

By: Representative Cockerham

To: Judiciary B

HOUSE BILL NO. 1348

1 AN ACT TO AMEND SECTION 97-3-95, MISSISSIPPI CODE OF 1972, TO  
 2 REVISE THE ELEMENTS FOR THE CRIME OF SEXUAL BATTERY; TO CREATE NEW  
 3 CODE SECTION 97-3-96, MISSISSIPPI CODE OF 1972, TO PROVIDE A  
 4 PROCEDURE FOR OFFERING CERTAIN EVIDENCE DURING A TRIAL FOR THE  
 5 CRIME OF SEXUAL ASSAULT; TO AMEND SECTION 97-3-65, MISSISSIPPI  
 6 CODE OF 1972, TO REVISE THE ELEMENTS OF STATUTORY RAPE; TO AMEND  
 7 SECTION 97-3-97, MISSISSIPPI CODE OF 1972, TO PROVIDE THE  
 8 DEFINITIONS AND ELEMENTS FOR THE CRIME OF SEXUAL ASSAULT; TO  
 9 PROVIDE THE PENALTIES FOR CONVICTION OF THE CRIME OF SEXUAL  
 10 ASSAULT; TO AMEND SECTION 97-3-101, MISSISSIPPI CODE OF 1972, TO  
 11 CREATE THE CRIME OF ATTEMPTED SEXUAL ASSAULT; TO AMEND SECTIONS  
 12 9-25-1, 13-1-401, 19-5-93, 37-3-51, 37-9-17, 37-11-29, 37-13-89,  
 13 37-28-49, 37-29-232, 37-115-41, 43-11-13, 43-47-18, 45-33-23,  
 14 45-33-25, 45-33-47, 93-15-121, 93-21-107, 93-21-115, 97-3-2,  
 15 97-3-19, 97-3-99, 97-5-40, 97-5-51, 99-1-5, 99-19-101, 99-35-115,  
 16 99-37-25, 11-13-41, 93-21-25, 99-3-7 AND 99-47-1, MISSISSIPPI CODE  
 17 OF 1972, WHICH REFERENCES SEXUAL BATTERY, SEXUAL ASSAULT AND  
 18 CRIMES OF VIOLENCE, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR  
 19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 97-3-95, Mississippi Code of 1972, is  
 22 amended as follows:

23 97-3-95. (1) \* \* \* The crime of sexual battery is committed  
 24 when a person engages in the:



25 (a) \* \* \* Intentional touching of the anus or genitals  
26 of another person, without the person's consent, directly or  
27 through clothing; or

28 (b) \* \* \* Intentional touching of the anus or genitals  
29 of another person, without the person's consent, directly or  
30 through clothing, by use of instrumentality.

31 \* \* \*

32 (2) \* \* \* This section shall apply whether or not the  
33 perpetrator is married to the victim or not.

34 **SECTION 2.** Section 97-3-65, Mississippi Code of 1972, is  
35 amended as follows:

36 97-3-65. (1) The crime of statutory rape is committed when:

37 (a) Any person seventeen (17) years of age or older has  
38 sexual intercourse with a child who:

39 (i) Is at least fourteen (14) but under sixteen  
40 (16) years of age;

41 (ii) Is thirty-six (36) or more months younger  
42 than the person; and

43 (iii) Is not the person's spouse; or

44 (b) A person of any age has sexual intercourse with a  
45 child who:

46 (i) Is under the age of fourteen (14) years;

47 (ii) Is twenty-four (24) or more months younger  
48 than the person; and

49 (iii) Is not the person's spouse.



50 \* \* \*

51 ( \* \* \*2) Upon conviction for statutory rape, the defendant  
52 shall be sentenced as follows:

53 (a) If eighteen (18) years of age or older, but under  
54 twenty-one (21) years of age, and convicted under subsection  
55 (1)(a) of this section, to imprisonment for not more than five (5)  
56 years in the \* \* \* custody of the Department of Corrections or a  
57 fine of not more than Five Thousand Dollars (\$5,000.00), or both;

58 (b) If twenty-one (21) years of age or older and  
59 convicted under subsection (1)(a) of this section, to imprisonment  
60 of not more than thirty (30) years in the State Penitentiary or a  
61 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,  
62 for the first offense, and not more than forty (40) years in  
63 the \* \* \* custody of the Department of Corrections for each  
64 subsequent offense;

65 (c) If eighteen (18) years of age or older and  
66 convicted under subsection (1)(b) of this section, to imprisonment  
67 for life in the \* \* \* custody of the Department of Corrections or  
68 such lesser term of imprisonment as the court may determine, but  
69 not less than twenty (20) years;

70 (d) If thirteen (13) years of age or older but under  
71 eighteen (18) years of age and convicted under subsection (1)(a)  
72 or (1)(b) of this section, such imprisonment, fine or other  
73 sentence as the court, in its discretion, may determine.



74 ( \* \* \*3) (a) Every person who shall have forcible sexual  
75 intercourse with any person, or who shall have sexual intercourse  
76 not constituting forcible sexual intercourse or statutory rape  
77 with any person without that person's consent by administering to  
78 such person any substance or liquid which shall produce such  
79 stupor or such imbecility of mind or weakness of body as to  
80 prevent effectual resistance, upon conviction, shall be imprisoned  
81 for life in the \* \* \* custody of the Department of Corrections if  
82 the jury by its verdict so prescribes; and in cases where the jury  
83 fails to fix the penalty at life imprisonment, the court shall fix  
84 the penalty at imprisonment in the \* \* \* custody of the Department  
85 of Corrections for any term as the court, in its discretion, may  
86 determine.

87 (b) This subsection (4) shall apply whether the  
88 perpetrator is married to the victim or not.

89 ( \* \* \*4) In all cases where a victim is under the age of  
90 sixteen (16) years, it shall not be necessary to prove penetration  
91 where it is shown the genitals, anus or perineum of the child have  
92 been lacerated or torn in the attempt to have sexual intercourse  
93 with the child.

94 ( \* \* \*5) (a) Upon conviction under this section, the court  
95 may issue a criminal sexual assault protection order prohibiting  
96 the offender from any contact with the victim, without regard to  
97 the relationship between the victim and offender. The court may  
98 include in a criminal sexual assault protection order any relief



99 available under Section 93-21-15. The term of a criminal sexual  
100 assault protection order shall be for a time period determined by  
101 the court, but all orders shall, at a minimum, remain in effect  
102 for a period of two (2) years after the expiration of any sentence  
103 of imprisonment and subsequent period of community supervision,  
104 conditional release, probation, or parole. Upon issuance of a  
105 criminal sexual assault protection order, the clerk of the issuing  
106 court shall enter the order in the Mississippi Protection Order  
107 Registry within twenty-four (24) hours of issuance, with no  
108 exceptions for weekends or holidays as provided in Section  
109 93-21-25, and a copy must be provided to both the victim and  
110 offender.

111 (b) Criminal sexual assault protection orders shall be  
112 issued on the standardized form developed by the Office of the  
113 Attorney General.

114 (c) It is a misdemeanor to knowingly violate any  
115 condition of a criminal sexual assault protection order. Upon  
116 conviction for a violation, the defendant shall be punished by a  
117 fine of not more than Five Hundred Dollars (\$500.00) or by  
118 imprisonment in the county jail for not more than six (6) months,  
119 or both. Any sentence imposed for the violation of a criminal  
120 sexual assault protection order shall run consecutively to any  
121 other sentences imposed on the offender. The court shall also be  
122 empowered to extend the criminal sexual assault protection order  
123 for a period of one (1) year for each violation. The



124 incarceration of a person at the time of the violation is not a  
125 bar to prosecution under this section. Nothing in this subsection  
126 shall be construed to prohibit the imposition of any other  
127 penalties or disciplinary action otherwise allowed by law or  
128 policy.

129 ( \* \* \*6) For the purposes of this section, "sexual  
130 intercourse" shall mean a joining of the sexual organs of a male  
131 and female human being in which the penis of the male is inserted  
132 into the vagina of the female or the penetration of the sexual  
133 organs of a male or female human being in which the penis or an  
134 object is inserted into the genitals, anus or perineum of a male  
135 or female.

136 **SECTION 3.** The following shall be codified as Section  
137 97-3-96, Mississippi Code of 1972:

138 97-3-96. **Sexual Assault; Procedure for introducing evidence**  
139 **of sexual conduct of complaining witness:**

140 In any prosecution for sexual assault under Section 97-3-97,  
141 if evidence of the sexual conduct of the complainant is offered to  
142 attack the complainant, the following procedure shall be followed:

143 (a) A written motion shall be made by the defendant to  
144 the court and prosecutor stating that the defense has an offer of  
145 proof of the relevancy of evidence of the sexual conduct of the  
146 complaining witness proposed to be presented and its relevancy in  
147 attacking the credibility of the complaining witness.



148 (b) The written motion shall be accompanied by an  
149 affidavit which the offer of proof shall be stated.

150 (c) If the court finds that the offer of proof is  
151 sufficient, the court shall order a closed hearing in chambers,  
152 out of the presence of the jury, if any, and at such closed  
153 hearing allow the questioning of the complaining witness regarding  
154 the offer of proof made by the defendant.

155 (d) At the conclusion of the hearing, if the court  
156 finds that the evidence proposed to be offered by the defendant  
157 regarding the sexual conduct of the complaining witness is  
158 relevant and otherwise admissible, the court may make an order  
159 stating what evidence may be introduced by the defendant, and the  
160 nature of the questions to be permitted. The defendant may then  
161 offer evidence pursuant to the order of the court.

162 **SECTION 4.** Section 97-3-97, Mississippi Code of 1972, is  
163 amended as follows:

164 97-3-97. \* \* \* (1) For purposes of this section, the  
165 following words and phrases shall have the meanings as defined in  
166 this section unless the content clearly indicates otherwise:

167 (a) \* \* \* "Complaining witness" shall be defined as the  
168 alleged victim of the crime charged.

169 (b) \* \* \* "Consent" means a freely given agreement to  
170 sexual activity; a person's lack of verbal or physical resistance  
171 or submission resulting from the use or threat of force does not  
172 constitute consent; a person's manner of dress does not constitute



173 consent; a person's consent to past sexual activity does not  
174 constitute consent to future sexual activity; a person's consent  
175 to engage in sexual activity with a person does not constitute  
176 consent to engage in sexual activity with another; a person can  
177 withdraw consent at any time; and a person cannot consent to  
178 sexual activity if that person is unable to understand the nature  
179 of the activity or give knowing consent due to circumstances,  
180 including, without limitation, the following:

181 (i) The person is incapacitated due to the use of  
182 influence of alcohol or drugs;

183 (ii) The person is asleep or unconscious;

184 (iii) The person is under age; or

185 (iv) The person is incapacitated due to a mental  
186 disability.

187 (c) \* \* \* "Permanent incapacity" shall be defined as  
188 one who suffers from a mental disease, defect, or conditions which  
189 renders that person temporarily or permanently incapable of  
190 knowing the nature and quality of his or her conduct.

191 (d) \* \* \* "Physically helpless person" shall be defined  
192 as one who is unconscious or one who for any other reason is  
193 physically incapable of communicating an unwillingness to engage  
194 in an act.

195 (e) "Sexual penetration" means sexual intercourse,  
196 cunnilingus, fellatio, and anal intercourse, or any other  
197 intrusion, however slight, by any part of a person's body or by an





198 object into the genital opening, anal opening, and/or oral cavity  
199 of another person's body, but emission of semen is not required.

200 (f) "Temporary incapacity" shall be defined as one who  
201 is rendered incapable of knowing or controlling his or her  
202 conduct, or incapable of resisting an act due to the influence of  
203 any drug, narcotic, anesthetic, alcohol, or other substance  
204 administered to that person without his or her consent.

205 (2) A person is guilty of sexual assault if he or she  
206 engages in sexual penetration with:

207 (a) Another person without his or her consent;

208 (b) A temporarily incapacitated, permanently  
209 incapacitated or physically helpless person;

210 (c) A child at least fourteen (14) years of age but  
211 under sixteen (16) years of age, if the person is thirty-six (36)  
212 or more months older than the child;

213 (d) A child under the age of fourteen (14) years of  
214 age, if the person is twenty-four (24) or more months older than  
215 the child; or

216 (e) A child under the age of eighteen (18) years if the  
217 person is in a position of trust or authority over the child  
218 including, without limitation, the child's teacher, counselor,  
219 physician, psychiatrist, psychologist, minister, priest, physical  
220 therapist, chiropractor, legal guardian, parent, stepparent, aunt,  
221 uncle, scout leader or coach.



222       (3) The provisions of this section shall be applicable  
223 regardless of whether the perpetrator is married to the victim or  
224 not.

225       (4) Upon conviction for sexual assault, the defendant shall  
226 be sentenced as follows:

227           (a) For a violation under paragraphs (a), (b) or (e) of  
228 subsection (2) of this act, imprisonment in the custody of the  
229 Department of Corrections for a period of not more than thirty  
230 (30) years, and for a second or subsequent such offense,  
231 imprisonment in the custody of the Department of Corrections for  
232 not more than forty (40) years;

233           (b) For a violation of paragraph (c) of subsection (2)  
234 of this section, for a person who is at least eighteen (18) years  
235 of age but less than twenty-one (21) years of age, imprisonment in  
236 the custody of the Department of Corrections for not more than  
237 five (5) years, or fined not more than Five Thousand Dollars  
238 (\$5,000.00), or both;

239           (c) For a violation of paragraph (c) of subsection (2)  
240 of this section, for a person who is twenty-one (21) years of age  
241 or older, imprisonment in the custody of the Department of  
242 Corrections of not more than thirty (30) years, or fined not more  
243 than Ten Thousand Dollars (\$10,000.00), or both, for the first  
244 offense, and not more than forty (40) years in the custody of the  
245 Department of Corrections for each subsequent offense;



246           (d) For a violation of paragraph (d) of subsection (2)  
247 who is eighteen (18) years of age or older, imprisonment in the  
248 custody of the Department of Corrections for not less than twenty  
249 (20) years up to life imprisonment.

250           (5) Every person who shall be convicted of sexual battery  
251 who is thirteen (13) years of age or older but under eighteen (18)  
252 years of age shall be sentenced to such imprisonment, fine or  
253 other sentence as the court, in its discretion, may determine.

254           (6) (a) Upon conviction under this section, the court may  
255 issue a criminal sexual assault protection order prohibiting the  
256 offender from any contact with the victim, without regard to the  
257 relationship between the victim and offender. The court may  
258 include in a criminal sexual assault protection order any relief  
259 available under Section 93-21-15. The term of a criminal sexual  
260 assault protection order shall be for a time period determined by  
261 the court, but all orders shall, at a minimum, remain in effect  
262 for a period of two (2) years following the expiration of any  
263 sentence of imprisonment and subsequent period of community  
264 supervision, conditional release, probation, or parole. Upon  
265 issuance of a criminal sexual assault protection order, the clerk  
266 of the issuing court shall enter the order in the Mississippi  
267 Protection Order Registry within twenty-four (24) hours of  
268 issuance with no exceptions for weekends or holidays as provided  
269 in Section 93-21-25, and a copy must be provided to both the  
270 victim and offender.



271           (b) Criminal sexual assault protection orders shall be  
272 issued on the standardized form developed by the Office of the  
273 Attorney General.

274           (c) It is a misdemeanor to knowingly violate any  
275 condition of a criminal sexual assault protection order. Upon  
276 conviction for a violation, the defendant shall be punished by a  
277 fine of not more than Five Hundred Dollars (\$500.00) or by  
278 imprisonment in the county jail for not more than six (6) months,  
279 or both. Any sentence imposed for the violation of a criminal  
280 sexual assault protection order shall run consecutively to any  
281 other sentences imposed on the offender. The court may extend the  
282 criminal sexual assault protection order for a period of one (1)  
283 year for each violation. The incarceration of a person at the  
284 time of the violation is not a bar to prosecution under this  
285 section. Nothing in this subsection shall be construed to  
286 prohibit the imposition of any other penalties or disciplinary  
287 action otherwise allowed by law or policy.

288           **SECTION 5.** Section 97-3-101, Mississippi Code of 1972, is  
289 amended as follows:

290           97-3-101. (1) \* \* \* The crime of attempted sexual assault  
291 is committed when a person attempts to penetrate, no matter how  
292 slight, of the vagina or anus with any body part or object, or  
293 attempt to orally penetrate the sex organ of another person,  
294 without consent of the victim.



295           (2)   \* \* \* The provisions of this section shall apply  
296 regardless of whether or not the perpetrator is married to the  
297 victim.

298           \* \* \*

299           **SECTION 6.** Section 9-25-1, Mississippi Code of 1972, is  
300 amended as follows:

301           9-25-1. (1) The Legislature recognizes that our military  
302 veterans have provided an invaluable service to our country. In  
303 doing so, many may have suffered the effects of, including, but  
304 not limited to, post-traumatic stress disorder, traumatic brain  
305 injury and depression, and may also suffer drug and alcohol  
306 dependency or addiction and co-occurring mental illness and  
307 substance abuse problems. As a result of this, some veterans come  
308 into contact with the criminal justice system and are charged with  
309 felony offenses. There is a critical need for the justice system  
310 to recognize these veterans, provide accountability for their  
311 wrongdoing, provide for the safety of the public, and provide for  
312 the treatment of our veterans. It is the intent of the  
313 Legislature to create a framework for which specialized veterans  
314 treatment courts may be established at the circuit court level and  
315 at the discretion of the circuit court judge.

316           (2) **Authorization.** A circuit court judge may establish a  
317 Veterans Treatment Court program. The Veterans Treatment Court  
318 may, at the discretion of the circuit court judge, be a separate  
319 court program or as a component of an existing drug court program.



320 At the discretion of the circuit court judge, the Veterans  
321 Treatment Court may be operated in one (1) county within the  
322 circuit court district, and allow veteran participants from all  
323 counties within the circuit court district to participate.

324 (3) **Eligibility.** (a) In order to be eligible to  
325 participate in a Veterans Treatment Court program established  
326 under this section, the attorney representing the state must  
327 consent to the defendant's participation in the program. Further,  
328 the court in which the criminal case is pending must have found  
329 that the defendant is a veteran of the United States Armed Forces  
330 as defined in Title 38 USCS.

331 (b) Participation in the services of an alcohol and  
332 drug intervention component shall only be open to the individuals  
333 over whom the court has jurisdiction, except that the court may  
334 agree to provide the services for individuals referred from  
335 another Veterans Treatment Court. In cases transferred from  
336 another jurisdiction, the receiving judge shall act as a special  
337 master and make recommendations to the sentencing judge.

338 (c) (i) As a condition of participation in a Veterans  
339 Treatment Court, a participant may be required to undergo a  
340 chemical test or a series of chemical tests as specified by the  
341 Veterans Treatment Court program. A participant may be held  
342 liable for costs associated with all chemical tests required under  
343 this section. However, a judge may waive any fees for testing.



344 (ii) A laboratory that performs chemical tests  
345 under this section shall report the results of the tests to the  
346 Veterans Treatment Courts.

347 (d) A person does not have the right to participate in  
348 a Veterans Treatment Court program under this chapter. The court  
349 having jurisdiction over a person for a matter before the court  
350 shall have the final determination about whether the person may  
351 participate in the Veterans Treatment Court program.

352 (e) A defendant shall be excluded from participating in  
353 a Veterans Treatment Court program if any one (1) of the following  
354 applies:

355 (i) The crime before the court is a crime of  
356 violence as set forth in paragraph (c) of this subsection.

357 (ii) The defendant does not demonstrate a  
358 willingness to participate in a treatment program.

359 (iii) The defendant has been previously convicted  
360 of a felony crime of violence including, but not limited to:  
361 murder, rape, sexual battery, sexual assault, statutory rape of a  
362 child under the age of sixteen (16), armed robbery, arson,  
363 aggravated kidnapping, aggravated assault, stalking, or any  
364 offense involving the discharge of a firearm or where serious  
365 bodily injury or death resulted to any person.

366 (f) The court in which the criminal case is pending  
367 shall allow an eligible defendant to choose whether to proceed



368 through the Veterans Treatment Court program or otherwise through  
369 the justice system.

