

By: Representatives Gipson, Upshaw, Arnold

To: Judiciary B

HOUSE BILL NO. 151
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-5-51, MISSISSIPPI CODE OF 1972, TO
2 REVISE MANDATORY REPORTING OF SEX CRIMES AGAINST MINORS AND TO
3 PROVIDE FOR MANDATORY FILING OF CHARGES BY LAW ENFORCEMENT ON
4 BEHALF OF A VICTIM OF A SEX CRIME AGAINST A MINOR WHEN PROBABLE
5 CAUSE EXISTS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-5-51, Mississippi Code of 1972, is
8 amended as follows:

9 97-5-51. (1) **Definitions.** For the purposes of this
10 section:

11 (a) "Sex crime against a minor" means any offense under
12 at least one (1) of the following statutes when committed by an
13 adult against a minor who is under the age of sixteen (16):

14 (i) Section 97-3-65 relating to rape;

15 (ii) Section 97-3-71 relating to rape and assault
16 with intent to ravish;

17 (iii) Section 97-3-95 relating to sexual battery;



18 (iv) Section 97-5-23 relating to the touching of a
19 child, mentally defective or incapacitated person or physically
20 helpless person for lustful purposes;

21 (v) Section 97-5-41 relating to the carnal
22 knowledge of a stepchild, adopted child or child of a cohabiting
23 partner;

24 (vi) Section 97-5-33 relating to exploitation of
25 children;

26 (vii) Section 97-3-54.1(1)(c) relating to
27 procuring sexual servitude of a minor;

28 (viii) Section 43-47-18 relating to sexual abuse
29 of a vulnerable person;

30 (ix) Section 97-1-7 relating to the attempt to
31 commit any of the offenses listed in this subsection.

32 (b) "Mandatory reporter" means any of the following
33 individuals performing their occupational duties: health care
34 practitioner, clergy member, teaching or child care provider, law
35 enforcement officer, or commercial image processor.

36 (c) "Health care practitioner" means any individual who
37 provides health care services, including a physician, surgeon,
38 physical therapist, psychiatrist, psychologist, medical resident,
39 medical intern, hospital staff member, licensed nurse, midwife and
40 emergency medical technician or paramedic.

41 (d) "Clergy member" means any priest, rabbi or duly
42 ordained deacon or minister.



43 (e) "Teaching or child care provider" means anyone who
44 provides training or supervision of a minor under the age of
45 sixteen (16), including a teacher, teacher's aide, principal or
46 staff member of a public or private school, social worker,
47 probation officer, foster home parent, group home or other child
48 care institutional staff member, personnel of residential home
49 facilities, a licensed or unlicensed day care provider.

50 (f) "Commercial image processor" means any person who,
51 for compensation: (i) develops exposed photographic film into
52 negatives, slides or prints; (ii) makes prints from negatives or
53 slides; or (iii) processes or stores digital media or images from
54 any digital process, including, but not limited to, website
55 applications, photography, live streaming of video, posting,
56 creation of power points or any other means of intellectual
57 property communication or media including conversion or
58 manipulation of still shots or video into a digital show stored on
59 a photography site or a media storage site.

60 (g) "Caretaker" means any person legally obligated to
61 provide or secure adequate care for a minor under the age of
62 sixteen (16), including a parent, guardian, tutor, legal custodian
63 or foster home parent.

64 (2) (a) **Mandatory reporter requirement.** A mandatory
65 reporter shall make a report if it would be reasonable for the
66 mandatory reporter to suspect that a sex crime against a minor has
67 occurred.



68 (b) Failure to file a mandatory report shall be
69 punished as provided in this section.

70 (c) Reports made under this section and the identity of
71 the mandatory reporter are confidential except when the court
72 determines the testimony of the person reporting to be material to
73 a judicial proceeding or when the identity of the reporter is
74 released to law enforcement agencies and the appropriate
75 prosecutor. The identity of the reporting party shall not be
76 disclosed to anyone other than law enforcement or prosecutors
77 except under court order; violation of this requirement is a
78 misdemeanor. Reports made under this section are for the purpose
79 of criminal investigation and prosecution only and information
80 from these reports is not a public record. Disclosure of any
81 information by the prosecutor shall conform to the Mississippi
82 Uniform Rules of Circuit and County Court Procedure.

83 (d) Any mandatory reporter who makes a required report
84 under this section or participates in a judicial proceeding
85 resulting from a mandatory report shall be presumed to be acting
86 in good faith. Any person or institution reporting in good faith
87 shall be immune from any liability, civil or criminal, that might
88 otherwise be incurred or imposed.

