriff of that
97 county.

98 (iii) For a criminal sex offender being released
99 from a municipal jail, the responsible agency is the police
100 department of that municipality.

101 (iv) For a sex offender in the custody of youth
102 court, the responsible agency is the youth court.

103 (v) For a criminal sex offender who is being
104 placed on probation, including conditional discharge or
105 unconditional discharge, without any sentence of incarceration,
106 the responsible agency is the sentencing court.

107 (vi) For an offender who has been committed to a
108 mental institution following an acquittal by reason of insanity,
109 the responsible agency is the facility from which the offender is
110 released. Specifically, the director of said facility shall
111 notify the Department of Public Safety prior to the offender's
112 release.

113 (vii) For a criminal sex offender who is being
114 released from a jurisdiction outside this state or who has a prior
115 conviction in another jurisdiction and who is to reside, work or
116 attend school in this state, the responsible agency is both the
117 sheriff of the proposed county of residence and the department.

118 (g) "Sex offense" or "registrable offense" means any of
119 the following offenses:

120 (i) Section 97-3-53 relating to kidnapping, if the
121 victim was below the age of eighteen (18);

122 (ii) Section 97-3-65 relating to rape; however,
123 conviction or adjudication under Section 97-3-65(1)(a) when the
124 offender was eighteen (18) years of age or younger at the time of
125 the alleged offense, shall not be a registrable sex offense;

126 (iii) Section 97-3-71 relating to rape and assault
127 with intent to ravish;



128 (iv) Section 97-3-95 relating to sexual battery;
129 however, conviction or adjudication under Section 97-3-95(1)(c)
130 when the offender was eighteen (18) years of age or younger at the
131 time of the alleged offense, shall not be a registrable sex
132 offense;

133 (v) Section 97-5-5 relating to enticing a child
134 for concealment, prostitution or marriage;

135 (vi) Section 97-5-23 relating to the touching of a
136 child, mentally defective or incapacitated person or physically
137 helpless person for lustful purposes;

138 (vii) Section 97-5-27 relating to the
139 dissemination of sexually oriented material to children;

140 (viii) Section 97-5-33 relating to the
141 exploitation of children;

142 (ix) Section 97-5-41 relating to the carnal
143 knowledge of a stepchild, adopted child or child of a cohabiting
144 partner;

145 (x) Section 97-29-59 relating to unnatural
146 intercourse;

147 (xi) Section 97-1-7 relating to attempt to commit
148 any of the above-referenced offenses;

149 (xii) Section 43-47-18 relating to sexual abuse of
150 a vulnerable adult;

151 (xiii) Section 97-3-54.1(1)(c) relating to
152 procuring sexual servitude of a minor;

153 (xiv) Section 97-29-61(2) relating to voyeurism
154 when the victim is a child under sixteen (16) years of age;

155 (xv) Section 97-29-63 relating to filming another
156 without permission where there is an expectation of privacy;

157 (xvi) Section 97-29-45 relating to obscene
158 electronic communication;



159 (xvii) Section 97-3-104 relating to the crime of
160 sexual activity between law enforcement, correctional or custodial
161 personnel and prisoners;

162 (xviii) Section 97-5-39(1)(c) relating to
163 contributing to the neglect or delinquency of a child, felonious
164 abuse or battery of a child, if the victim was sexually abused;

165 (xix) Any other offense resulting in a conviction
166 in another jurisdiction which, if committed in this state, would
167 be deemed to be such a crime without regard to its designation
168 elsewhere;

169 (xx) Any offense resulting in a conviction in
170 another jurisdiction for which registration is required in the
171 jurisdiction where the conviction was had;

172 (xxi) Any conviction of conspiracy to commit,
173 accessory to commission, or attempt to commit any offense listed
174 in this section;

175 (xxii) Capital murder when one (1) of the
176 above-described offenses is the underlying crime.

177 (h) "Temporary residence" is defined as any place where
178 the person abides, lodges, or resides for a period of seven (7) or
179 more consecutive days which is not the person's permanent
180 residence.

181 (i) "Department" unless otherwise specified is defined
182 as the Mississippi Department of Public Safety.

183 **SECTION 4.** This act shall take effect and be in force from
184 and after July 1, 2012.