370 (g) Proof of matters under this section may be  
371 submitted to the court in which the criminal case is pending in  
372 any form the court determines to be appropriate, including  
373 military service and medical records, previous determinations of a  
374 disability by a veteran's organization or by the United States  
375 Department of Veterans Affairs, testimony or affidavits of other  
376 veterans or service members, and prior determinations of  
377 eligibility for benefits by any state or county veterans office.

378 (4) **Administrative Office of Courts.** With regard to any  
379 Veterans Treatment Court established under this chapter, the  
380 Administrative Office of Courts may do the following:

381 (a) Ensure that the structure of the intervention  
382 component complies with rules adopted under this chapter and  
383 applicable federal regulations.

384 (b) Revoke the authorization of a program upon a  
385 determination that the program does not comply with rules adopted  
386 under this chapter and applicable federal regulations.

387 (c) Enter into agreements and contracts to effectuate  
388 the purposes of this chapter with:

389 (i) Another department, authority, or agency of  
390 the state;

391 (ii) Another state;

392 (iii) The federal government;





393 (iv) A state-supported or private university; or  
394 (v) A public or private agency, foundation,  
395 corporation, or individual.

396 (d) Directly, or by contract, approve and certify any  
397 intervention component established under this chapter.

398 (e) Require, as a condition of operation, that each  
399 veterans court created or funded under this chapter be certified  
400 by the Administrative Office of Courts.

401 (f) Adopt rules to implement this chapter.

402 (5) **State Drug Court Advisory Committee.** (a) The State  
403 Drug Court Advisory Committee shall be responsible for developing  
404 statewide rules and policies as they relate to Veterans Treatment  
405 Court programs.

406 (b) The State Drug Court Advisory Committee may also  
407 make recommendations to the Chief Justice, the Director of the  
408 Administrative Office of Courts and state officials concerning  
409 improvements to Veterans Treatment Court policies and procedures.

410 (c) The State Drug Court Advisory Committee shall act  
411 as an arbiter of disputes arising out of the operation of Veterans  
412 Treatment Court programs established under this chapter and make  
413 recommendations to improve the Veterans Treatment Court programs.

414 (6) **Funding for Veterans Treatment Courts.** (a) All monies  
415 received from any source by the Veterans Treatment Court program  
416 shall be accumulated in a fund to be used only for Veterans  
417 Treatment Court purposes. Any funds remaining in this fund at the



418 end of the fiscal year shall not lapse into the General Fund, but  
419 shall be retained in the Veterans Treatment Court fund for the  
420 funding of further activities by the Veterans Treatment Court  
421 program.

422 (b) A Veterans Treatment Court program may apply for  
423 and receive the following:

424 (i) Gifts, bequests and donations from private  
425 sources.

426 (ii) Grant and contract money from governmental  
427 sources.

428 (iii) Other forms of financial assistance approved  
429 by the court to supplement the budget of the Veterans Treatment  
430 Court program.

431 (7) **Immunity.** The coordinator and members of the  
432 professional and administrative staff of the Veterans Treatment  
433 Court program who perform duties in good faith under this chapter  
434 are immune from civil liability for:

435 (a) Acts or omissions in providing services under this  
436 chapter; and

437 (b) The reasonable exercise of discretion in  
438 determining eligibility to participate in the Veterans Treatment  
439 Court program.

440 \* \* \*

441 **SECTION 7.** Section 13-1-401, Mississippi Code of 1972, is  
442 amended as follows:



443 13-1-401. The rules of evidence prescribed in Sections  
444 13-1-401 through 13-1-415 shall be applicable in any youth court  
445 proceeding and in any criminal prosecution under the following  
446 sections of the Mississippi Code of 1972:

447 (a) Section 97-5-21, Mississippi Code of 1972, relating  
448 to seduction of a child under age eighteen (18);

449 (b) Section 97-5-23, Mississippi Code of 1972, relating  
450 to the touching of a child for lustful purposes;

451 (c) Section 97-5-35, Mississippi Code of 1972, relating  
452 to the exploitation of children;

453 (d) Section 97-5-39, Mississippi Code of 1972, relating  
454 to contributing to the neglect or delinquency of a child and  
455 felonious battery of a child;

456 (e) Section 97-5-41, Mississippi Code of 1972, relating  
457 to the carnal knowledge of a stepchild, adopted child or child of  
458 a cohabitating partner;

459 (f) Section 97-3-95, Mississippi Code of 1972, relating  
460 to sexual battery; \* \* \*

461 (g) Section 97-29-59, Mississippi Code of 1972,  
462 relating to unnatural intercourse \* \* \*; or

463 (h) Section 97-3-97, Mississippi Code of 1972, relating  
464 to sexual assault.

465 **SECTION 8.** Section 19-5-93, Mississippi Code of 1972, is  
466 amended as follows:



467 19-5-93. The board of supervisors of each county is  
468 authorized, in its discretion, to donate money for the objects and  
469 purposes following, to wit:

470 (a) **Confederate graves.** For the location, marking,  
471 care and maintenance of the grave or graves and graveyard of  
472 Confederate soldiers or sailors who died in the Confederate  
473 service, and the purchase, if necessary, of the land on which any  
474 of the said graveyards may be situated, and the erection and  
475 maintenance of appropriate monuments and appropriate inscriptions  
476 thereon. In the exercise of this power the board is fully  
477 authorized to accept donations of land on which any of said  
478 graveyards may be situated and also money or funds to be used for  
479 any of the purposes in this section expressed.

480 Any board of supervisors may, in its discretion, contribute  
481 money to be used for the upkeep of graves of the Confederate dead  
482 in its county.

483 (b) **Care of the aged.** For the support and maintenance  
484 of such residents of the county who are worthy, indigent aged  
485 inmates of the Old Ladies' Home of Jackson, Mississippi, or of the  
486 Golden Age Nursing Home and Hospital for North Mississippi of  
487 Greenwood, Mississippi, and not exceeding Five Hundred Dollars  
488 (\$500.00) per annum for the support of the county's inmates of the  
489 Old Men's Home, located near Jackson, Mississippi, and in addition  
490 thereto a sum not exceeding Two Hundred Dollars (\$200.00) per



491 annum to each of said institutions for their support and  
492 maintenance in the care of the aged.

493 (c) **King's Daughters.** To the King's Daughters in their  
494 respective counties for charities under their supervision.

495 (d) **Travelers Aid Society.** A sum of money not  
496 exceeding Fifteen Dollars (\$15.00) per month for the support of  
497 the organization known as the Travelers Aid Society, provided the  
498 same is nonsectarian.

499 (e) **Hospitals for pellagra sufferers.** For the  
500 establishment and maintenance of a hospital for the treatment of  
501 persons afflicted with pellagra. For this purpose the board may  
502 issue bonds and incur such indebtedness within the limits now  
503 authorized by law.

504 (f) **Tubercular hospitals.** For the establishment and  
505 maintenance of a hospital for the care and treatment of persons  
506 suffering from tuberculosis. In the execution of this power the  
507 board may select trustees to establish and operate said hospital.  
508 In counties having a population of more than forty thousand  
509 (40,000) people, as shown by the latest United States census, the  
510 board may set aside, appropriate and expend monies from the  
511 general fund for the purpose of aiding in the maintenance and  
512 support of hospitals maintained and operated in such county for  
513 the care and treatment of persons suffering from tuberculosis.  
514 The monies shall be expended by the board through such trustees,  
515 not less than three (3) and not more than five (5), to be elected



516 by the board of supervisors annually. The trustees shall file  
517 reports with the board at least once every six (6) months showing  
518 in detail all expenditures made by them and the number of patients  
519 which have been for the preceding period aided or cared for by the  
520 institution, and the board may otherwise require a strict  
521 accounting of the administration of said funds.

522 (g) **Same -- additional provisions.** The boards of  
523 supervisors of one or more counties are hereby authorized and  
524 empowered, in their discretion, separately or jointly, to acquire  
525 by gift, purchase or lease, real estate, for tubercular hospital  
526 purposes, and to own, erect, build, establish, maintain, regulate  
527 and support a tubercular hospital and to remodel buildings on such  
528 property to be used for such hospital purposes.

529 In the event the boards of supervisors of two (2) or more  
530 counties agree to cooperate in establishing and maintaining such  
531 hospital, the board of supervisors of each of said counties shall  
532 adopt a resolution agreeing to the proportionate part each county  
533 will contribute to the establishment and maintaining of such  
534 hospital.

535 Each county operating under the provisions of this subsection  
536 is hereby authorized and empowered to set aside, appropriate and  
537 expend monies from the general fund for the purpose of erecting,  
538 maintaining and operating such hospital.

539 (h) **Charity wards in hospitals.** A sum of money not  
540 exceeding One Hundred Dollars (\$100.00) per month to maintain a



541 charity ward or wards in any hospital in their respective  
542 counties, or in the event there shall be no hospital in such  
543 county, then a like sum, in their discretion, to maintain a  
544 charity ward or wards in any hospital in any adjoining county  
545 receiving and treating patients from such county having no  
546 hospital.

547           (i) **Same -- coast counties.** The several counties of  
548 this state bordering on the tidewater of the Gulf of Mexico are  
549 hereby authorized and empowered, in the discretion of the proper  
550 authorities thereof, to appropriate such a sum of money as said  
551 authorities shall deem reasonable, to provide and maintain a  
552 charity ward or wards, in any of the hospitals in said counties,  
553 or, in the discretion of said authorities, to make and enter into  
554 contracts with any such hospitals for the treatment and care in  
555 such hospitals of the indigent sick of said counties, and to pay  
556 therefor out of the general fund of such counties such sum or sums  
557 as shall be a reasonable and just compensation to said hospital.  
558 However, the board of supervisors of any county mentioned herein  
559 may, in its discretion, make and enter into contracts with any  
560 hospital in any adjoining county receiving and treating patients  
561 from the respective counties mentioned herein in such hospitals of  
562 the indigent sick of said counties, mentioned herein, and to pay  
563 therefor out of the general fund of such county, such sum or sums  
564 that shall be reasonable and just to said hospitals.



565           (j) **Public libraries.** A sum not to exceed One Thousand  
566 Dollars (\$1,000.00) per annum toward the support and maintenance  
567 of one or more public libraries situated in the county. In any  
568 county whose total assessed valuation, including railroads and all  
569 public utilities, is more than Eighteen Million Dollars  
570 (\$18,000,000.00) the board, in its discretion, may appropriate a  
571 sum not to exceed Three Thousand Dollars (\$3,000.00) per annum for  
572 public libraries.

573           The board may also give or donate any legislative journals,  
574 constitutional convention journals, printed official reports of  
575 any state or county officers, official reports of departments,  
576 bureaus or officers of the United States, and copies of the acts  
577 of the Legislature or laws of Mississippi now or hereafter in the  
578 county library of such county and not needed, in the opinion of  
579 the board in the county library (but not including any Mississippi  
580 reports and not including any acts of the Legislature or laws of  
581 the state, unless such acts or laws be more than twenty (20) years  
582 old) to any library or library association or foundation or  
583 organization maintaining a free public library for reference or  
584 otherwise, provided such library, association, foundation or  
585 organization owns free from encumbrance a fireproof library  
586 building located in this state, in which building said journals,  
587 reports, acts and laws may be and shall be deposited where  
588 received under this subsection and made accessible under  
589 reasonable regulations to the general public. Such library,





590 association, foundation or organization shall not have the right  
591 to sell or otherwise dispose of said journals, reports, acts and  
592 laws. Said journals, reports, acts and laws may be returned to  
593 the county library from which received without expense to the  
594 county, or to the state library, without expense to the state, at  
595 any time by the library, association, foundation or organization  
596 receiving the same.

597 Any gift or donation made by the board of supervisors of any  
598 county under the authority of this subsection shall be evidenced  
599 by an order spread upon the minutes of said board. The county  
600 shall bear no expense in connection with any donation. The  
601 sheriff of the county, or the custodian of the county library,  
602 shall deliver to the representative of the library, association,  
603 foundation or organization entitled to receive the same any of  
604 said journals, reports, acts, laws and official publications in  
605 accordance with the directions contained in any order of the board  
606 of supervisors for the delivery of the same, and shall take proper  
607 receipt from the party receiving the same, and shall deliver such  
608 receipt to the clerk of the board of supervisors of the county,  
609 and the board of supervisors shall have the said receipt entered  
610 in full on the minutes of the board.

611 Any library, association, foundation or organization  
612 receiving any gift or donation from any county under this  
613 subsection shall report in writing to the board of supervisors,  
614 from which such gifts or donations have been received every two



615 (2) years, that the gifts and donations so received are still in  
616 the possession of the donee and are accessible to the general  
617 public. If any of the gifts or donations so received have been  
618 lost, destroyed or have otherwise disappeared, report thereof  
619 shall be made.

620 If any library, association, foundation or organization  
621 receiving gifts or donations under this subsection shall cease  
622 operating as a free public library or shall cease to be the owner  
623 of a fireproof building in which it keeps and maintains a free  
624 public library, for reference or otherwise, the said library,  
625 association, foundation or organization shall thereupon  
626 immediately return to the county library, without expense to the  
627 county, or to the state library, without expense to the state, any  
628 gifts or donations it may have received under this subsection.

629 (k) **Patriotic organizations and memorials.** A sum not  
630 to exceed Five Thousand Dollars (\$5,000.00) to build or aid any  
631 post of the American Legion, any chapter of the Daughters of the  
632 American Revolution, any chapter of the United Daughters of the  
633 Confederacy, or any post, unit or chapter of any patriotic  
634 organization within the county in building a memorial to the  
635 veterans of World War I and World War II; and a sum not to exceed  
636 Five Thousand Dollars (\$5,000.00) to aid in defraying the cost of  
637 the erection of suitable memorials to deceased soldiers, sailors  
638 and marines of the late world wars. Such appropriation may be



639 made, even though no provision has been made therefor in the  
640 county budget.

641 (l) **American Red Cross.** Any board of supervisors of  
642 any county in this state is hereby authorized and empowered, in  
643 its discretion, to donate annually, out of any monies in its  
644 respective treasury, to be drawn by warrant thereon, a sum not  
645 exceeding One Hundred Dollars (\$100.00) per million of assessed  
646 valuation to the support of a local chapter of the American Red  
647 Cross.

648 (m) **St. Jude Hospital.** For the payment of mileage  
649 expense for transporting persons to St. Jude Hospital in Memphis,  
650 Tennessee, for treatment. The mileage shall be based on a  
651 round-trip basis from the patient's place of residence to St. Jude  
652 Hospital at the mileage rate set forth in Section 25-3-41.

653 (n) **Public museums.** For the support and maintenance of  
654 such public museums located in the county constituted under the  
655 provisions of Chapter 9, Title 39, Mississippi Code of 1972.

656 (o) **Domestic violence shelters.** The board of  
657 supervisors of any county in this state is hereby authorized and  
658 empowered, in its discretion, to donate annually out of any money  
659 in the county treasury, such sums as the board deems advisable to  
660 support any domestic violence shelter or rape crisis center  
661 operating within or serving its area. For the purposes of this  
662 section, "rape crisis center" means a place established to provide  
663 care, counseling and related services to victims of rape,



664 attempted rape, sexual battery \* \* \*, attempted sexual battery,  
665 sexual assault or attempted sexual assault.

666 (p) **Literacy programs.** The board of supervisors of any  
667 county in this state is hereby authorized and empowered, in its  
668 discretion, to donate out of the general fund of the county such  
669 sum of money as the board deems reasonable to any literacy program  
670 being conducted within the county.

671 (q) **Care of neglected children.** The board of  
672 supervisors of any county in this state, in its discretion, may  
673 donate annually out of any money in the county treasury such sums  
674 as the board deems advisable to support any residential group home  
675 for the abused, abandoned or neglected children which operates  
676 within or serves the county. For the purposes of this paragraph  
677 the term "residential group home" means a group residence  
678 established to provide care and counseling, and to serve as a  
679 home, for children who are the victims of abuse, neglect or  
680 abandonment.

681 (r) **Boys and Girls Club.** To any chartered chapter of  
682 the Boys and Girls Clubs of America located within the county, out  
683 of any funds in the county treasury, provided that the cumulative  
684 sum of donations to all chapters within the county does not exceed  
685 the amount generated in the county by one-fourth (1/4) mill on all  
686 of the taxable property within the county, during the fiscal year  
687 in which the donations are made. Nothing in this paragraph  
688 authorizes the imposition of additional tax.



689           (s)   **Mississippi Burn Care Fund.** To the Mississippi  
690 Burn Care Fund, subject to the limitations specified in Section  
691 21-19-58.

692           (t)   **Court Appointed Special Advocates.** To any chapter  
693 of the Court Appointed Special Advocates (CASA), out of any funds  
694 in the county treasury, provided that the cumulative sum of  
695 donations to a chapter does not exceed the amount generated in the  
696 county by one-fourth (1/4) mill on all of the taxable property  
697 within the county, during the fiscal year in which the donations  
698 are made. Nothing in this paragraph authorizes the imposition of  
699 additional tax.

700           (u)   **National Voluntary Organizations Active in Disaster**  
701 **(NVOAD).** To a local chapter of NVOAD, whether in-kind  
702 contributions or out of any funds in the county treasury, provided  
703 that the cumulative sum of donations to a local NVOAD does not  
704 exceed the amount generated in the county by one-fourth (1/4) mill  
705 on all of the taxable property within the county during the fiscal  
706 year in which the donations are made. Nothing in this paragraph  
707 authorizes the imposition of additional tax.

708           (v)   **Farmers' markets.** The board of supervisors of any  
709 county in this state, in its discretion, may donate annually out  
710 of any money in the county treasury, such sums as the board deems  
711 advisable to support any farmers' market that is certified by the  
712 Mississippi Department of Agriculture and Commerce and operating  
713 within the county, not to exceed the amount that would be



714 generated from the levy of a one-fourth (1/4) mill ad valorem tax  
715 upon all taxable property in the county.

716 (w) **Young Men's Christian Association (YMCA)**. To any  
717 chartered chapter of the YMCA located within the county, out of  
718 any funds in the county treasury, provided that the cumulative sum  
719 of donations to all chapters within the county does not exceed the  
720 amount generated in the county by one-fourth (1/4) mill on all of  
721 the taxable property within the county, during the fiscal year in  
722 which the donations are made. Nothing in this paragraph  
723 authorizes the imposition of additional tax.

724 **SECTION 9.** Section 37-3-51, Mississippi Code of 1972, is  
725 amended as follows:

726 37-3-51. (1) Upon the conviction of any licensed personnel,  
727 as defined in Section 37-9-1, employed by a public school district  
728 or any person employed by a charter or private elementary or  
729 secondary school in a position that requires licensure in the  
730 public school districts, of any felony, or of a sex offense as  
731 defined in subsection (2) of this section, the district attorney  
732 or other prosecuting attorney shall identify those defendants for  
733 the circuit clerk. Each circuit clerk shall provide the State  
734 Department of Education with notice of the conviction of any such  
735 personnel of a felony or a sex offense. In addition, if the  
736 convicted person is an employee of a charter school, the circuit  
737 clerk must provide the same notice to the Mississippi Charter  
738 School Authorizer Board.



739           (2) "Sex offense" shall mean any of the following offenses:  
740           (a) Section 97-3-65, Mississippi Code of 1972, relating  
741 to the carnal knowledge of a child under fourteen (14) years of  
742 age;  
743           (b) Section 97-3-95, Mississippi Code of 1972, relating  
744 to sexual battery;  
745           (c) Section 97-5-21, Mississippi Code of 1972, relating  
746 to seduction of a child under age eighteen (18);  
747           (d) Section 97-5-23, Mississippi Code of 1972, relating  
748 to the touching of a child for lustful purposes;  
749           (e) Section 97-5-27, Mississippi Code of 1972, relating  
750 to the dissemination of sexually oriented material to children;  
751           (f) Section 97-5-33, Mississippi Code of 1972, relating  
752 to the exploitation of children;  
753           (g) Section 97-5-41, Mississippi Code of 1972, relating  
754 to the carnal knowledge of a stepchild, adopted child, or child of  
755 a cohabitating partner;  
756           (h) Section 97-29-59, Mississippi Code of 1972,  
757 relating to unnatural intercourse; \* \* \*  
758           (i) Section 97-3-97, Mississippi Code of 1972, relating  
759 to sexual assault; or  
760           ( \* \* \*j) Any other offense committed in another  
761 jurisdiction which, if committed in this state, would be deemed to  
762 be such a crime without regard to its designation elsewhere.