89 (3) (a) **Mandatory reporting procedure.** A report required
90 under subsection (2) must be made immediately to the law
91 enforcement agency in whose jurisdiction the reporter believes the
92 sex crime against the minor occurred. Except as otherwise



93 provided in this subsection (3), a mandatory reporter may not
94 delegate to any other person the responsibility to report, but
95 shall make the report personally.

96 (i) The reporting requirement under this
97 subsection (3) is satisfied if a mandatory reporter in good faith
98 reports a suspected sex crime against a minor to the Department of
99 Human Services under Section 43-21-353.

100 (ii) The reporting requirement under this
101 subsection (3) is satisfied if a mandatory reporter reports a
102 suspected sex crime against a minor by following a reporting
103 procedure that is imposed:

104 1. By state agency rule as part of licensure
105 of any person or entity holding a state license to provide
106 services that include the treatment or education of abused or
107 neglected children; or

108 2. By statute.

109 (b) **Contents of the report.** The report shall identify,
110 to the extent known to the reporter, the following:

111 (i) The name and address of the minor victim;

112 (ii) The name and address of the minor's
113 caretaker;

114 (iii) Any other pertinent information known to the
115 reporter.

116 (4) A law enforcement officer who receives a mandated report
117 under this section shall file an affidavit against the offender on



118 behalf of the State of Mississippi if there is probable cause to
119 believe that the offender has committed a sex crime against a
120 minor.

121 (* * *5) * * * **Collection of forensic samples.** * * * (a)

122 (i) When an abortion is performed on a minor who is less than
123 fourteen (14) years of age at the time of the abortion
124 procedure, * * * fetal tissue extracted during the abortion shall
125 be collected in accordance with rules and regulations adopted
126 pursuant to this section if it would be reasonable to suspect that
127 the pregnancy being terminated is the result of a sex crime
128 against a minor.

129 (ii) When a minor who is under sixteen (16) years
130 of age gives birth to an infant, umbilical cord blood shall be
131 collected, if possible, in accordance with rules and regulations
132 adopted pursuant to this section if it would be reasonable to
133 suspect that the minor's pregnancy resulted from a sex crime
134 against a minor.

135 (iii) It shall be reasonable to suspect that a sex
136 crime against a minor has occurred if the mother of an infant was
137 less than sixteen (16) years of age at the time of conception and
138 at least one (1) of the following conditions also applies:

139 1. The mother of the infant will not identify
140 the father of the infant;

141 2. The mother of the infant lists the father
142 of the infant as unknown;



143 3. The person the mother identifies as the
144 father of the infant disputes his fatherhood;

145 4. The person the mother identifies as the
146 father of the infant is twenty-one (21) years of age or older; or

147 5. The person the mother identifies as the
148 father is deceased.

149 (* * * b) The State Medical Examiner shall adopt rules
150 and regulations consistent with Section 99-49-1 that prescribe:

151 (i) The amount and type of fetal tissue or
152 umbilical cord blood to be * * * collected pursuant to this
153 section;

154 (ii) Procedures for the proper preservation of the
155 tissue or blood for the purpose of DNA testing and examination;

156 (iii) Procedures for documenting the chain of
157 custody of such tissue or blood for use as evidence;

158 (iv) Procedures for proper disposal of fetal
159 tissue or umbilical cord blood * * * collected pursuant to this
160 section;

161 (v) A uniform reporting instrument mandated to be
162 utilized, * * * which shall include the * * * complete residence
163 address and name of the parent or legal guardian of the
164 minor * * * who is the subject of the report required under this
165 subsection (5); and



166 (vi) Procedures for communication with law
167 enforcement agencies regarding evidence and information obtained
168 pursuant to this section.

169 * * *

170 (* * *6) **Penalties.** (a) A person who is convicted of a
171 first offense under this section shall be guilty of a misdemeanor
172 and fined not more than Five Hundred Dollars (\$500.00).

173 (b) A person who is convicted of a second offense under
174 this section shall be guilty of a misdemeanor and fined not more
175 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
176 than thirty (30) days, or both.

177 (c) A person who is convicted of a third or subsequent
178 offense under this section shall be guilty of a misdemeanor and
179 fined not more than Five Thousand Dollars (\$5,000.00), or
180 imprisoned for not more than one (1) year, or both.

181 (* * *7) * * * A health care practitioner or health care
182 facility shall be * * * immune from any penalty * * *, civil or
183 criminal, for good-faith compliance with any rules and regulations
184 adopted pursuant to this section.

185 **SECTION 2.** This act shall take effect and be in force from
186 and after July 1, 2013.