763 (3) In addition, the State Department of Education is  
764 considered to be the employer of such personnel for purposes of  
765 requesting criminal record background checks.

766 **SECTION 10.** Section 37-9-17, Mississippi Code of 1972, is  
767 amended as follows:

768 37-9-17. (1) On or before April 1 of each year, the  
769 principal of each school shall recommend to the superintendent of  
770 the local school district the licensed employees or  
771 noninstructional employees to be employed for the school involved  
772 except those licensed employees or noninstructional employees who  
773 have been previously employed and who have a contract valid for  
774 the ensuing scholastic year. If such recommendations meet with  
775 the approval of the superintendent, the superintendent shall  
776 recommend the employment of such licensed employees or  
777 noninstructional employees to the local school board, and, unless  
778 good reason to the contrary exists, the board shall elect the  
779 employees so recommended. If, for any reason, the local school  
780 board shall decline to elect any employee so recommended,  
781 additional recommendations for the places to be filled shall be  
782 made by the principal to the superintendent and then by the  
783 superintendent to the local school board as provided above. The  
784 school board of any local school district shall be authorized to  
785 designate a personnel supervisor or another principal employed by  
786 the school district to recommend to the superintendent licensed  
787 employees or noninstructional employees; however, this





788 authorization shall be restricted to no more than two (2)  
789 positions for each employment period for each school in the local  
790 school district. Any noninstructional employee employed upon the  
791 recommendation of a personnel supervisor or another principal  
792 employed by the local school district must have been employed by  
793 the local school district at the time the superintendent was  
794 elected or appointed to office; a noninstructional employee  
795 employed under this authorization may not be paid compensation in  
796 excess of the statewide average compensation for such  
797 noninstructional position with comparable experience, as  
798 established by the State Department of Education. The school  
799 board of any local school district shall be authorized to  
800 designate a personnel supervisor or another principal employed by  
801 the school district to accept the recommendations of principals or  
802 their designees for licensed employees or noninstructional  
803 employees and to transmit approved recommendations to the local  
804 school board; however, this authorization shall be restricted to  
805 no more than two (2) positions for each employment period for each  
806 school in the local school district.

807         When the licensed employees have been elected as provided in  
808 the preceding paragraph, the superintendent of the district shall  
809 enter into a contract with such persons in the manner provided in  
810 this chapter.

811         If, at the commencement of the scholastic year, any licensed  
812 employee shall present to the superintendent a license of a higher



813 grade than that specified in such individual's contract, such  
814 individual may, if funds are available from adequate education  
815 program funds of the district, or from district funds, be paid  
816 from such funds the amount to which such higher grade license  
817 would have entitled the individual, had the license been held at  
818 the time the contract was executed.

819 (2) Superintendents/directors of schools under the purview  
820 of the State Board of Education, the superintendent of the local  
821 school district and any private firm under contract with the local  
822 public school district to provide substitute teachers to teach  
823 during the absence of a regularly employed schoolteacher shall  
824 require, through the appropriate governmental authority, that  
825 current criminal records background checks and current child abuse  
826 registry checks are obtained, and that such criminal record  
827 information and registry checks are on file for any new hires  
828 applying for employment as a licensed or nonlicensed employee at a  
829 school and not previously employed in such school under the  
830 purview of the State Board of Education or at such local school  
831 district prior to July 1, 2000. In order to determine the  
832 applicant's suitability for employment, the applicant shall be  
833 fingerprinted. If no disqualifying record is identified at the  
834 state level, the fingerprints shall be forwarded by the Department  
835 of Public Safety to the Federal Bureau of Investigation for a  
836 national criminal history record check. The fee for such  
837 fingerprinting and criminal history record check shall be paid by



838 the applicant, not to exceed Fifty Dollars (\$50.00); however, the  
839 State Board of Education, the school board of the local school  
840 district or a private firm under contract with a local school  
841 district to provide substitute teachers to teach during the  
842 temporary absence of the regularly employed schoolteacher, in its  
843 discretion, may elect to pay the fee for the fingerprinting and  
844 criminal history record check on behalf of any applicant. Under  
845 no circumstances shall a member of the State Board of Education,  
846 superintendent/director of schools under the purview of the State  
847 Board of Education, local school district superintendent, local  
848 school board member or any individual other than the subject of  
849 the criminal history record checks disseminate information  
850 received through any such checks except insofar as required to  
851 fulfill the purposes of this section. Any nonpublic school which  
852 is accredited or approved by the State Board of Education may  
853 avail itself of the procedures provided for herein and shall be  
854 responsible for the same fee charged in the case of local public  
855 schools of this state. The determination whether the applicant  
856 has a disqualifying crime, as set forth in subsection (3) of this  
857 section, shall be made by the appropriate governmental authority,  
858 and the appropriate governmental authority shall notify the  
859 private firm whether a disqualifying crime exists.

860 (3) If such fingerprinting or criminal record checks  
861 disclose a felony conviction, guilty plea or plea of nolo  
862 contendere to a felony of possession or sale of drugs, murder,



863 manslaughter, armed robbery, rape, sexual battery, sexual assault,  
864 sex offense listed in Section 45-33-23(h), child abuse, arson,  
865 grand larceny, burglary, gratification of lust or aggravated  
866 assault which has not been reversed on appeal or for which a  
867 pardon has not been granted, the new hire shall not be eligible to  
868 be employed at such school. Any employment contract for a new  
869 hire executed by the superintendent of the local school district  
870 or any employment of a new hire by a superintendent/director of a  
871 new school under the purview of the State Board of Education or by  
872 a private firm shall be voidable if the new hire receives a  
873 disqualifying criminal record check. However, the State Board of  
874 Education or the school board may, in its discretion, allow any  
875 applicant aggrieved by the employment decision under this section  
876 to appear before the respective board, or before a hearing officer  
877 designated for such purpose, to show mitigating circumstances  
878 which may exist and allow the new hire to be employed at the  
879 school. The State Board of Education or local school board may  
880 grant waivers for such mitigating circumstances, which shall  
881 include, but not be limited to: (a) age at which the crime was  
882 committed; (b) circumstances surrounding the crime; (c) length of  
883 time since the conviction and criminal history since the  
884 conviction; (d) work history; (e) current employment and character  
885 references; (f) other evidence demonstrating the ability of the  
886 person to perform the employment responsibilities competently and



887 that the person does not pose a threat to the health or safety of  
888 the children at the school.

889 (4) No local school district, local school district  
890 employee, member of the State Board of Education or employee of a  
891 school under the purview of the State Board of Education shall be  
892 held liable in any employment discrimination suit in which an  
893 allegation of discrimination is made regarding an employment  
894 decision authorized under this Section 37-9-17.

895 **SECTION 11.** Section 37-11-29, Mississippi Code of 1972, is  
896 amended as follows:

897 37-11-29. (1) Any principal, teacher or other school  
898 employee who has knowledge of any unlawful activity which occurred  
899 on educational property or during a school related activity or  
900 which may have occurred shall report such activity to the  
901 superintendent of the school district or his designee who shall  
902 notify the appropriate law enforcement officials as required by  
903 this section. In the event of an emergency or if the  
904 superintendent or his designee is unavailable, any principal may  
905 make a report required under this subsection.

906 (2) Whenever any person who shall be an enrolled student in  
907 any school or educational institution in this state supported in  
908 whole or in part by public funds, or who shall be an enrolled  
909 student in any private school or educational institution, is  
910 arrested for, and lawfully charged with, the commission of any  
911 crime and convicted upon the charge for which he was arrested, or



912 convicted of any crime charged against him after his arrest and  
913 before trial, the office or law enforcement department of which  
914 the arresting officer is a member, and the justice court judge and  
915 any circuit judge or court before whom such student is tried upon  
916 said charge or charges, shall make or cause to be made a report  
917 thereof to the superintendent or the president or chancellor, as  
918 the case may be, of the school district or other educational  
919 institution in which such student is enrolled.

920 If the charge upon which such student was arrested, or any  
921 other charges preferred against him are dismissed or nol prossed,  
922 or if upon trial he is either convicted or acquitted of such  
923 charge or charges, same shall be reported to said respective  
924 superintendent or president, or chancellor, as the case may be. A  
925 copy of said report shall be sent to the Secretary of the Board of  
926 Trustees of State Institutions of Higher Learning of the State of  
927 Mississippi, at Jackson, Mississippi.

928 Said report shall be made within one (1) week after the  
929 arrest of such student and within one (1) week after any charge  
930 placed against him is dismissed or nol prossed, and within one (1)  
931 week after he shall have pled guilty, been convicted, or have been  
932 acquitted by trial upon any charge placed against him. This  
933 section shall not apply to ordinary traffic violations involving a  
934 penalty of less than Fifty Dollars (\$50.00) and costs.

935 The State Superintendent of Public Education shall gather  
936 annually all of the reports provided under this section and



937 prepare a report on the number of students arrested as a result of  
938 any unlawful activity which occurred on educational property or  
939 during a school related activity. All data must be disaggregated  
940 by race, ethnicity, gender, school, offense and law enforcement  
941 agency involved. However, the report prepared by the State  
942 Superintendent of Public Education shall not include the identity  
943 of any student who was arrested.

944 On or before January 1 of each year, the State Superintendent  
945 of Public Education shall report to the Governor, the Lieutenant  
946 Governor, the Speaker of the House of Representatives and the  
947 Joint PEER Committee on this section. The report must include  
948 data regarding arrests as a result of any unlawful activity which  
949 occurred on educational property or during a school related  
950 activity.

951 (3) When the superintendent or his designee has a reasonable  
952 belief that an act has occurred on educational property or during  
953 a school related activity involving any of the offenses set forth  
954 in subsection (6) of this section, the superintendent or his  
955 designee shall immediately report the act to the appropriate local  
956 law enforcement agency. For purposes of this subsection, "school  
957 property" shall include any public school building, bus, public  
958 school campus, grounds, recreational area or athletic field in the  
959 charge of the superintendent. The State Board of Education shall  
960 prescribe a form for making reports required under this  
961 subsection. Any superintendent or his designee who fails to make



962 a report required by this section shall be subject to the  
963 penalties provided in Section 37-11-35.

964 (4) The law enforcement authority shall immediately dispatch  
965 an officer to the educational institution and with probable cause  
966 the officer is authorized to make an arrest if necessary as  
967 provided in Section 99-3-7.

968 (5) Any superintendent, principal, teacher or other school  
969 personnel participating in the making of a required report  
970 pursuant to this section or participating in any judicial  
971 proceeding resulting therefrom shall be presumed to be acting in  
972 good faith. Any person reporting in good faith shall be immune  
973 from any civil liability that might otherwise be incurred or  
974 imposed.

975 (6) For purposes of this section, "unlawful activity" means  
976 any of the following:

977 (a) Possession or use of a deadly weapon, as defined in  
978 Section 97-37-1;

979 (b) Possession, sale or use of any controlled  
980 substance;

981 (c) Aggravated assault, as defined in Section 97-3-7;

982 (d) Simple assault, as defined in Section 97-3-7, upon  
983 any school employee;

984 (e) Rape, as defined under Mississippi law;

985 (f) Sexual battery, as defined under Mississippi law;

986 (g) Sexual assault, as defined under Mississippi law;





987 ( \* \* \*h) Murder, as defined under Mississippi law;  
988 ( \* \* \*i) Kidnapping, as defined under Mississippi law;  
989 or  
990 ( \* \* \*j) Fondling, touching, handling, etc., a child  
991 for lustful purposes, as defined in Section 97-5-23.

992 **SECTION 12.** Section 37-13-89, Mississippi Code of 1972, is  
993 amended as follows:

994 37-13-89. (1) In each school district within the state,  
995 there shall be employed the number of school attendance officers  
996 determined by the Office of Compulsory School Attendance  
997 Enforcement to be necessary to adequately enforce the provisions  
998 of the Mississippi Compulsory School Attendance Law; however, this  
999 number shall not exceed one hundred fifty-three (153) school  
1000 attendance officers at any time. From and after July 1, 1998, all  
1001 school attendance officers employed pursuant to this section shall  
1002 be employees of the State Department of Education. The State  
1003 Department of Education shall employ all persons employed as  
1004 school attendance officers by district attorneys before July 1,  
1005 1998, and shall assign them to school attendance responsibilities  
1006 in the school district in which they were employed before July 1,  
1007 1998. The first twelve (12) months of employment for each school  
1008 attendance officer shall be the probationary period of state  
1009 service.

1010 (2) (a) The State Department of Education shall obtain  
1011 current criminal records background checks and current child abuse



1012 registry checks on all persons applying for the position of school  
1013 attendance officer after July 2, 2002. The criminal records  
1014 information and registry checks must be kept on file for any new  
1015 hires. In order to determine an applicant's suitability for  
1016 employment as a school attendance officer, the applicant must be  
1017 fingerprinted. If no disqualifying record is identified at the  
1018 state level, the Department of Public Safety shall forward the  
1019 fingerprints to the Federal Bureau of Investigation (FBI) for a  
1020 national criminal history record check. The applicant shall pay  
1021 the fee, not to exceed Fifty Dollars (\$50.00), for the  
1022 fingerprinting and criminal records background check; however, the  
1023 State Department of Education, in its discretion, may pay the fee  
1024 for the fingerprinting and criminal records background check on  
1025 behalf of any applicant. Under no circumstances may a member of  
1026 the State Board of Education, employee of the State Department of  
1027 Education or any person other than the subject of the criminal  
1028 records background check disseminate information received through  
1029 any such checks except insofar as required to fulfill the purposes  
1030 of this subsection.

1031 (b) If the fingerprinting or criminal records check  
1032 discloses a felony conviction, guilty plea or plea of nolo  
1033 contendere to a felony of possession or sale of drugs, murder,  
1034 manslaughter, armed robbery, rape, sexual battery, sexual assault,  
1035 sex offense listed in Section 45-33-23(h), child abuse, arson,  
1036 grand larceny, burglary, gratification of lust or aggravated



1037 assault which has not been reversed on appeal or for which a  
1038 pardon has not been granted, the applicant is not eligible to be  
1039 employed as a school attendance officer. Any employment of an  
1040 applicant pending the results of the fingerprinting and criminal  
1041 records check is voidable if the new hire receives a disqualifying  
1042 criminal records check. However, the State Board of Education, in  
1043 its discretion, may allow an applicant aggrieved by an employment  
1044 decision under this subsection to appear before the board, or  
1045 before a hearing officer designated for that purpose, to show  
1046 mitigating circumstances that may exist and allow the new hire to  
1047 be employed as a school attendance officer. The State Board of  
1048 Education may grant waivers for mitigating circumstances, which  
1049 may include, but are not necessarily limited to: (i) age at which  
1050 the crime was committed; (ii) circumstances surrounding the crime;  
1051 (iii) length of time since the conviction and criminal history  
1052 since the conviction; (iv) work history; (v) current employment  
1053 and character references; and (vi) other evidence demonstrating  
1054 the ability of the person to perform the responsibilities of a  
1055 school attendance officer competently and that the person does not  
1056 pose a threat to the health or safety of children.

1057 (c) A member of the State Board of Education or  
1058 employee of the State Department of Education may not be held  
1059 liable in any employment discrimination suit in which an  
1060 allegation of discrimination is made regarding an employment  
1061 decision authorized under this section.



1062           (3) Each school attendance officer shall possess a college  
1063 degree with a major in a behavioral science or a related field or  
1064 shall have no less than three (3) years combined actual experience  
1065 as a school teacher, school administrator, law enforcement officer  
1066 possessing such degree, and/or social worker; however, these  
1067 requirements shall not apply to persons employed as school  
1068 attendance officers before January 1, 1987. School attendance  
1069 officers also shall satisfy any additional requirements that may  
1070 be established by the State Personnel Board for the position of  
1071 school attendance officer.

1072           (4) It shall be the duty of each school attendance officer  
1073 to:

1074                   (a) Cooperate with any public agency to locate and  
1075 identify all compulsory-school-age children who are not attending  
1076 school;

1077                   (b) Cooperate with all courts of competent  
1078 jurisdiction;

1079                   (c) Investigate all cases of nonattendance and unlawful  
1080 absences by compulsory-school-age children not enrolled in a  
1081 nonpublic school;

1082                   (d) Provide appropriate counseling to encourage all  
1083 school-age children to attend school until they have completed  
1084 high school;



1085           (e) Attempt to secure the provision of social or  
1086 welfare services that may be required to enable any child to  
1087 attend school;

1088           (f) Contact the home or place of residence of a  
1089 compulsory-school-age child and any other place in which the  
1090 officer is likely to find any compulsory-school-age child when the  
1091 child is absent from school during school hours without a valid  
1092 written excuse from school officials, and when the child is found,  
1093 the officer shall notify the parents and school officials as to  
1094 where the child was physically located;

1095           (g) Contact promptly the home of each  
1096 compulsory-school-age child in the school district within the  
1097 officer's jurisdiction who is not enrolled in school or is not in  
1098 attendance at public school and is without a valid written excuse  
1099 from school officials; if no valid reason is found for the  
1100 nonenrollment or absence from the school, the school attendance  
1101 officer shall give written notice to the parent, guardian or  
1102 custodian of the requirement for the child's enrollment or  
1103 attendance;

1104           (h) Collect and maintain information concerning  
1105 absenteeism, dropouts and other attendance-related problems, as  
1106 may be required by law or the Office of Compulsory School  
1107 Attendance Enforcement; and



1108           (i) Perform all other duties relating to compulsory  
1109 school attendance established by the State Department of Education  
1110 or district school attendance supervisor, or both.

1111           (5) While engaged in the performance of his duties, each  
1112 school attendance officer shall carry on his person a badge  
1113 identifying him as a school attendance officer under the Office of  
1114 Compulsory School Attendance Enforcement of the State Department  
1115 of Education and an identification card designed by the State  
1116 Superintendent of Public Education and issued by the school  
1117 attendance officer supervisor. Neither the badge nor the  
1118 identification card shall bear the name of any elected public  
1119 official.

1120           (6) The State Personnel Board shall develop a salary scale  
1121 for school attendance officers as part of the variable  
1122 compensation plan. The various pay ranges of the salary scale  
1123 shall be based upon factors including, but not limited to,  
1124 education, professional certification and licensure, and number of  
1125 years of experience. School attendance officers shall be paid in  
1126 accordance with this salary scale. The minimum salaries under the  
1127 scale shall be no less than the following:

1128           (a) For school attendance officers holding a bachelor's  
1129 degree or any other attendance officer who does not hold such a  
1130 degree, the annual salary shall be based on years of experience as  
1131 a school attendance officer or related field of service or  
1132 employment, no less than as follows:



1133	Years of Experience	Salary
1134	0 - 4 years	\$19,650.00
1135	5 - 8 years	21,550.00
1136	9 - 12 years	23,070.00
1137	13 - 16 years	24,590.00
1138	Over 17 years	26,110.00

1139 (b) For school attendance officers holding a license as  
 1140 a social worker, the annual salary shall be based on years of  
 1141 experience as a school attendance officer or related field of  
 1142 service or employment, no less than as follows:

1143	Years of Experience	Salary
1144	0 - 4 years	\$20,650.00
1145	5 - 8 years	22,950.00
1146	9 - 12 years	24,790.00
1147	13 - 16 years	26,630.00
1148	17 - 20 years	28,470.00
1149	Over 21 years	30,310.00

1150 (c) For school attendance officers holding a master's  
 1151 degree in a behavioral science or a related field, the annual  
 1152 salary shall be based on years of experience as a school  
 1153 attendance officer or related field of service or employment, no  
 1154 less than as follows:

1155	Years of Experience	Salary
1156	0 - 4 years	\$21,450.00
1157	5 - 8 years	24,000.00



1158	9 - 12 years	26,040.00
1159	13 - 16 years	28,080.00
1160	17 - 20 years	30,120.00
1161	Over 21 years	32,160.00

1162 (7) (a) Each school attendance officer employed by a  
1163 district attorney on June 30, 1998, who became an employee of the  
1164 State Department of Education on July 1, 1998, shall be awarded  
1165 credit for personal leave and major medical leave for his  
1166 continuous service as a school attendance officer under the  
1167 district attorney, and if applicable, the youth or family court or  
1168 a state agency. The credit for personal leave shall be in an  
1169 amount equal to one-third (1/3) of the maximum personal leave the  
1170 school attendance officer could have accumulated had he been  
1171 credited with such leave under Section 25-3-93 during his  
1172 employment with the district attorney, and if applicable, the  
1173 youth or family court or a state agency. The credit for major  
1174 medical leave shall be in an amount equal to one-half (1/2) of the  
1175 maximum major medical leave the school attendance officer could  
1176 have accumulated had he been credited with such leave under  
1177 Section 25-3-95 during his employment with the district attorney,  
1178 and if applicable, the youth or family court or a state agency.  
1179 However, if a district attorney who employed a school attendance  
1180 officer on June 30, 1998, certifies, in writing, to the State  
1181 Department of Education that the school attendance officer had  
1182 accumulated, pursuant to a personal leave policy or major medical





1183 leave policy lawfully adopted by the district attorney, a number  
1184 of days of unused personal leave or major medical leave, or both,  
1185 which is greater than the number of days to which the school  
1186 attendance officer is entitled under this paragraph, the State  
1187 Department of Education shall authorize the school attendance  
1188 officer to retain the actual unused personal leave or major  
1189 medical leave, or both, certified by the district attorney,  
1190 subject to the maximum amount of personal leave and major medical  
1191 leave the school attendance officer could have accumulated had he  
1192 been credited with such leave under Sections 25-3-93 and 25-3-95.

1193 (b) For the purpose of determining the accrual rate for  
1194 personal leave under Section 25-3-93 and major medical leave under  
1195 Section 25-3-95, the State Department of Education shall give  
1196 consideration to all continuous service rendered by a school  
1197 attendance officer before July 1, 1998, in addition to the service  
1198 rendered by the school attendance officer as an employee of the  
1199 department.

1200 (c) In order for a school attendance officer to be  
1201 awarded credit for personal leave and major medical leave or to  
1202 retain the actual unused personal leave and major medical leave  
1203 accumulated by him before July 1, 1998, the district attorney who  
1204 employed the school attendance officer must certify, in writing,  
1205 to the State Department of Education the hire date of the school  
1206 attendance officer. For each school attendance officer employed  
1207 by the youth or family court or a state agency before being



1208 designated an employee of the district attorney who has not had a  
1209 break in continuous service, the hire date shall be the date that  
1210 the school attendance officer was hired by the youth or family  
1211 court or state agency. The department shall prescribe the date by  
1212 which the certification must be received by the department and  
1213 shall provide written notice to all district attorneys of the  
1214 certification requirement and the date by which the certification  
1215 must be received.

1216 (8) (a) School attendance officers shall maintain regular  
1217 office hours on a year-round basis; however, during the school  
1218 term, on those days that teachers in all of the school districts  
1219 served by a school attendance officer are not required to report  
1220 to work, the school attendance officer also shall not be required  
1221 to report to work. (For purposes of this subsection, a school  
1222 district's school term is that period of time identified as the  
1223 school term in contracts entered into by the district with  
1224 licensed personnel.) A school attendance officer shall be  
1225 required to report to work on any day recognized as an official  
1226 state holiday if teachers in any school district served by that  
1227 school attendance officer are required to report to work on that  
1228 day, regardless of the school attendance officer's status as an  
1229 employee of the State Department of Education, and compensatory  
1230 leave may not be awarded to the school attendance officer for  
1231 working during that day. However, a school attendance officer may



1232 be allowed by the school attendance officer's supervisor to use  
1233 earned leave on such days.

1234 (b) The State Department of Education annually shall  
1235 designate a period of six (6) consecutive weeks in the summer  
1236 between school years during which school attendance officers shall  
1237 not be required to report to work. A school attendance officer  
1238 who elects to work at any time during that period may not be  
1239 awarded compensatory leave for such work and may not opt to be  
1240 absent from work at any time other than during the six (6) weeks  
1241 designated by the department unless the school attendance officer  
1242 uses personal leave or major medical leave accrued under Section  
1243 25-3-93 or 25-3-95 for such absence.

1244 (9) The State Department of Education shall provide all  
1245 continuing education and training courses that school attendance  
1246 officers are required to complete under state law or rules and  
1247 regulations of the department.

1248 **SECTION 13.** Section 37-28-49, Mississippi Code of 1972, is  
1249 amended as follows:

1250 37-28-49. (1) Charter school teachers and other school  
1251 personnel, as well as members of the governing board and any  
1252 education service provider with whom a charter school contracts,  
1253 are subject to criminal history record checks and fingerprinting  
1254 requirements applicable to employees of other public schools. The  
1255 authorizer shall require that current criminal records background  
1256 checks and current child abuse registry checks are obtained, and



1257 that the criminal record information and registry checks are on  
1258 file at the charter school for any new hires applying for  
1259 employment. In order to determine an applicant's suitability for  
1260 employment, the applicant must be fingerprinted. If no  
1261 disqualifying record is identified at the state level, the  
1262 fingerprints must be forwarded by the Department of Public Safety  
1263 to the Federal Bureau of Investigation for a national criminal  
1264 history record check. Under no circumstances may a member of the  
1265 Mississippi Charter School Authorizer Board, member of the charter  
1266 school governing board or any individual other than the subject of  
1267 the criminal history record checks disseminate information  
1268 received through the checks except as may be required to fulfill  
1269 the purposes of this section. The determination whether the  
1270 applicant has a disqualifying crime, as set forth in subsection  
1271 (2) of this section, must be made by the appropriate state or  
1272 federal governmental authority, which must notify the charter  
1273 school whether a disqualifying crime exists.

1274 (2) If the fingerprinting or criminal record checks disclose  
1275 a felony conviction, guilty plea or plea of nolo contendere to a  
1276 felony of possession or sale of drugs, murder, manslaughter, armed  
1277 robbery, rape, sexual battery, sexual assault, sex offense listed  
1278 in Section 45-33-23(g), child abuse, arson, grand larceny,  
1279 burglary, gratification of lust or aggravated assault which has  
1280 not been reversed on appeal or for which a pardon has not been  
1281 granted, the new hire is not eligible to be employed at the



1282 charter school. However, the charter school, in its discretion,  
1283 may allow any applicant aggrieved by the employment decision under  
1284 this section to show mitigating circumstances that exist and may  
1285 allow, subject to the approval of the Mississippi Charter School  
1286 Authorizer Board, the new hire to be employed at the school. The  
1287 authorizer may approve the employment depending on the mitigating  
1288 circumstances, which may include, but need not be limited to: (a)  
1289 age at which the crime was committed; (b) circumstances  
1290 surrounding the crime; (c) length of time since the conviction and  
1291 criminal history since the conviction; (d) work history; (e)  
1292 current employment and character references; and (f) other  
1293 evidence demonstrating the ability of the person to perform the  
1294 employment responsibilities competently and that the person does  
1295 not pose a threat to the health or safety of children.

1296 (3) No charter school, charter school employee, member of  
1297 the charter school governing board, the Mississippi Charter School  
1298 Authorizer Board or member or employee of the Mississippi Charter  
1299 School Authorizer Board employee may be held liable in any  
1300 employment discrimination suit in which an allegation of  
1301 discrimination is made regarding an employment decision authorized  
1302 under this section.

1303 (4) A charter school shall terminate any teacher or  
1304 administrator for committing one or more of the following acts:



1305 (a) Engaging in unethical conduct relating to an  
1306 educator-student relationship as identified by the Mississippi  
1307 Charter School Authorizer Board;

1308 (b) Fondling a student as described in Section 97-5-23  
1309 or engaging in any type of sexual involvement with a student as  
1310 described in Section 97-3-95; or

1311 (c) Failure to report sexual involvement of a charter  
1312 school employee with a student as required by Section 97-5-24.

1313 **SECTION 14.** Section 37-29-232, Mississippi Code of 1972, is  
1314 amended as follows:

1315 37-29-232. (1) For the purposes of this section:

1316 (a) "Health care professional/vocational technical  
1317 academic program" means an academic program in medicine, nursing,  
1318 dentistry, occupational therapy, physical therapy, social  
1319 services, nutrition services, speech therapy, or other  
1320 allied-health professional whose purpose is to prepare  
1321 professionals to render patient care services.

1322 (b) "Health care professional/vocational technical  
1323 student" means a student enrolled in a health care  
1324 professional/vocational technical academic program.

1325 (2) The dean or director of the health care  
1326 professional/vocational technical academic program is authorized  
1327 to ensure that criminal history record checks and fingerprinting  
1328 are obtained on their students before the students begin any  
1329 clinical rotation in a licensed health care entity and that the



1330 criminal history record check information and registry checks are  
1331 on file at the academic institution. In order to determine the  
1332 student's suitability for the clinical rotation, the student shall  
1333 be fingerprinted. If no disqualifying record is identified at the  
1334 state level, the fingerprints shall be forwarded by the Department  
1335 of Public Safety, the Department of Health, or any other legally  
1336 authorized entity to the FBI for a national criminal history  
1337 record check. The fee for the fingerprinting and criminal history  
1338 record check shall be paid by the applicant, not to exceed Fifty  
1339 Dollars (\$50.00); however, the academic institution in which the  
1340 student is enrolled, in its discretion, may elect to pay the fee  
1341 for the fingerprinting and criminal history record check on behalf  
1342 of any applicant. Under no circumstances shall the academic  
1343 institution representative or any individual other than the  
1344 subject of the criminal history record checks disseminate  
1345 information received through any such checks except insofar as  
1346 required to fulfill the purposes of this section.

1347 (3) If the fingerprinting or criminal history record checks  
1348 disclose a felony conviction, guilty plea or plea of nolo  
1349 contendere to a felony of possession or sale of drugs, murder,  
1350 manslaughter, armed robbery, rape, sexual battery, sexual assault,  
1351 sex offense listed in Section 45-33-23(h), child abuse, arson,  
1352 grand larceny, burglary, gratification of lust or aggravated  
1353 assault, or felonious abuse and/or battery of a vulnerable adult  
1354 that has not been reversed on appeal or for which a pardon has not



1355 been granted, the student shall not be eligible to be admitted to  
1356 the health care professional/vocational technical academic program  
1357 of study. Any preadmission agreement executed by the health care  
1358 professional/vocational technical academic program shall be  
1359 voidable if the student receives a disqualifying criminal history  
1360 record check. However, the administration of the health care  
1361 professional/vocational technical academic program may, in its  
1362 discretion, allow any applicant aggrieved by the admissions  
1363 decision under this section to appear before an appeals committee  
1364 or before a hearing officer designated for that purpose, to show  
1365 mitigating circumstances that may exist and allow the student to  
1366 be admitted to or continue in the program of study. The health  
1367 care professional/vocational technical academic program may grant  
1368 waivers for those mitigating circumstances, which shall include,  
1369 but not be limited to: (a) age at which the crime was committed;  
1370 (b) circumstances surrounding the crime; (c) length of time since  
1371 the conviction and criminal history since the conviction; (d) work  
1372 history; (e) current employment and character references; (f)  
1373 other evidence demonstrating the ability of the student to perform  
1374 the clinical responsibilities competently and that the student  
1375 does not pose a threat to the health or safety of patients in the  
1376 licensed health care entities in which they will be conducting  
1377 clinical experiences. The health care professional/vocational  
1378 technical academic program shall provide assurance to the licensed  
1379 health care entity in which the clinical rotation is planned that





1380 the results of a health care professional/vocational technical  
1381 student's criminal history record check would not prohibit the  
1382 student from being able to conduct his or her clinical activities  
1383 in the facility, institution, or organization. The criminal  
1384 history record check shall be valid for the course of academic  
1385 study, provided that annual disclosure statements are provided to  
1386 the health care professional/vocational technical academic program  
1387 regarding any criminal activity that may have occurred during the  
1388 student's tenure with the health care professional/vocational  
1389 technical academic program. The criminal history record check may  
1390 be repeated at the discretion of the health care  
1391 professional/vocational technical academic program based on  
1392 information obtained during the annual disclosure statements. In  
1393 extenuating circumstances, if a criminal history record check is  
1394 initiated and the results are not available at the time the  
1395 clinical rotation begins, the academic institution in which the  
1396 student is enrolled, at its discretion, may require a signed  
1397 affidavit from the student assuring compliance with this section.  
1398 The affidavit will be considered void within sixty (60) days of  
1399 its signature.

1400 (4) Criminal history record checks that are done as part of  
1401 the requirements for participation in the health care  
1402 professional/vocational technical academic program may not be used  
1403 for any other purpose than those activities associated with their  
1404 program of study. Students who may be employed as health care



1405 professionals outside of their program of study may be required to  
1406 obtain additional criminal history record checks as part of their  
1407 employment agreement.

1408 (5) No health care professional/vocational technical  
1409 academic program or academic program employee shall be held liable  
1410 in any admissions discrimination suit in which an allegation of  
1411 discrimination is made regarding an admissions decision authorized  
1412 under this section.

1413 **SECTION 15.** Section 37-115-41, Mississippi Code of 1972, is  
1414 amended as follows:

1415 37-115-41. (1) For the purposes of this section:

1416 (a) "Applicant" means any person who is applying to  
1417 become an employee of UMMC.

1418 (b) "Employee" means an employee, contractor, temporary  
1419 worker or consultant.

1420 (c) "UMMC" means the University of Mississippi Medical  
1421 Center.

1422 (2) The University of Mississippi Medical Center shall  
1423 fingerprint and perform a criminal history record check on all new  
1424 employees that work in or provide direct patient care. In  
1425 addition, UMMC shall perform a disciplinary check with the  
1426 professional licensing agency of the employee, if any, to  
1427 determine if any disciplinary action has been taken against the  
1428 employee by that agency. Except as otherwise provided in this  
1429 section, no employee of UMMC hired on or after July 1, 2004, shall



1430 be permitted to provide direct patient care until the results of  
1431 the criminal history record check have revealed no disqualifying  
1432 record or the employee has been granted a waiver. In order to  
1433 determine the applicant's suitability for employment, the  
1434 applicant shall be fingerprinted. Fingerprints shall be submitted  
1435 to the Department of Public Safety by UMMC via scanning or other  
1436 electronic method, with the results processed through the  
1437 Department of Public Safety's Criminal Information Center. If no  
1438 disqualifying record is identified at the state level, the  
1439 applicant's fingerprints shall be forwarded by the Department of  
1440 Public Safety to the Federal Bureau of Investigation for a  
1441 national criminal history record check. If the criminal history  
1442 record check discloses a felony conviction, guilty plea or plea of  
1443 nolo contendere to a felony of possession or sale of drugs,  
1444 murder, manslaughter, armed robbery, rape, sexual battery, sexual  
1445 assault, sex offense listed in Section 45-33-23(h), child abuse,  
1446 arson, grand larceny, burglary, gratification of lust or  
1447 aggravated assault, or felonious abuse and/or battery of a  
1448 vulnerable adult that has not been reversed on appeal or for which  
1449 a pardon has not been granted, the applicant shall not be eligible  
1450 to be employed at UMMC.

1451 (3) Notwithstanding the provisions of subsection (2) of this  
1452 section, any such applicant may be employed on a temporary basis  
1453 pending the results of the criminal history record check. Any  
1454 employment contract with an applicant during the application



1455 process shall be voidable upon receipt of a disqualifying criminal  
1456 history record check if no waiver is granted under subsection (4)  
1457 of this section.

1458 (4) UMMC may, in its discretion, allow any applicant  
1459 aggrieved by an employment decision under this section to appear  
1460 before the UMMC hiring officer, or his or her designee, to show  
1461 mitigating circumstances that may exist and allow the applicant to  
1462 be employed at UMMC. UMMC, upon report and recommendation of the  
1463 hiring officer, may grant waivers for those mitigating  
1464 circumstances, which shall include, but not be limited to: (a)  
1465 age at which the crime was committed; (b) circumstances  
1466 surrounding the crime; (c) length of time since the conviction and  
1467 criminal history since the conviction; (d) work history; (e)  
1468 current employment and character references; and (f) other  
1469 evidence demonstrating the ability of the individual to perform  
1470 the employment responsibilities competently and that the  
1471 individual does not pose a threat to the health or safety of the  
1472 patients admitted to UMMC.

1473 (5) Upon the receipt of an applicant's criminal history  
1474 record check that reveals no disqualifying event, UMMC shall,  
1475 within two (2) weeks of the notification of no disqualifying  
1476 event, provide the applicant with a notarized letter signed by the  
1477 vice chancellor, or his or her authorized designee, confirming the  
1478 applicant's suitability for employment based on his or her  
1479 criminal history record check. An applicant or employee may use



1480 that letter for a period of two (2) years from the date of the  
1481 letter to seek employment at any covered entity, as defined in  
1482 Section 43-11-13(5), without the necessity of an additional  
1483 criminal history record check under Section 43-11-13(5). Any  
1484 covered entity presented with the letter may rely on the letter  
1485 for a period of two (2) years from the date of the letter without  
1486 having to conduct or have conducted a criminal history record  
1487 check on the applicant or employee.

1488 (6) UMMC may charge a fee not to exceed Fifty Dollars  
1489 (\$50.00) for fingerprinting applicants, students, employees,  
1490 contractors, consultants, outside agency personnel, visiting  
1491 faculty, researchers or any other individual(s) that may provide  
1492 direct services to UMMC.

1493 (7) UMMC and its agents, officers, employees, attorneys and  
1494 representatives shall be presumed to be acting in good faith for  
1495 any employment decision or action taken under this section. The  
1496 presumption of good faith may be overcome by a preponderance of  
1497 the evidence in any civil action. UMMC or its agents, officers,  
1498 employees, attorneys and representatives shall not be held liable  
1499 in any employment decision or action based in whole or in part on  
1500 compliance with or attempts to comply in good faith with the  
1501 requirements of this section.

1502 **SECTION 16.** Section 43-11-13, Mississippi Code of 1972, is  
1503 amended as follows:



1504           43-11-13. (1) The licensing agency shall adopt, amend,  
1505 promulgate and enforce such rules, regulations and standards,  
1506 including classifications, with respect to all institutions for  
1507 the aged or infirm to be licensed under this chapter as may be  
1508 designed to further the accomplishment of the purpose of this  
1509 chapter in promoting adequate care of individuals in those  
1510 institutions in the interest of public health, safety and welfare.  
1511 Those rules, regulations and standards shall be adopted and  
1512 promulgated by the licensing agency and shall be recorded and  
1513 indexed in a book to be maintained by the licensing agency in its  
1514 main office in the State of Mississippi, entitled "Rules,  
1515 Regulations and Minimum Standards for Institutions for the Aged or  
1516 Infirm" and the book shall be open and available to all  
1517 institutions for the aged or infirm and the public generally at  
1518 all reasonable times. Upon the adoption of those rules,  
1519 regulations and standards, the licensing agency shall mail copies  
1520 thereof to all those institutions in the state that have filed  
1521 with the agency their names and addresses for this purpose, but  
1522 the failure to mail the same or the failure of the institutions to  
1523 receive the same shall in no way affect the validity thereof. The  
1524 rules, regulations and standards may be amended by the licensing  
1525 agency, from time to time, as necessary to promote the health,  
1526 safety and welfare of persons living in those institutions.

1527           (2) The licensee shall keep posted in a conspicuous place on  
1528 the licensed premises all current rules, regulations and minimum



1529 standards applicable to fire protection measures as adopted by the  
1530 licensing agency. The licensee shall furnish to the licensing  
1531 agency at least once each six (6) months a certificate of approval  
1532 and inspection by state or local fire authorities. Failure to  
1533 comply with state laws and/or municipal ordinances and current  
1534 rules, regulations and minimum standards as adopted by the  
1535 licensing agency, relative to fire prevention measures, shall be  
1536 prima facie evidence for revocation of license.

1537 (3) The State Board of Health shall promulgate rules and  
1538 regulations restricting the storage, quantity and classes of drugs  
1539 allowed in personal care homes and adult foster care facilities.  
1540 Residents requiring administration of Schedule II Narcotics as  
1541 defined in the Uniform Controlled Substances Law may be admitted  
1542 to a personal care home. Schedule drugs may only be allowed in a  
1543 personal care home if they are administered or stored utilizing  
1544 proper procedures under the direct supervision of a licensed  
1545 physician or nurse.

1546 (4) (a) Notwithstanding any determination by the licensing  
1547 agency that skilled nursing services would be appropriate for a  
1548 resident of a personal care home, that resident, the resident's  
1549 guardian or the legally recognized responsible party for the  
1550 resident may consent in writing for the resident to continue to  
1551 reside in the personal care home, if approved in writing by a  
1552 licensed physician. However, no personal care home shall allow  
1553 more than two (2) residents, or ten percent (10%) of the total



1554 number of residents in the facility, whichever is greater, to  
1555 remain in the personal care home under the provisions of this  
1556 subsection (4). This consent shall be deemed to be appropriately  
1557 informed consent as described in the regulations promulgated by  
1558 the licensing agency. After that written consent has been  
1559 obtained, the resident shall have the right to continue to reside  
1560 in the personal care home for as long as the resident meets the  
1561 other conditions for residing in the personal care home. A copy  
1562 of the written consent and the physician's approval shall be  
1563 forwarded by the personal care home to the licensing agency.

1564 (b) The State Board of Health shall promulgate rules  
1565 and regulations restricting the handling of a resident's personal  
1566 deposits by the director of a personal care home. Any funds given  
1567 or provided for the purpose of supplying extra comforts,  
1568 conveniences or services to any resident in any personal care  
1569 home, and any funds otherwise received and held from, for or on  
1570 behalf of any such resident, shall be deposited by the director or  
1571 other proper officer of the personal care home to the credit of  
1572 that resident in an account that shall be known as the Resident's  
1573 Personal Deposit Fund. No more than one (1) month's charge for  
1574 the care, support, maintenance and medical attention of the  
1575 resident shall be applied from the account at any one time. After  
1576 the death, discharge or transfer of any resident for whose benefit  
1577 any such fund has been provided, any unexpended balance remaining  
1578 in his personal deposit fund shall be applied for the payment of





1579 care, cost of support, maintenance and medical attention that is  
1580 accrued. If any unexpended balance remains in that resident's  
1581 personal deposit fund after complete reimbursement has been made  
1582 for payment of care, support, maintenance and medical attention,  
1583 and the director or other proper officer of the personal care home  
1584 has been or shall be unable to locate the person or persons  
1585 entitled to the unexpended balance, the director or other proper  
1586 officer may, after the lapse of one (1) year from the date of that  
1587 death, discharge or transfer, deposit the unexpended balance to  
1588 the credit of the personal care home's operating fund.

1589 (c) The State Board of Health shall promulgate rules  
1590 and regulations requiring personal care homes to maintain records  
1591 relating to health condition, medicine dispensed and administered,  
1592 and any reaction to that medicine. The director of the personal  
1593 care home shall be responsible for explaining the availability of  
1594 those records to the family of the resident at any time upon  
1595 reasonable request.

1596 (5) (a) For the purposes of this subsection (5):

1597 (i) "Licensed entity" means a hospital, nursing  
1598 home, personal care home, home health agency, hospice or adult  
1599 foster care facility;

1600 (ii) "Covered entity" means a licensed entity or a  
1601 health care professional staffing agency;

1602 (iii) "Employee" means any individual employed by  
1603 a covered entity, and also includes any individual who by contract



1604 provides to the patients, residents or clients being served by the  
1605 covered entity direct, hands-on, medical patient care in a  
1606 patient's, resident's or client's room or in treatment or recovery  
1607 rooms. The term "employee" does not include health care  
1608 professional/vocational technical students performing clinical  
1609 training in a licensed entity under contracts between their  
1610 schools and the licensed entity, and does not include students at  
1611 high schools located in Mississippi who observe the treatment and  
1612 care of patients in a licensed entity as part of the requirements  
1613 of an allied-health course taught in the high school, if:

1614           1. The student is under the supervision of a  
1615 licensed health care provider; and

1616           2. The student has signed an affidavit that  
1617 is on file at the student's school stating that he or she has not  
1618 been convicted of or pleaded guilty or nolo contendere to a felony  
1619 listed in paragraph (d) of this subsection (5), or that any such  
1620 conviction or plea was reversed on appeal or a pardon was granted  
1621 for the conviction or plea. Before any student may sign such an  
1622 affidavit, the student's school shall provide information to the  
1623 student explaining what a felony is and the nature of the felonies  
1624 listed in paragraph (d) of this subsection (5).

1625           However, the health care professional/vocational technical  
1626 academic program in which the student is enrolled may require the  
1627 student to obtain criminal history record checks. In such  
1628 incidences, paragraph (a)(iii)1 and 2 of this subsection (5) does



1629 not preclude the licensing entity from processing submitted  
1630 fingerprints of students from healthcare-related  
1631 professional/vocational technical programs who, as part of their  
1632 program of study, conduct observations and provide clinical care  
1633 and services in a covered entity.

1634 (b) Under regulations promulgated by the State Board of  
1635 Health, the licensing agency shall require to be performed a  
1636 criminal history record check on (i) every new employee of a  
1637 covered entity who provides direct patient care or services and  
1638 who is employed on or after July 1, 2003, and (ii) every employee  
1639 of a covered entity employed before July 1, 2003, who has a  
1640 documented disciplinary action by his or her present employer. In  
1641 addition, the licensing agency shall require the covered entity to  
1642 perform a disciplinary check with the professional licensing  
1643 agency of each employee, if any, to determine if any disciplinary  
1644 action has been taken against the employee by that agency.

1645 Except as otherwise provided in paragraph (c) of this  
1646 subsection (5), no such employee hired on or after July 1, 2003,  
1647 shall be permitted to provide direct patient care until the  
1648 results of the criminal history record check have revealed no  
1649 disqualifying record or the employee has been granted a waiver.  
1650 In order to determine the employee applicant's suitability for  
1651 employment, the applicant shall be fingerprinted. Fingerprints  
1652 shall be submitted to the licensing agency from scanning, with the  
1653 results processed through the Department of Public Safety's



1654 Criminal Information Center. The fingerprints shall then be  
1655 forwarded by the Department of Public Safety to the Federal Bureau  
1656 of Investigation for a national criminal history record check.  
1657 The licensing agency shall notify the covered entity of the  
1658 results of an employee applicant's criminal history record check.  
1659 If the criminal history record check discloses a felony  
1660 conviction, guilty plea or plea of nolo contendere to a felony of  
1661 possession or sale of drugs, murder, manslaughter, armed robbery,  
1662 rape, sexual battery, sexual assault, sex offense listed in  
1663 Section 45-33-23(h), child abuse, arson, grand larceny, burglary,  
1664 gratification of lust or aggravated assault, or felonious abuse  
1665 and/or battery of a vulnerable adult that has not been reversed on  
1666 appeal or for which a pardon has not been granted, the employee  
1667 applicant shall not be eligible to be employed by the covered  
1668 entity.

1669 (c) Any such new employee applicant may, however, be  
1670 employed on a temporary basis pending the results of the criminal  
1671 history record check, but any employment contract with the new  
1672 employee shall be voidable if the new employee receives a  
1673 disqualifying criminal history record check and no waiver is  
1674 granted as provided in this subsection (5).

1675 (d) Under regulations promulgated by the State Board of  
1676 Health, the licensing agency shall require every employee of a  
1677 covered entity employed before July 1, 2003, to sign an affidavit  
1678 stating that he or she has not been convicted of or pleaded guilty



1679 or nolo contendere to a felony of possession or sale of drugs,  
1680 murder, manslaughter, armed robbery, rape, sexual battery, any sex  
1681 offense listed in Section 45-33-23(h), child abuse, arson, grand  
1682 larceny, burglary, gratification of lust, aggravated assault, or  
1683 felonious abuse and/or battery of a vulnerable adult, or that any  
1684 such conviction or plea was reversed on appeal or a pardon was  
1685 granted for the conviction or plea. No such employee of a covered  
1686 entity hired before July 1, 2003, shall be permitted to provide  
1687 direct patient care until the employee has signed the affidavit  
1688 required by this paragraph (d). All such existing employees of  
1689 covered entities must sign the affidavit required by this  
1690 paragraph (d) within six (6) months of the final adoption of the  
1691 regulations promulgated by the State Board of Health. If a person  
1692 signs the affidavit required by this paragraph (d), and it is  
1693 later determined that the person actually had been convicted of or  
1694 pleaded guilty or nolo contendere to any of the offenses listed in  
1695 this paragraph (d) and the conviction or plea has not been  
1696 reversed on appeal or a pardon has not been granted for the  
1697 conviction or plea, the person is guilty of perjury. If the  
1698 offense that the person was convicted of or pleaded guilty or nolo  
1699 contendere to was a violent offense, the person, upon a conviction  
1700 of perjury under this paragraph, shall be punished as provided in  
1701 Section 97-9-61. If the offense that the person was convicted of  
1702 or pleaded guilty or nolo contendere to was a nonviolent offense,  
1703 the person, upon a conviction of perjury under this paragraph,



1704 shall be punished by a fine of not more than Five Hundred Dollars  
1705 (\$500.00), or by imprisonment in the county jail for not more than  
1706 six (6) months, or by both such fine and imprisonment.

1707 (e) The covered entity may, in its discretion, allow  
1708 any employee who is unable to sign the affidavit required by  
1709 paragraph (d) of this subsection (5) or any employee applicant  
1710 aggrieved by an employment decision under this subsection (5) to  
1711 appear before the covered entity's hiring officer, or his or her  
1712 designee, to show mitigating circumstances that may exist and  
1713 allow the employee or employee applicant to be employed by the  
1714 covered entity. The covered entity, upon report and  
1715 recommendation of the hiring officer, may grant waivers for those  
1716 mitigating circumstances, which shall include, but not be limited  
1717 to: (i) age at which the crime was committed; (ii) circumstances  
1718 surrounding the crime; (iii) length of time since the conviction  
1719 and criminal history since the conviction; (iv) work history; (v)  
1720 current employment and character references; and (vi) other  
1721 evidence demonstrating the ability of the individual to perform  
1722 the employment responsibilities competently and that the  
1723 individual does not pose a threat to the health or safety of the  
1724 patients of the covered entity.

1725 (f) The licensing agency may charge the covered entity  
1726 submitting the fingerprints a fee not to exceed Fifty Dollars  
1727 (\$50.00), which covered entity may, in its discretion, charge the  
1728 same fee, or a portion thereof, to the employee applicant. Any



1729 increase in the fee charged by the licensing agency under this  
1730 paragraph shall be in accordance with the provisions of Section  
1731 41-3-65. Any costs incurred by a covered entity implementing this  
1732 subsection (5) shall be reimbursed as an allowable cost under  
1733 Section 43-13-116.

1734 (g) If the results of an employee applicant's criminal  
1735 history record check reveals no disqualifying event, then the  
1736 covered entity shall, within two (2) weeks of the notification of  
1737 no disqualifying event, provide the employee applicant with a  
1738 notarized letter signed by the chief executive officer of the  
1739 covered entity, or his or her authorized designee, confirming the  
1740 employee applicant's suitability for employment based on his or  
1741 her criminal history record check. An employee applicant may use  
1742 that letter for a period of two (2) years from the date of the  
1743 letter to seek employment with any covered entity without the  
1744 necessity of an additional criminal history record check. Any  
1745 covered entity presented with the letter may rely on the letter  
1746 with respect to an employee applicant's criminal background and is  
1747 not required for a period of two (2) years from the date of the  
1748 letter to conduct or have conducted a criminal history record  
1749 check as required in this subsection (5).

1750 (h) The licensing agency, the covered entity, and their  
1751 agents, officers, employees, attorneys and representatives, shall  
1752 be presumed to be acting in good faith for any employment decision  
1753 or action taken under this subsection (5). The presumption of



1754 good faith may be overcome by a preponderance of the evidence in  
1755 any civil action. No licensing agency, covered entity, nor their  
1756 agents, officers, employees, attorneys and representatives shall  
1757 be held liable in any employment decision or action based in whole  
1758 or in part on compliance with or attempts to comply with the  
1759 requirements of this subsection (5).

1760 (i) The licensing agency shall promulgate regulations  
1761 to implement this subsection (5).

1762 (j) The provisions of this subsection (5) shall not  
1763 apply to:

1764 (i) Applicants and employees of the University of  
1765 Mississippi Medical Center for whom criminal history record checks  
1766 and fingerprinting are obtained in accordance with Section  
1767 37-115-41; or

1768 (ii) Health care professional/vocational technical  
1769 students for whom criminal history record checks and  
1770 fingerprinting are obtained in accordance with Section 37-29-232.

1771 (6) The State Board of Health shall promulgate rules,  
1772 regulations and standards regarding the operation of adult foster  
1773 care facilities.

1774 **SECTION 17.** Section 43-47-18, Mississippi Code of 1972, is  
1775 amended as follows:

1776 43-47-18. (1) (a) A person who engages in sexual  
1777 penetration with a vulnerable person is guilty of sexual \* \* \*  
1778 assault if the person is a volunteer at, or an employee of, or





1779 contracted to work for, a health care facility in which the  
1780 vulnerable person is a patient or resident.

1781 (b) A person who engages in sexual penetration with a  
1782 vulnerable person is guilty of sexual \* \* \* assault if the person  
1783 is in a position of trust or authority over the vulnerable person,  
1784 including, without limitation, the vulnerable person's teacher,  
1785 counselor, physician, psychiatrist, psychologist, nurse, certified  
1786 nursing assistant, direct care worker, technical assistant,  
1787 minister, priest, physical therapist, chiropractor, legal  
1788 guardian, parent, stepparent, other relative, caretaker or  
1789 conservator.

1790 (c) Every person who is convicted of sexual \* \* \*  
1791 assault under this subsection (1) shall be imprisoned in the  
1792 custody of the State Department of Corrections for a period of not  
1793 more than thirty (30) years, and for a second or subsequent such  
1794 offense shall be imprisoned in the custody of the State Department  
1795 of Corrections for a period of not more than forty (40) years.

1796 (2) (a) Any person who, for the purpose of gratifying the  
1797 person's lust, or indulging the person's depraved licentious  
1798 sexual desires, shall handle, touch or rub with hands or any part  
1799 of the person's body or any member thereof, any vulnerable person,  
1800 with or without the vulnerable person's consent, when the person  
1801 is a volunteer at, or an employee of, or contracted to work for, a  
1802 health care facility in which the vulnerable person is a patient  
1803 or resident, shall be guilty of a felony and, upon conviction



1804 thereof, shall be fined in a sum not less than One Thousand  
1805 Dollars (\$1,000.00) nor more than Five Thousand Dollars  
1806 (\$5,000.00), or be committed to the custody of the Department of  
1807 Corrections not less than two (2) nor more than fifteen (15)  
1808 years, or be punished by both fine and imprisonment, at the  
1809 discretion of the court.

1810 (b) Any person who, for the purpose of gratifying the  
1811 person's lust, or indulging the person's depraved licentious  
1812 sexual desires, shall handle, touch or rub with hands or any part  
1813 of the person's body or any member thereof, any vulnerable person,  
1814 with or without the vulnerable person's consent, when the person  
1815 occupies a position of trust or authority over the vulnerable  
1816 person, shall be guilty of a felony and, upon conviction thereof,  
1817 shall be fined in a sum not less than One Thousand Dollars  
1818 (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be  
1819 committed to the custody of the Department of Corrections not less  
1820 than two (2) nor more than fifteen (15) years, or be punished by  
1821 both fine and imprisonment, at the discretion of the court. A  
1822 person in a position of trust or authority over a vulnerable  
1823 person includes, without limitation, the vulnerable person's  
1824 teacher, counselor, physician, psychiatrist, psychologist, nurse,  
1825 certified nursing assistant, direct care worker, technical  
1826 assistant, minister, priest, physical therapist, chiropractor,  
1827 legal guardian, parent, stepparent, other relative, caretaker or  
1828 conservator.



1829 (3) A person is not guilty of any offense under this section  
1830 if the alleged victim is that person's legal spouse; however, the  
1831 legal spouse of the alleged victim may be found guilty of  
1832 sexual \* \* \* assault if the legal spouse engaged in forcible  
1833 sexual penetration without the consent of the alleged victim.

1834 **SECTION 18.** Section 45-33-23, Mississippi Code of 1972, is  
1835 amended as follows:

1836 45-33-23. For the purposes of this chapter, the following  
1837 words shall have the meanings ascribed herein unless the context  
1838 clearly requires otherwise:

1839 (a) "Conviction" means that, regarding the person's  
1840 offense, there has been a determination or judgment of guilt as a  
1841 result of a trial or the entry of a plea of guilty or nolo  
1842 contendere regardless of whether adjudication is withheld.  
1843 "Conviction of similar offenses" includes, but is not limited to,  
1844 a conviction by a federal or military tribunal, including a  
1845 court-martial conducted by the Armed Forces of the United States,  
1846 a conviction for an offense committed on an Indian Reservation or  
1847 other federal property, a conviction in any state of the United  
1848 States, the District of Columbia, the Commonwealth of Puerto Rico,  
1849 Guam, American Samoa, the Northern Marianna Islands or the United  
1850 States Virgin Islands, and a conviction in a foreign country if  
1851 the foreign country's judicial system is such that it satisfies  
1852 minimum due process set forth in the guidelines under Section  
1853 111(5)(B) Public Law 109-248.



1854 (b) "Department" means the Mississippi Department of  
1855 Public Safety unless otherwise specified.

1856 (c) "Jurisdiction" means any court or locality  
1857 including any state court, federal court, military court, Indian  
1858 tribunal or foreign court, the fifty (50) states, the District of  
1859 Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa,  
1860 the Northern Marianna Islands or the United States Virgin Islands,  
1861 and Indian tribes that elect to function as registration  
1862 jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh  
1863 Child Safety Act.

1864 (d) "Permanent residence" means a place where the  
1865 person abides, lodges, or resides for a period of fourteen (14) or  
1866 more consecutive days.

1867 (e) "Registration" means providing information to the  
1868 appropriate agency within the time frame specified as required by  
1869 this chapter.

1870 (f) "Registration duties" means obtaining the  
1871 registration information required on the form specified by the  
1872 department as well as the photograph, fingerprints and biological  
1873 sample of the registrant. Biological samples are to be forwarded  
1874 to the Mississippi Forensics Laboratory pursuant to Section  
1875 45-33-37; the photograph, fingerprints and other registration  
1876 information are to be forwarded to the Department of Public Safety  
1877 immediately.



1878                   (g) "Responsible agency" is defined as the person or  
1879 government entity whose duty it is to obtain information from a  
1880 criminal sex offender upon conviction and to transmit that  
1881 information to the Mississippi Department of Public Safety.

1882                   (i) For a criminal sex offender being released  
1883 from the custody of the Department of Corrections, the responsible  
1884 agency is the Department of Corrections.

1885                   (ii) For a criminal sex offender being released  
1886 from a county jail, the responsible agency is the sheriff of that  
1887 county.

1888                   (iii) For a criminal sex offender being released  
1889 from a municipal jail, the responsible agency is the police  
1890 department of that municipality.

1891                   (iv) For a sex offender in the custody of the  
1892 youth court, the responsible agency is the youth court.

1893                   (v) For a criminal sex offender who is being  
1894 placed on probation, including conditional discharge or  
1895 unconditional discharge, without any sentence of incarceration,  
1896 the responsible agency is the sentencing court.

1897                   (vi) For an offender who has been committed to a  
1898 mental institution following an acquittal by reason of insanity,  
1899 the responsible agency is the facility from which the offender is  
1900 released. Specifically, the director of the facility shall notify  
1901 the Department of Public Safety before the offender's release.



1902 (vii) For a criminal sex offender who is being  
1903 released from a jurisdiction outside this state or who has a prior  
1904 conviction in another jurisdiction and who is to reside, work or  
1905 attend school in this state, the responsible agency is both the  
1906 sheriff of the proposed county of residence and the department.

1907 (h) "Sex offense" or "registrable offense" means any of  
1908 the following offenses:

1909 (i) Section 97-3-53 relating to kidnapping, if the  
1910 victim was below the age of eighteen (18);

1911 (ii) Section 97-3-65 relating to rape; however,  
1912 conviction or adjudication under Section 97-3-65(1)(a) when the  
1913 offender was eighteen (18) years of age or younger at the time of  
1914 the alleged offense, shall not be a registrable sex offense;

1915 (iii) Section 97-3-71 relating to rape and assault  
1916 with intent to ravish;

1917 (iv) Section 97-3-95 relating to sexual battery;  
1918 however, conviction or adjudication under Section 97-3-95 \* \* \*  
1919 when the offender was eighteen (18) years of age or younger at the  
1920 time of the alleged offense, shall not be a registrable sex  
1921 offense;

1922 (v) Section 97-5-5 relating to enticing a child  
1923 for concealment, prostitution or marriage;

1924 (vi) Section 97-5-23 relating to the touching of a  
1925 child, mentally defective or incapacitated person or physically  
1926 helpless person for lustful purposes;



1927                   (vii) Section 97-5-27 relating to the  
1928 dissemination of sexually oriented material to children;  
1929                   (viii) Section 97-5-33 relating to the  
1930 exploitation of children;  
1931                   (ix) Section 97-5-41 relating to the carnal  
1932 knowledge of a stepchild, adopted child or child of a cohabiting  
1933 partner;  
1934                   (x) Section 97-29-3 relating to sexual intercourse  
1935 between teacher and student;  
1936                   (xi) Section 97-29-59 relating to unnatural  
1937 intercourse;  
1938                   (xii) Section 43-47-18 relating to sexual abuse of  
1939 a vulnerable person;  
1940                   (xiii) Section 97-3-54.1(1)(c) relating to  
1941 procuring sexual servitude of a minor and Section 97-3-54.3  
1942 relating to aiding, abetting or conspiring to violate Section  
1943 97-3-54.1(1)(c);  
1944                   (xiv) Section 97-29-61(2) relating to voyeurism  
1945 when the victim is a child under sixteen (16) years of age;  
1946                   (xv) Section 97-29-63 relating to filming another  
1947 without permission where there is an expectation of privacy;  
1948                   (xvi) Section 97-29-45(1)(a) relating to obscene  
1949 electronic communication;



1950                   (xvii) Section 97-3-104 relating to the crime of  
1951 sexual activity between law enforcement, correctional or custodial  
1952 personnel and prisoners;

1953                   (xviii) Section 97-5-39(1)(e) relating to  
1954 contributing to the neglect or delinquency of a child, felonious  
1955 abuse or battery of a child, if the victim was sexually abused;

1956                   (xix) Section 97-29-51 relating to procuring or  
1957 promoting prostitution when the victim is a child under eighteen  
1958 (18) years of age;

1959                   (xx) Section 97-1-7 relating to attempt to commit  
1960 any of the offenses referenced in this paragraph (h);

1961                   (xxi) Any other offense resulting in a conviction  
1962 in another jurisdiction which, if committed in this state, would  
1963 be deemed to be such a crime without regard to its designation  
1964 elsewhere;

1965                   (xxii) Any offense resulting in a conviction in  
1966 another jurisdiction for which registration is required in the  
1967 jurisdiction where the conviction was had;

1968                   (xxiii) Any conviction of conspiracy to commit,  
1969 accessory to commission, or attempt to commit any offense listed  
1970 in this section;

1971                   (xxiv) Capital murder when one (1) of the  
1972 above-described offenses is the underlying crime \* \* \*;

1973                   (xxv) Section 97-3-97 relating to sexual assault;  
1974 however, conviction or adjudication under Section 97-3-97(1)(c)





1975 when the offender was eighteen (18) years of age or younger at the  
1976 time of the alleged offense, shall not be a registrable sex  
1977 offense.

1978 (i) "Temporary residence" is defined as any place where  
1979 the person abides, lodges, or resides for a period of seven (7) or  
1980 more consecutive days which is not the person's permanent  
1981 residence.

1982 **SECTION 19.** Section 45-33-25, Mississippi Code of 1972, is  
1983 amended as follows:

1984 45-33-25. (1) (a) Any person having a permanent or  
1985 temporary residence in this state or who is employed or attending  
1986 school in this state who has been convicted of a registrable  
1987 offense in this state or another jurisdiction or who has been  
1988 acquitted by reason of insanity of a registrable offense in this  
1989 state or another jurisdiction shall register with the responsible  
1990 agency and the Mississippi Department of Public Safety.

1991 Registration shall not be required for an offense that is not a  
1992 registrable sex offense or for an offender who is under fourteen  
1993 (14) years of age. The department shall provide the initial  
1994 registration information as well as every change of name, change  
1995 of address, change of status at a school, or other change of  
1996 information as required by the department to the sheriff of the  
1997 county of the residence address of the registrant, the sheriff of  
1998 the county of the employment address, and the sheriff of the  
1999 county of the school address, if applicable, and any other



2000 jurisdiction of the registrant through either written notice,  
2001 electronic or telephone transmissions, or online access to  
2002 registration information. Further, the department shall provide  
2003 this information to the Federal Bureau of Investigation.  
2004 Additionally, upon notification by the registrant that he intends  
2005 to reside outside the State of Mississippi, the department shall  
2006 notify the appropriate state law enforcement agency of any state  
2007 to which a registrant is moving or has moved.

2008 (b) Any person having a permanent or temporary  
2009 residence or who is employed or attending school in this state who  
2010 has been adjudicated delinquent for a registrable sex offense  
2011 listed in this paragraph that involved use of force against the  
2012 victim shall register as a sex offender with the responsible  
2013 agency and shall personally appear at a Mississippi Department of  
2014 Public Safety Driver's License Station within three (3) business  
2015 days of registering with the responsible agency:

2016 (i) Section 97-3-71 relating to rape and assault  
2017 with intent to ravish;

2018 (ii) Section 97-3-95 relating to sexual battery;

2019 (iii) Section 97-3-65 relating to statutory rape;

2020 (iv) Section 97-3-97 relating to sexual assault;

2021 or

2022 ( \* \* \*y) Conspiracy to commit, accessory to the  
2023 commission of, or attempt to commit any offense listed in this  
2024 paragraph.



2025 (2) Any person required to register under this chapter shall  
2026 submit the following information at the time of registration:

2027 (a) Name, including a former name which has been  
2028 legally changed;

2029 (b) Street address of all current permanent and  
2030 temporary residences within state or out of state at which the sex  
2031 offender resides or habitually lives, including dates of temporary  
2032 lodgings. There is a presumption that a registrant owes a duty of  
2033 updating registration information if:

2034 (i) The registrant remains away from a registered  
2035 address for seven (7) or more consecutive days; or

2036 (ii) If the registrant remains at another address  
2037 between the hours of 10:00 p.m. and 6:00 a.m. for more than seven  
2038 (7) consecutive days;

2039 (c) Date, place and address of employment, including as  
2040 a volunteer or unpaid intern or as a transient or day laborer;

2041 (d) Crime for which charged, arrested or convicted;

2042 (e) Date and place of conviction, adjudication or  
2043 acquittal by reason of insanity;

2044 (f) Aliases used or nicknames, ethnic or tribal names  
2045 by which commonly known;

2046 (g) Social security number and any purported social  
2047 security number or numbers;

2048 (h) Date and place of birth and any purported date and  
2049 place of birth;



2050 (i) Age, race, sex, height, weight, hair and eye  
2051 colors, and any other physical description or identifying factors;

2052 (j) A brief description of the offense or offenses for  
2053 which the registration is required;

2054 (k) Driver's license or state or other jurisdiction  
2055 identification card number, which license or card may be  
2056 electronically accessed by the Department of Public Safety;

2057 (l) Anticipated future residence;

2058 (m) If the registrant's residence is a motor vehicle,  
2059 trailer, mobile home or manufactured home, the registrant shall  
2060 also provide vehicle identification number, license tag number,  
2061 registration number and a description, including color scheme, of  
2062 the motor vehicle, trailer, mobile home or manufactured home; if  
2063 the registrant's place of residence is a vessel or houseboat, the  
2064 registrant shall also provide the hull identification number,  
2065 manufacturer's serial number, name of the vessel or houseboat,  
2066 registration number and a description, including color scheme, of  
2067 the vessel or houseboat, including permanent or frequent locations  
2068 where the motor vehicle, trailer, mobile home, manufactured home,  
2069 vessel or houseboat is kept;

2070 (n) Vehicle make, model, color and license tag number  
2071 for all vehicles owned or operated by the sex offender, whether  
2072 for work or personal use, and the permanent or frequent locations  
2073 where a vehicle is kept;

2074 (o) Offense history;



2075 (p) Photograph;

2076 (q) Fingerprints and palm prints;

2077 (r) Documentation of any treatment received for any  
2078 mental abnormality or personality disorder of the person;

2079 (s) Biological sample;

2080 (t) Name of any public or private educational  
2081 institution, including any secondary school, trade or professional  
2082 institution or institution of higher education at which the  
2083 offender is employed, carries on a vocation (with or without  
2084 compensation) or is enrolled as a student, or will be enrolled as  
2085 a student, and the registrant's status;

2086 (u) Copy of conviction or sentencing order for the sex  
2087 offense for which registration is required;

2088 (v) The offender's parole, probation or supervised  
2089 release status and the existence of any outstanding arrest  
2090 warrants;

2091 (w) Every online identity, screen name or username  
2092 used, registered or created by a registrant;

2093 (x) Professional licensing information which authorizes  
2094 the registrant to engage in an occupation or carry out a trade or  
2095 occupation;

2096 (y) Information from passport and immigration  
2097 documents;



2098 (z) All telephone numbers, including, but not limited  
2099 to, permanent residence, temporary residence, cell phone and  
2100 employment phone numbers, whether landlines or cell phones; and

2101 (aa) Any other information deemed necessary.

2102 (3) For purposes of this chapter, a person is considered to  
2103 be residing in this state if he maintains a permanent or temporary  
2104 residence as defined in Section 45-33-23, including students,  
2105 temporary employees and military personnel on assignment.

2106 (4) (a) A person required to register under this chapter  
2107 shall not reside within three thousand (3,000) feet of the real  
2108 property comprising a public or nonpublic elementary or secondary  
2109 school, a child care facility, a residential child-caring agency,  
2110 a children's group care home or any playground, ballpark or other  
2111 recreational facility utilized by persons under the age of  
2112 eighteen (18) years.

2113 (b) A person residing within three thousand (3,000)  
2114 feet of the real property comprising a public or nonpublic  
2115 elementary or secondary school or a child care facility does not  
2116 commit a violation of this subsection if any of the following  
2117 apply:

2118 (i) The person is serving a sentence at a jail,  
2119 prison, juvenile facility or other correctional institution or  
2120 facility.

2121 (ii) The person is subject to an order of  
2122 commitment under Title 41, Mississippi Code of 1972.



2123 (iii) The person established the subject residence  
2124 before July 1, 2006.

2125 (iv) The school or child care facility is  
2126 established within three thousand (3,000) feet of the person's  
2127 residence subsequent to the date the person established residency.

2128 (v) The person established the subject residence  
2129 between July 1, 2006, and January 1, 2014, in a location at least  
2130 one thousand five hundred (1,500) feet from the school or child  
2131 care facility.

2132 (vi) The person is a minor or a ward under a  
2133 guardianship.

2134 (c) A person residing within three thousand (3,000)  
2135 feet of the real property comprising a residential child-caring  
2136 agency, a children's group care home or any playground, ballpark  
2137 or other recreational facility utilized by persons under the age  
2138 of eighteen (18) years does not commit a violation of this  
2139 subsection if any of the following apply:

2140 (i) The person established the subject residence  
2141 before July 1, 2008.

2142 (ii) The residential child-caring agency,  
2143 children's group care home, playground, ballpark or other  
2144 recreational facility utilized by persons under the age of  
2145 eighteen (18) years is established within three thousand (3,000)  
2146 feet of the person's residence subsequent to the date the person  
2147 established residency.



2148 (iii) The person established the subject residence  
2149 between July 1, 2008, and January 1, 2014, in a location at least  
2150 one thousand five hundred (1,500) feet from the residential  
2151 child-caring agency, children's group care home, playground,  
2152 ballpark or other recreational facility utilized by persons under  
2153 the age of eighteen (18) years.

2154 (iv) Any of the conditions described in subsection  
2155 (4) (b) (i), (ii) or (vi) exist.

2156 (5) The Department of Public Safety is required to obtain  
2157 the text of the law defining the offense or offenses for which the  
2158 registration is required.

2159 **SECTION 20.** Section 45-33-47, Mississippi Code of 1972, is  
2160 amended as follows:

2161 45-33-47. (1) A sex offender with a duty to register under  
2162 Section 45-33-25 shall only be relieved of the duty under  
2163 subsection (2) of this section.

2164 (2) A person required to register for a registrable sex  
2165 offense under Section 45-33-25 may petition the circuit court of  
2166 the sentencing jurisdiction, or for a person whose duty to  
2167 register arose in another jurisdiction, the county in which the  
2168 registrant resides, to be relieved of that duty under the  
2169 following conditions:

2170 (a) The offender has maintained his registration in  
2171 Mississippi for the required minimum registration from the most  
2172 recent date of occurrence of at least one (1) of the following:





2173 release from prison, placement on parole, supervised release or  
2174 probation or as determined by the offender's tier classification.  
2175 Incarceration for any offense will restart the minimum  
2176 registration requirement. Registration in any other jurisdiction  
2177 does not reduce the minimum time requirement for maintaining  
2178 registration in Mississippi.

2179 (b) **Tier One.** (i) Tier One requires registration for  
2180 a minimum of fifteen (15) years in this state and includes any of  
2181 the following listed registrable sex offenses:

2182 1. Section 97-5-27(1) relating to  
2183 dissemination of sexually oriented material to children;

2184 2. Section 97-29-61(2) relating to voyeurism  
2185 when the victim is a child under sixteen (16) years of age;

2186 3. Section 97-29-3 relating to misdemeanor  
2187 sexual intercourse between teacher and student;

2188 4. Section 97-29-45(1)(a) relating to obscene  
2189 electronic communication;

2190 5. Any conviction of conspiracy to commit,  
2191 accessory to commission, or attempt to commit any offense listed  
2192 in this tier;

2193 6. Any conviction for violation of a similar  
2194 law of another jurisdiction of any offense listed in this tier;

2195 7. Any offense resulting in a conviction in  
2196 another jurisdiction for which registration is required in the



2197 jurisdiction where the conviction was had, although registration  
2198 would not be otherwise required in this state.

2199 (ii) Notwithstanding any other provision of this  
2200 chapter, an offender may petition the appropriate circuit court to  
2201 be relieved of the duty to register upon fifteen (15) years'  
2202 satisfaction of the requirements of this section for the  
2203 convictions classified as Tier One offenses.

2204 (c) **Tier Two.** (i) Tier Two requires registration for  
2205 a minimum of twenty-five (25) years in this state and includes any  
2206 of the following listed registrable sex offenses:

2207 1. Section 97-5-33(3) through (9) relating to  
2208 the exploitation of children;

2209 2. Section 97-29-59 relating to unnatural  
2210 intercourse;

2211 3. Section 97-29-63, relating to filming  
2212 another without permission where there is an expectation of  
2213 privacy;

2214 4. Section 97-3-104 relating to crime of  
2215 sexual activity between law enforcement or correctional personnel  
2216 and prisoners;

2217 5. Section 43-47-18(2) (a) and (b) relating to  
2218 gratification of lust or fondling by health care employees or  
2219 persons in position of trust or authority;



2220                   6. Any conviction of conspiracy to commit,  
2221 accessory to commission, or attempt to commit any offense listed  
2222 in this tier;

2223                   7. Any conviction for violation of a similar  
2224 law of another jurisdiction of any offense listed in this tier; or

2225                   8. Any conviction of a Tier One offense if it  
2226 is the offender's second or subsequent conviction of a registrable  
2227 sex offense;

2228                   (ii) Notwithstanding any other provision of this  
2229 chapter, an offender may petition the appropriate circuit court to  
2230 be relieved of the duty to register upon twenty-five (25) years'  
2231 satisfaction of the requirements of this section for the  
2232 convictions classified as Tier Two offenses.

2233                   (d) **Tier Three.** Tier Three requires lifetime  
2234 registration, the registrant not being eligible to be relieved of  
2235 the duty to register except as otherwise provided in this section,  
2236 and includes any of the following listed registrable sex offenses:

2237                   (i) Section 97-3-65 relating to rape;

2238                   (ii) Section 97-3-71 relating to rape and assault  
2239 with intent to ravish;

2240                   (iii) Section 97-3-95 relating to sexual battery;

2241                   (iv) Subsection (1) or (2) of Section 97-5-33  
2242 relating to the exploitation of children;

2243                   (v) Section 97-5-5 relating to enticing a child  
2244 for concealment, prostitution or marriage;



2245 (vi) Section 97-5-41 relating to the carnal  
2246 knowledge of a stepchild, adopted child or child of a cohabiting  
2247 partner;

2248 (vii) Section 97-3-53 relating to kidnapping if  
2249 the victim is under the age of eighteen (18);

2250 (viii) Section 97-3-54.1(1)(c) relating to  
2251 procuring sexual servitude of a minor;

2252 (ix) Section 97-3-54.3 relating to aiding,  
2253 abetting or conspiring to violate antihuman trafficking  
2254 provisions;

2255 (x) Section 97-5-23 relating to the touching of a  
2256 child, mentally defective or incapacitated person or physically  
2257 helpless person for lustful purposes;

2258 (xi) Section 43-47-18 relating to sexual abuse of  
2259 a vulnerable person by health care employees or persons in a  
2260 position of trust or authority;

2261 (xii) Section 97-5-39(1)(c) relating to  
2262 contributing to the neglect or delinquency of a child, felonious  
2263 abuse and/or battery of a child, if the victim was sexually  
2264 abused;

2265 (xiii) Section 97-3-97, relating to sexual  
2266 assault;

2267 ( \* \* \*xiv) Capital murder when one (1) of the  
2268 above-described offenses is the underlying crime;



2269 ( \* \* \*xv) Any conviction for violation of a  
2270 similar law of another jurisdiction or designation as a sexual  
2271 predator in another jurisdiction;

2272 ( \* \* \*xvi) Any conviction of conspiracy to  
2273 commit, accessory to commission, or attempt to commit any offense  
2274 listed in this tier; or

2275 ( \* \* \*xvii) Any conviction of a Tier Two offense  
2276 if it is the offender's second or subsequent conviction of a  
2277 registrable sex offense.

2278 (e) An offender who has two (2) separate convictions  
2279 for any of the registrable offenses described in Section 45-33-23  
2280 is subject to lifetime registration and shall not be eligible to  
2281 petition to be relieved of the duty to register if at least one  
2282 (1) of the convictions was entered on or after July 1, 1995.

2283 (f) An offender, twenty-one (21) years of age or older,  
2284 who is convicted of any sex offense where the victim was fourteen  
2285 (14) years of age or younger shall be subject to lifetime  
2286 registration and shall not be relieved of the duty to register.

2287 (g) A first-time offender fourteen (14) years of age or  
2288 older adjudicated delinquent in a youth court for a registrable  
2289 offense of rape pursuant to Section 96-3-65 or a registrable  
2290 offense of sexual battery pursuant to Section 97-3-95 or a  
2291 registrable offense of sexual assault pursuant to Section 97-3-97  
2292 is subject to lifetime registration, but shall be eligible to



2293 petition to be relieved of the duty to register after twenty-five  
2294 (25) years of registration.

2295 (h) Registration following arrest or arraignment for  
2296 failure to register is not a defense and does not relieve the sex  
2297 offender of criminal liability for failure to register.

2298 (i) The department shall continue to list in the  
2299 registry the name and registration information of all registrants  
2300 who no longer work, reside or attend school in this state even  
2301 after the registrant moves to another jurisdiction and registers  
2302 in the new jurisdiction as required by law. The registry shall  
2303 note that the registrant moved out of state.

2304 (3) In determining whether to release an offender from the  
2305 obligation to register, the court shall consider the nature of the  
2306 registrable offense committed and the criminal and relevant  
2307 noncriminal behavior of the petitioner both before and after  
2308 conviction. The court may relieve the offender of the duty to  
2309 register only if the petitioner shows, by clear and convincing  
2310 evidence, that the registrant properly maintained his registration  
2311 as required by law and that future registration of the petitioner  
2312 will not serve the purposes of this chapter and the court is  
2313 otherwise satisfied that the petitioner is not a current or  
2314 potential threat to public safety. The district attorney in the  
2315 circuit in which the petition is filed must be given notice of the  
2316 petition at least three (3) weeks before the hearing on the  
2317 matter. The district attorney may present evidence in opposition



2318 to the requested relief or may otherwise demonstrate the reasons  
2319 why the petition should be denied. If the court denies the  
2320 petition, the petitioner may not again petition the court for  
2321 relief until one (1) year has elapsed unless the court orders  
2322 otherwise in its order of denial of relief.

2323 (4) The offender will be required to continue registration  
2324 for any sex offense conviction unless the conviction is set aside  
2325 in any post-conviction proceeding, the offender receives a pardon,  
2326 the charge is dismissed or the offender has received a court order  
2327 pursuant to this section relieving him of the duty to register.  
2328 Upon submission of the appropriate documentation to the department  
2329 of one (1) of these occurrences, registration duties will be  
2330 discontinued.

2331 (5) A person required to register as a sex offender who is  
2332 convicted under Section 45-33-33 of providing false registration  
2333 information or of failure to register, reregister, update  
2334 registration, or comply with electronic monitoring shall be  
2335 subject to electronic monitoring at the expense of the offender  
2336 under the program provided in Section 45-33-45. Termination of  
2337 the duty to register also terminates the duty to be monitored.

2338 **SECTION 21.** Section 93-15-121, Mississippi Code of 1972, is  
2339 amended as follows:

2340 93-15-121. Any of the following, if established by clear and  
2341 convincing evidence, may be grounds for termination of the  
2342 parent's parental rights if reunification between the parent and



2343 child is not desirable toward obtaining a satisfactory permanency  
2344 outcome:

2345           (a) The parent has been medically diagnosed by a  
2346 qualified mental health professional with a severe mental illness  
2347 or deficiency that is unlikely to change in a reasonable period of  
2348 time and which, based upon expert testimony or an established  
2349 pattern of behavior, makes the parent unable or unwilling to  
2350 provide an adequate permanent home for the child;

2351           (b) The parent has been medically diagnosed by a  
2352 qualified health professional with an extreme physical  
2353 incapacitation that is unlikely to change in a reasonable period  
2354 of time and which, based upon expert testimony or an established  
2355 pattern of behavior, prevents the parent, despite reasonable  
2356 accommodations, from providing minimally acceptable care for the  
2357 child;

2358           (c) The parent is suffering from habitual alcoholism or  
2359 other drug addiction and has failed to successfully complete  
2360 alcohol or drug treatment;

2361           (d) The parent is unwilling to provide reasonably  
2362 necessary food, clothing, shelter, or medical care for the child;  
2363 reasonably necessary medical care does not include recommended or  
2364 optional vaccinations against childhood or any other disease;

2365           (e) The parent has failed to exercise reasonable  
2366 visitation or communication with the child;





2367 (f) The parent's abusive or neglectful conduct has  
2368 caused, at least in part, an extreme and deep-seated antipathy by  
2369 the child toward the parent, or some other substantial erosion of  
2370 the relationship between the parent and the child;

2371 (g) The parent has committed an abusive act for which  
2372 reasonable efforts to maintain the children in the home would not  
2373 be required under Section 43-21-603, or a series of physically,  
2374 mentally, or emotionally abusive incidents, against the child or  
2375 another child, whether related by consanguinity or affinity or  
2376 not, making future contacts between the parent and child  
2377 undesirable; or

2378 (h) (i) The parent has been convicted of any of the  
2379 following offenses against any child:

- 2380 1. Rape of a child under Section 97-3-65;
- 2381 2. Sexual battery of a child under Section  
2382 97-3-95 \* \* \*;
- 2383 3. Touching a child for lustful purposes  
2384 under Section 97-5-23;
- 2385 4. Exploitation of a child under Sections  
2386 97-5-31 through 97-5-37;
- 2387 5. Felonious abuse or battery of a child  
2388 under Section 97-5-39(2);
- 2389 6. Carnal knowledge of a step or adopted  
2390 child or a child of a cohabitating partner under Section  
2391 97-5-41; \* \* \*



2392 7. Human trafficking of a child under Section

2393 97-3-54.1; \* \* \*

2394 8. Sexual assault of a child under Section

2395 97-3-97; or

2396 (ii) The parent has been convicted of:

2397 1. Murder or voluntary manslaughter of

2398 another child of the parent;

2399 2. Aiding, abetting, attempting, conspiring

2400 or soliciting to commit murder or voluntary manslaughter of the

2401 child or another child of the parent; or

2402 3. A felony assault that results in the

2403 serious bodily injury to the child or another child of the parent.

2404 **SECTION 22.** Section 93-21-107, Mississippi Code of 1972, is

2405 amended as follows:

2406 93-21-107. (1) To qualify for funds under the provisions of

2407 Sections 93-21-101 through 93-21-113, a domestic violence shelter

2408 shall meet all the following requirements:

2409 (a) Be incorporated in the state or recognized by the

2410 Secretary of State as a private or public nonprofit corporation.

2411 Such corporation shall have a board of directors and/or an

2412 advisory committee who represents the racial, ethnic and social

2413 economic diversity of the area to be served, including, if

2414 possible, at least one (1) person who is or has been a victim of

2415 domestic violence.



2416 (b) Have designed and developed a program to provide  
2417 the following basic services to victims of domestic violence and  
2418 their children:

2419 (i) Shelter on a twenty-four (24) hour a day,  
2420 seven (7) days a week basis.

2421 (ii) A twenty-four (24) hour, seven (7) days a  
2422 week switchboard for crisis calls.

2423 (iii) Temporary housing and food facilities.

2424 (iv) Group support and peer counseling.

2425 (v) Referrals to existing services in the  
2426 community and follow-up on the outcome of the referrals.

2427 (vi) A method of referral for medical care, legal  
2428 assistance and group support and counseling of victims of domestic  
2429 violence.

2430 (vii) Information regarding reeducation, marriage  
2431 and family counseling, job counseling, and training programs,  
2432 housing referrals, and other available social services.

2433 (viii) A referral program of counseling for the  
2434 victim and the offender.

2435 (2) Domestic violence shelters shall establish procedures  
2436 for admission of victims of domestic violence who may seek  
2437 admission to these shelters on a voluntary basis.

2438 (3) A domestic violence shelter shall not qualify for funds  
2439 if it discriminates in its admissions or provision of services on



2440 the basis of race, religion, color, age, marital status, national  
2441 origin or ancestry.

2442 (4) Any state-source grant made to a shelter shall be  
2443 matched with local funds in an amount not less than twenty-five  
2444 percent (25%) of the state-source grant amount. The local  
2445 contribution may not include in-kind contributions.

2446 (5) A domestic violence shelter receiving state funding  
2447 under the provisions of Sections 93-21-101 through 93-21-113 shall  
2448 not be prohibited from accepting gifts, trusts, bequests, grants,  
2449 endowments, federal funds, other special source funds or transfers  
2450 of property of any kind for the support of that shelter program.

2451 (6) The OAIIV shall insure that no grant made with state  
2452 funds is in an amount that would exceed One Hundred Thousand  
2453 Dollars (\$100,000.00) inflated by a general CPI inflator to insure  
2454 that the grant offers shelters the same buying power that a grant  
2455 of One Hundred Thousand Dollars (\$100,000.00) provided in 1983.

2456 (7) A domestic violence shelter shall require persons  
2457 employed by or volunteering services to the shelter to maintain  
2458 the confidentiality of any information that would identify  
2459 individuals served by the shelter.

2460 (8) A domestic violence shelter shall provide educational  
2461 programs relating to battered spouses and domestic violence  
2462 designed for both the community at large and/or specialized groups  
2463 such as hospital personnel and law enforcement officials.



2464 (9) No child shall be placed in any domestic violence  
2465 shelter that receives state funding under these provisions of  
2466 Sections 93-21-101 through 93-21-113, and no domestic violence  
2467 shelter that receives state funding under these provisions may  
2468 admit or accept any child, unless the child is accompanied by his  
2469 parent or guardian and such parent or guardian will remain with  
2470 the child in the shelter until the child leaves or is released  
2471 from the shelter. However, this subsection shall not prevent any  
2472 rape crisis center from providing care, counseling and related  
2473 services to any child who is a victim of rape, attempted rape,  
2474 sexual battery or attempted sexual battery, sexual assault or  
2475 attempted sexual assault and who is not accompanied by his parent  
2476 or guardian.

2477 **SECTION 23.** Section 93-21-115, Mississippi Code of 1972, is  
2478 amended as follows:

2479 93-21-115. The governing authorities of any municipality in  
2480 the state are hereby authorized and empowered, in their  
2481 discretion, to donate annually out of any money in the municipal  
2482 treasury such sums as the governing authorities deem advisable to  
2483 support any domestic violence shelter or rape crisis center  
2484 operating within or serving its area. For the purposes of this  
2485 section, "rape crisis center" means a place established to provide  
2486 care, counseling and related services to victims of rape,  
2487 attempted rape, sexual battery or attempted sexual battery, sexual  
2488 assault or attempted sexual assault.



2489           **SECTION 24.** Section 97-3-2, Mississippi Code of 1972, is  
2490 amended as follows:

2491           97-3-2. (1) The following shall be classified as crimes of  
2492 violence:

2493                   (a) Driving under the influence as provided in Sections  
2494 63-11-30(5) and 63-11-30(12) (d);

2495                   (b) Murder and attempted murder as provided in Sections  
2496 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

2497                   (c) Aggravated assault as provided in Sections  
2498 97-3-7(2) (a) and (b) and 97-3-7(4) (a);

2499                   (d) Manslaughter as provided in Sections 97-3-27,  
2500 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43,  
2501 97-3-45 and 97-3-47;

2502                   (e) Killing of an unborn child as provided in Sections  
2503 97-3-37(2) (a) and 97-3-37(2) (b);

2504                   (f) Kidnapping as provided in Section 97-3-53;

2505                   (g) Human trafficking as provided in Section 97-3-54.1;

2506                   (h) Poisoning as provided in Section 97-3-61;

2507                   (i) Rape as provided in Sections 97-3-65 and 97-3-71;

2508                   (j) Robbery as provided in Sections 97-3-73 and  
2509 97-3-79;

2510                   (k) Sexual battery as provided in Section 97-3-95;

2511                   (l) Drive-by shooting or bombing as provided in Section  
2512 97-3-109;

2513                   (m) Carjacking as provided in Section 97-3-117;



2514 (n) Felonious neglect, abuse or battery of a child as  
2515 provided in Section 97-5-39;

2516 (o) Burglary of a dwelling as provided in Sections  
2517 97-17-23 and 97-17-37;

2518 (p) Use of explosives or weapons of mass destruction as  
2519 provided in Section 97-37-25;

2520 (q) Statutory rape as provided in Section 97-3-65(1),  
2521 but this classification is rebuttable on hearing by a judge;

2522 (r) Exploitation of a child as provided in Section  
2523 97-5-33;

2524 (s) Sexual assault as provided in Section 97-3-97;

2525 ( \* \* \*t) Gratification of lust as provided in Section  
2526 97-5-23; and

2527 ( \* \* \*u) Shooting into a dwelling as provided in  
2528 Section 97-37-29.

2529 (2) In any felony offense with a maximum sentence of no less  
2530 than five (5) years, upon conviction, the judge may find and place  
2531 in the sentencing order, on the record in open court, that the  
2532 offense, while not listed in subsection (1) of this section, shall  
2533 be classified as a crime of violence if the facts show that the  
2534 defendant used physical force, or made a credible attempt or  
2535 threat of physical force against another person as part of the  
2536 criminal act. No person convicted of a crime of violence listed  
2537 in this section is eligible for parole or for early release from  
2538 the custody of the Department of Corrections until the person has



2539 served at least fifty percent (50%) of the sentence imposed by the  
2540 court.

2541           **SECTION 25.** Section 97-3-19, Mississippi Code of 1972, is  
2542 amended as follows:

2543           97-3-19. (1) The killing of a human being without the  
2544 authority of law by any means or in any manner shall be murder in  
2545 the following cases:

2546                   (a) When done with deliberate design to effect the  
2547 death of the person killed, or of any human being, shall be  
2548 first-degree murder;

2549                   (b) When done in the commission of an act eminently  
2550 dangerous to others and evincing a depraved heart, regardless of  
2551 human life, although without any premeditated design to effect the  
2552 death of any particular individual, shall be second-degree murder;

2553                   (c) When done without any design to effect death by any  
2554 person engaged in the commission of any felony other than rape,  
2555 kidnapping, burglary, arson, robbery, sexual battery, sexual  
2556 assault, unnatural intercourse with any child under the age of  
2557 twelve (12), or nonconsensual unnatural intercourse with mankind,  
2558 or felonious abuse and/or battery of a child in violation of  
2559 subsection (2) of Section 97-5-39, or in any attempt to commit  
2560 such felonies, shall be first-degree murder;

2561                   (d) When done with deliberate design to effect the  
2562 death of an unborn child, shall be first-degree murder.





2563           (2) The killing of a human being without the authority of  
2564 law by any means or in any manner shall be capital murder in the  
2565 following cases:

2566           (a) Murder which is perpetrated by killing a peace  
2567 officer or fireman while such officer or fireman is acting in his  
2568 official capacity or by reason of an act performed in his official  
2569 capacity, and with knowledge that the victim was a peace officer  
2570 or fireman. For purposes of this paragraph, the term "peace  
2571 officer" means any state or federal law enforcement officer,  
2572 including, but not limited to, a federal park ranger, the sheriff  
2573 of or police officer of a city or town, a conservation officer, a  
2574 parole officer, a judge, senior status judge, special judge,  
2575 district attorney, legal assistant to a district attorney, county  
2576 prosecuting attorney or any other court official, an agent of the  
2577 Alcoholic Beverage Control Division of the Department of Revenue,  
2578 an agent of the Bureau of Narcotics, personnel of the Mississippi  
2579 Highway Patrol, and the employees of the Department of Corrections  
2580 who are designated as peace officers by the Commissioner of  
2581 Corrections pursuant to Section 47-5-54, and the superintendent  
2582 and his deputies, guards, officers and other employees of the  
2583 Mississippi State Penitentiary;

2584           (b) Murder which is perpetrated by a person who is  
2585 under sentence of life imprisonment;

2586           (c) Murder which is perpetrated by use or detonation of  
2587 a bomb or explosive device;



2588 (d) Murder which is perpetrated by any person who has  
2589 been offered or has received anything of value for committing the  
2590 murder, and all parties to such a murder, are guilty as  
2591 principals;

2592 (e) When done with or without any design to effect  
2593 death, by any person engaged in the commission of the crime of  
2594 rape, burglary, kidnapping, arson, robbery, sexual battery, sexual  
2595 assault, unnatural intercourse with any child under the age of  
2596 twelve (12), or nonconsensual unnatural intercourse with mankind,  
2597 or in any attempt to commit such felonies;

2598 (f) When done with or without any design to effect  
2599 death, by any person engaged in the commission of the crime of  
2600 felonious abuse and/or battery of a child in violation of  
2601 subsection (2) of Section 97-5-39, or in any attempt to commit  
2602 such felony;

2603 (g) Murder which is perpetrated on educational property  
2604 as defined in Section 97-37-17;

2605 (h) Murder which is perpetrated by the killing of any  
2606 elected official of a county, municipal, state or federal  
2607 government with knowledge that the victim was such public  
2608 official;

2609 (i) Murder of three (3) or more persons who are killed  
2610 incident to one (1) act, scheme, course of conduct or criminal  
2611 episode;



2612 (j) Murder of more than three (3) persons within a  
2613 three-year period;

2614 (k) Murder which is perpetrated by the killing of a  
2615 person who: (i) is or would be a witness for the state or federal  
2616 government in a criminal trial; (ii) is a confidential informant  
2617 for any agency of the state or federal government; or (iii) is any  
2618 other person who was cooperating or assisting the state or federal  
2619 government or was suspected of cooperation or assistance to the  
2620 state or federal government, if the motive for the killing was  
2621 either the person's status as a witness, potential witness or  
2622 informant, or was to prevent the cooperation or assistance to the  
2623 prosecution. It shall not be a defense to a killing under this  
2624 subsection that the defendant erroneously suspected or believed  
2625 the victim to have cooperated or assisted the state or federal  
2626 government.

2627 (3) An indictment for murder or capital murder shall serve  
2628 as notice to the defendant that the indictment may include any and  
2629 all lesser included offenses thereof, including, but not limited  
2630 to, manslaughter.

2631 **SECTION 26.** Section 97-3-99, Mississippi Code of 1972, is  
2632 amended as follows:

2633 97-3-99. \* \* \* The legal spouse of the alleged victim may be  
2634 found guilty of sexual battery or sexual assault if the legal  
2635 spouse engaged in \* \* \* the acts described in Sections 97-3-95 and  
2636 97-3-97 without the consent of the alleged victim.



2637           **SECTION 27.** Section 97-5-40, Mississippi Code of 1972, is  
2638 amended as follows:

2639           97-5-40.   Condoning child abuse.

2640           (1) Any parent, guardian, custodian, stepparent or any other  
2641 person who lives in the household with a child, who knowingly  
2642 condones an incident of felonious child abuse of that child, which  
2643 consists of one or more violations of (a) subsection (2) of  
2644 Section 97-5-39 or (b) felonious sexual battery of that child,  
2645 which consists of one or more violations of Section 97-3-95 or  
2646 Section 97-3-97 shall be guilty of a misdemeanor and, upon  
2647 conviction thereof, shall be punished by imprisonment for not more  
2648 than one (1) year or by a fine of not more than One Thousand  
2649 Dollars (\$1,000.00), or both.

2650           (2) A person shall not be considered to have condoned child  
2651 abuse merely because such person does not report an act of child  
2652 abuse.

2653           (3) The provisions of this section shall be in addition to  
2654 any other criminal law.

2655           **SECTION 28.** Section 97-5-51, Mississippi Code of 1972, is  
2656 amended as follows:

2657           97-5-51.   (1) **Definitions.** For the purposes of this  
2658 section:

2659           (a) "Sex crime against a minor" means any offense under  
2660 at least one (1) of the following statutes when committed by an  
2661 adult against a minor who is under the age of sixteen (16):



2662 (i) Section 97-3-65 relating to rape;  
2663 (ii) Section 97-3-71 relating to rape and assault  
2664 with intent to ravish;  
2665 (iii) Section 97-3-95 relating to sexual battery;  
2666 (iv) Section 97-5-23 relating to the touching of a  
2667 child, mentally defective or incapacitated person or physically  
2668 helpless person for lustful purposes;  
2669 (v) Section 97-5-41 relating to the carnal  
2670 knowledge of a stepchild, adopted child or child of a cohabiting  
2671 partner;  
2672 (vi) Section 97-5-33 relating to exploitation of  
2673 children;  
2674 (vii) Section 97-3-54.1(1)(c) relating to  
2675 procuring sexual servitude of a minor;  
2676 (viii) Section 43-47-18 relating to sexual abuse  
2677 of a vulnerable person;  
2678 (ix) Section 97-1-7 relating to the attempt to  
2679 commit any of the offenses listed in this subsection \* \* \*;  
2680 (x) Section 97-3-97 relating to sexual assault of  
2681 a minor.  
2682 (b) "Mandatory reporter" means any of the following  
2683 individuals performing their occupational duties: health care  
2684 practitioner, clergy member, teaching or child care provider, law  
2685 enforcement officer, or commercial image processor.



2686 (c) "Health care practitioner" means any individual who  
2687 provides health care services, including a physician, surgeon,  
2688 physical therapist, psychiatrist, psychologist, medical resident,  
2689 medical intern, hospital staff member, licensed nurse, midwife and  
2690 emergency medical technician or paramedic.

2691 (d) "Clergy member" means any priest, rabbi or duly  
2692 ordained deacon or minister.

2693 (e) "Teaching or child care provider" means anyone who  
2694 provides training or supervision of a minor under the age of  
2695 sixteen (16), including a teacher, teacher's aide, principal or  
2696 staff member of a public or private school, social worker,  
2697 probation officer, foster home parent, group home or other child  
2698 care institutional staff member, personnel of residential home  
2699 facilities, a licensed or unlicensed day care provider.

2700 (f) "Commercial image processor" means any person who,  
2701 for compensation: (i) develops exposed photographic film into  
2702 negatives, slides or prints; (ii) makes prints from negatives or  
2703 slides; or (iii) processes or stores digital media or images from  
2704 any digital process, including, but not limited to, website  
2705 applications, photography, live streaming of video, posting,  
2706 creation of power points or any other means of intellectual  
2707 property communication or media including conversion or  
2708 manipulation of still shots or video into a digital show stored on  
2709 a photography site or a media storage site.



2710 (g) "Caretaker" means any person legally obligated to  
2711 provide or secure adequate care for a minor under the age of  
2712 sixteen (16), including a parent, guardian, tutor, legal custodian  
2713 or foster home parent.

2714 (2) (a) **Mandatory reporter requirement.** A mandatory  
2715 reporter shall make a report if it would be reasonable for the  
2716 mandatory reporter to suspect that a sex crime against a minor has  
2717 occurred.

2718 (b) Failure to file a mandatory report shall be  
2719 punished as provided in this section.

2720 (c) Reports made under this section and the identity of  
2721 the mandatory reporter are confidential except when the court  
2722 determines the testimony of the person reporting to be material to  
2723 a judicial proceeding or when the identity of the reporter is  
2724 released to law enforcement agencies and the appropriate  
2725 prosecutor. The identity of the reporting party shall not be  
2726 disclosed to anyone other than law enforcement or prosecutors  
2727 except under court order; violation of this requirement is a  
2728 misdemeanor. Reports made under this section are for the purpose  
2729 of criminal investigation and prosecution only and information  
2730 from these reports is not a public record. Disclosure of any  
2731 information by the prosecutor shall conform to the Mississippi  
2732 Uniform Rules of Circuit and County Court Procedure.

2733 (d) Any mandatory reporter who makes a required report  
2734 under this section or participates in a judicial proceeding



2735 resulting from a mandatory report shall be presumed to be acting  
2736 in good faith. Any person or institution reporting in good faith  
2737 shall be immune from any liability, civil or criminal, that might  
2738 otherwise be incurred or imposed.

2739 (3) (a) **Mandatory reporting procedure.** A report required  
2740 under subsection (2) must be made immediately to the law  
2741 enforcement agency in whose jurisdiction the reporter believes the  
2742 sex crime against the minor occurred. Except as otherwise  
2743 provided in this subsection (3), a mandatory reporter may not  
2744 delegate to any other person the responsibility to report, but  
2745 shall make the report personally.

2746 (i) The reporting requirement under this  
2747 subsection (3) is satisfied if a mandatory reporter in good faith  
2748 reports a suspected sex crime against a minor to the Department of  
2749 Human Services under Section 43-21-353.

2750 (ii) The reporting requirement under this  
2751 subsection (3) is satisfied if a mandatory reporter reports a  
2752 suspected sex crime against a minor by following a reporting  
2753 procedure that is imposed:

2754 1. By state agency rule as part of licensure  
2755 of any person or entity holding a state license to provide  
2756 services that include the treatment or education of abused or  
2757 neglected children; or

2758 2. By statute.





2759                   (b) **Contents of the report.** The report shall identify,  
2760 to the extent known to the reporter, the following:

2761                   (i) The name and address of the minor victim;

2762                   (ii) The name and address of the minor's  
2763 caretaker;

2764                   (iii) Any other pertinent information known to the  
2765 reporter.

2766           (4) A law enforcement officer who receives a mandated report  
2767 under this section shall file an affidavit against the offender on  
2768 behalf of the State of Mississippi if there is probable cause to  
2769 believe that the offender has committed a sex crime against a  
2770 minor.

2771           (5) **Collection of forensic samples.** (a) (i) When an  
2772 abortion is performed on a minor who is less than fourteen (14)  
2773 years of age at the time of the abortion procedure, fetal tissue  
2774 extracted during the abortion shall be collected in accordance  
2775 with rules and regulations adopted pursuant to this section if it  
2776 would be reasonable to suspect that the pregnancy being terminated  
2777 is the result of a sex crime against a minor.

2778                   (ii) When a minor who is under sixteen (16) years  
2779 of age gives birth to an infant, umbilical cord blood shall be  
2780 collected, if possible, in accordance with rules and regulations  
2781 adopted pursuant to this section if it would be reasonable to  
2782 suspect that the minor's pregnancy resulted from a sex crime  
2783 against a minor.



2784 (iii) It shall be reasonable to suspect that a sex  
2785 crime against a minor has occurred if the mother of an infant was  
2786 less than sixteen (16) years of age at the time of conception and  
2787 at least one (1) of the following conditions also applies:

2788 1. The mother of the infant will not identify  
2789 the father of the infant;

2790 2. The mother of the infant lists the father  
2791 of the infant as unknown;

2792 3. The person the mother identifies as the  
2793 father of the infant disputes his fatherhood;

2794 4. The person the mother identifies as the  
2795 father of the infant is twenty-one (21) years of age or older; or

2796 5. The person the mother identifies as the  
2797 father is deceased.

2798 (b) The State Medical Examiner shall adopt rules and  
2799 regulations consistent with Section 99-49-1 that prescribe:

2800 (i) The amount and type of fetal tissue or  
2801 umbilical cord blood to be collected pursuant to this section;

2802 (ii) Procedures for the proper preservation of the  
2803 tissue or blood for the purpose of DNA testing and examination;

2804 (iii) Procedures for documenting the chain of  
2805 custody of such tissue or blood for use as evidence;

2806 (iv) Procedures for proper disposal of fetal  
2807 tissue or umbilical cord blood collected pursuant to this section;



2808 (v) A uniform reporting instrument mandated to be  
2809 utilized, which shall include the complete residence address and  
2810 name of the parent or legal guardian of the minor who is the  
2811 subject of the report required under this subsection (5); and

2812 (vi) Procedures for communication with law  
2813 enforcement agencies regarding evidence and information obtained  
2814 pursuant to this section.

2815 (6) **Penalties.** (a) A person who is convicted of a first  
2816 offense under this section shall be guilty of a misdemeanor and  
2817 fined not more than Five Hundred Dollars (\$500.00).

2818 (b) A person who is convicted of a second offense under  
2819 this section shall be guilty of a misdemeanor and fined not more  
2820 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
2821 than thirty (30) days, or both.

2822 (c) A person who is convicted of a third or subsequent  
2823 offense under this section shall be guilty of a misdemeanor and  
2824 fined not more than Five Thousand Dollars (\$5,000.00), or  
2825 imprisoned for not more than one (1) year, or both.

2826 (7) A health care practitioner or health care facility shall  
2827 be immune from any penalty, civil or criminal, for good-faith  
2828 compliance with any rules and regulations adopted pursuant to this  
2829 section.

2830 **SECTION 29.** Section 99-1-5, Mississippi Code of 1972, is  
2831 amended as follows:



2832           99-1-5. The passage of time shall never bar prosecution  
2833 against any person for the offenses of murder, manslaughter,  
2834 aggravated assault, aggravated domestic violence, kidnapping,  
2835 arson, burglary, forgery, counterfeiting, robbery, larceny, rape,  
2836 embezzlement, obtaining money or property under false pretenses or  
2837 by fraud, felonious abuse, sexual assault or battery of a child as  
2838 described in Section 97-5-39, touching or handling a child for  
2839 lustful purposes as described in Section 97-5-23, sexual battery  
2840 of a child as described in Section 97-3-95(1)(c), (d) or (2),  
2841 exploitation of children as described in Section 97-5-33,  
2842 promoting prostitution under Section 97-29-51(2) when the person  
2843 involved is a minor, or any human trafficking offense as described  
2844 in Section 97-3-54.1(1)(a), (1)(b) or (1)(c), Section 97-3-54.2 or  
2845 Section 97-3-54.3. A person shall not be prosecuted for  
2846 conspiracy, as described in Section 97-1-1, for felonious  
2847 assistance-program fraud, as described in Section 97-19-71, or for  
2848 felonious abuse of vulnerable persons, as described in Sections  
2849 43-47-18 and 43-47-19, unless the prosecution for the offense is  
2850 commenced within five (5) years next after the commission thereof.  
2851 A person shall not be prosecuted for larceny of timber as  
2852 described in Section 97-17-59, unless the prosecution for the  
2853 offense is commenced within six (6) years next after the  
2854 commission thereof. A person shall not be prosecuted for any  
2855 other offense not listed in this section unless the prosecution  
2856 for the offense is commenced within two (2) years next after the



2857 commission thereof. Nothing contained in this section shall bar  
2858 any prosecution against any person who shall abscond or flee from  
2859 justice, or shall absent himself from this state or out of the  
2860 jurisdiction of the court, or so conduct himself that he cannot be  
2861 found by the officers of the law, or that process cannot be served  
2862 upon him.

2863         **SECTION 30.** Section 99-19-101, Mississippi Code of 1972, is  
2864 amended as follows:

2865         99-19-101. (1) Upon conviction or adjudication of guilt of  
2866 a defendant of capital murder or other capital offense, the court  
2867 shall conduct a separate sentencing proceeding to determine  
2868 whether the defendant should be sentenced to death, life  
2869 imprisonment without eligibility for parole, or life imprisonment.  
2870 The proceeding shall be conducted by the trial judge before the  
2871 trial jury as soon as practicable. If, through impossibility or  
2872 inability, the trial jury is unable to reconvene for a hearing on  
2873 the issue of penalty, having determined the guilt of the accused,  
2874 the trial judge may summon a jury to determine the issue of the  
2875 imposition of the penalty. If the trial jury has been waived, or  
2876 if the defendant pleaded guilty, the sentencing proceeding shall  
2877 be conducted before a jury impaneled for that purpose or may be  
2878 conducted before the trial judge sitting without a jury if both  
2879 the State of Mississippi and the defendant agree thereto in  
2880 writing. In the proceeding, evidence may be presented as to any  
2881 matter that the court deems relevant to sentence, and shall



2882 include matters relating to any of the aggravating or mitigating  
2883 circumstances. However, this subsection shall not be construed to  
2884 authorize the introduction of any evidence secured in violation of  
2885 the Constitution of the United States or of the State of  
2886 Mississippi. The state and the defendant and the defendant's  
2887 counsel shall be permitted to present arguments for or against the  
2888 sentence of death.

2889 (2) After hearing all the evidence, the jury shall  
2890 deliberate on the following matters:

2891 (a) Whether sufficient factors exist as enumerated in  
2892 subsection (7) of this section;

2893 (b) Whether sufficient aggravating circumstances exist  
2894 as enumerated in subsection (5) of this section;

2895 (c) Whether sufficient mitigating circumstances exist  
2896 as enumerated in subsection (6) of this section, which outweigh  
2897 the aggravating circumstances found to exist; and

2898 (d) Based on these considerations, whether the  
2899 defendant should be sentenced to life imprisonment, life  
2900 imprisonment without eligibility for parole, or death.

2901 (3) For the jury to impose a sentence of death, it must  
2902 unanimously find in writing the following:

2903 (a) That sufficient factors exist as enumerated in  
2904 subsection (7) of this section;

2905 (b) That sufficient aggravating circumstances exist as  
2906 enumerated in subsection (5) of this section; and



2907           (c) That there are insufficient mitigating  
2908 circumstances, as enumerated in subsection (6), to outweigh the  
2909 aggravating circumstances.

2910           In each case in which the jury imposes the death sentence,  
2911 the determination of the jury shall be supported by specific  
2912 written findings of fact based upon the circumstances in  
2913 subsections (5) and (6) of this section and upon the records of  
2914 the trial and the sentencing proceedings. If, after the trial of  
2915 the penalty phase, the jury does not make the findings requiring  
2916 the death sentence or life imprisonment without eligibility for  
2917 parole, or is unable to reach a decision, the court shall impose a  
2918 sentence of life imprisonment.

2919           (4) The judgment of conviction and sentence of death shall  
2920 be subject to automatic review by the Supreme Court of Mississippi  
2921 within sixty (60) days after certification by the sentencing court  
2922 of the entire record, unless the time is extended for an  
2923 additional period by the Supreme Court for good cause shown. The  
2924 review by the Supreme Court shall have priority over all other  
2925 cases and shall be heard in accordance with rules promulgated by  
2926 the Supreme Court.

2927           (5) Aggravating circumstances shall be limited to the  
2928 following:

2929           (a) The capital offense was committed by a person under  
2930 sentence of imprisonment.



2931           (b) The defendant was previously convicted of another  
2932 capital offense or of a felony involving the use or threat of  
2933 violence to the person.

2934           (c) The defendant knowingly created a great risk of  
2935 death to many persons.

2936           (d) The capital offense was committed while the  
2937 defendant was engaged, or was an accomplice, in the commission of,  
2938 or an attempt to commit, or flight after committing or attempting  
2939 to commit, any robbery, rape, arson, burglary, kidnapping,  
2940 aircraft piracy, sexual battery, sexual assault, unnatural  
2941 intercourse with any child under the age of twelve (12), or  
2942 nonconsensual unnatural intercourse with mankind, or felonious  
2943 abuse or battery of a child in violation of subsection (2) of  
2944 Section 97-5-39, or the unlawful use or detonation of a bomb or  
2945 explosive device.

2946           (e) The capital offense was committed for the purpose  
2947 of avoiding or preventing a lawful arrest or effecting an escape  
2948 from custody.

2949           (f) The capital offense was committed for pecuniary  
2950 gain.

2951           (g) The capital offense was committed to disrupt or  
2952 hinder the lawful exercise of any governmental function or the  
2953 enforcement of laws.

2954           (h) The capital offense was committed to influence the  
2955 policy of a governmental entity by intimidation or coercion, or to





2956 affect the conduct of a governmental entity by mass destruction or  
2957 assassination.

2958 (i) The capital offense was especially heinous,  
2959 atrocious or cruel.

2960 (j) The capital offense was committed to intimidate or  
2961 coerce a civilian population.

2962 (6) Mitigating circumstances shall be the following:

2963 (a) The defendant has no significant history of prior  
2964 criminal activity.

2965 (b) The offense was committed while the defendant was  
2966 under the influence of extreme mental or emotional disturbance.

2967 (c) The victim was a participant in the defendant's  
2968 conduct or consented to the act.

2969 (d) The defendant was an accomplice in the capital  
2970 offense committed by another person and his participation was  
2971 relatively minor.

2972 (e) The defendant acted under extreme duress or under  
2973 the substantial domination of another person.

2974 (f) The capacity of the defendant to appreciate the  
2975 criminality of his conduct or to conform his conduct to the  
2976 requirements of law was substantially impaired.

2977 (g) The age of the defendant at the time of the crime.

2978 (7) In order to return and impose a sentence of death the  
2979 jury must make a written finding of one or more of the following:

2980 (a) The defendant actually killed;



2981 (b) The defendant attempted to kill;  
2982 (c) The defendant intended that a killing take place;  
2983 (d) The defendant contemplated that lethal force would  
2984 be employed.

2985 (8) For the purposes of this section, to "intimidate" or  
2986 "coerce" do not include peaceful picketing, boycotts or other  
2987 nonviolent action.

2988 **SECTION 31.** Section 99-35-115, Mississippi Code of 1972, is  
2989 amended as follows:

2990 99-35-115. (1) A person convicted of felony child abuse,  
2991 sexual battery or sexual assault of a minor or any offense in  
2992 which a sentence of death or life imprisonment is imposed shall  
2993 not be entitled to be released from imprisonment pending an appeal  
2994 to the Supreme Court.

2995 (2) (a) A person convicted of any felony, not enumerated in  
2996 subsection (1), shall be entitled to be released from imprisonment  
2997 on bail pending an appeal to the Supreme Court, within the  
2998 discretion of a judicial officer, if the convict shows by clear  
2999 and convincing evidence that release of the convict would not  
3000 constitute a special danger to any other person or to the  
3001 community, and that a condition or a combination of conditions may  
3002 be placed on release that will reasonably assure the appearance of  
3003 the convict as required, and only when the peculiar circumstances  
3004 of the case render it proper.



3005 (b) If bail is denied, the judicial officer shall place  
3006 the reasons for such denial of record in the case.

3007 (c) For the purposes of this section, "judicial  
3008 officer" means the trial court or trial judge, a judge of the  
3009 district in which the conviction occurred, the Supreme Court or a  
3010 justice of the Supreme Court in vacation of the court.

3011 (d) The victim or family of a victim shall be entitled  
3012 to submit a written statement objecting to the granting of release  
3013 on bail pending appeal.

3014 **SECTION 32.** Section 99-37-25, Mississippi Code of 1972, is  
3015 amended as follows:

3016 99-37-25. (1) (a) When a person is brought into a doctor's  
3017 office, a hospital or a medical clinic by a law enforcement agency  
3018 as the victim of an alleged rape or sexual assault having occurred  
3019 in this state, or comes into a doctor's office, a hospital or a  
3020 medical clinic alleging rape or sexual assault having occurred in  
3021 this state, the bill for the medical forensic examination and the  
3022 preparation of the sexual assault evidence collection kit will be  
3023 sent to the Division of Victim Compensation, Office of the  
3024 Attorney General. The Division of Victim Compensation shall pay  
3025 for the medical examination conducted for the procurement of  
3026 evidence to aid in the investigation and prosecution of the  
3027 alleged offense. Such payment shall be limited to the customary  
3028 and usual hospital and physician charges for such services in the  
3029 area. Such payment shall be made by the Division of Victim



3030 Compensation directly to the health care provider. No bill for  
3031 the examination will be submitted to the victim, nor shall the  
3032 medical facility hold the victim responsible for payment. The  
3033 victim may be billed for any further medical services not required  
3034 for the investigation and prosecution of the alleged offense. In  
3035 cases where the damage caused by the alleged sexual assault  
3036 requires medical treatment or diagnosis in addition to the  
3037 examination, the patient will be given information about the  
3038 availability of victim compensation and the procedure for applying  
3039 for such compensation.

3040 (b) Upon application submitted by the district  
3041 attorney, provided the proper warrant or court order has been  
3042 issued, the county in which an offense of sexual assault or of  
3043 felonious abuse or battery of a child as described in Section  
3044 97-3-97, sexual assault, Section 97-5-39, touching or handling a  
3045 child for lustful purposes as described in Section 97-5-23,  
3046 exploitation of children as described in Section 97-5-33 or sexual  
3047 battery as described in Section 97-3-95, or statutory rape as  
3048 defined in Section 97-3-65, or an attempt to commit such offense  
3049 has occurred shall pay for a medical forensic examination of the  
3050 person arrested, charged or convicted of such offense to determine  
3051 if the person so arrested, charged or convicted has any sexually  
3052 transmitted disease and for the collection of evidence. Such  
3053 payment shall be made by the county directly to the health care  
3054 provider or other service performing the collection of evidence



3055 and tests. At the victim's request, a test for human  
3056 immunodeficiency virus (HIV) shall be administered to the  
3057 defendant/accused not later than forty-eight (48) hours after the  
3058 date on which the information or indictment is presented, and the  
3059 defendant/accused shall be subjected to follow-up testing for HIV  
3060 upon a determination that such follow-up testing is medically  
3061 necessary and reasonable. The results of any such test shall be  
3062 confidential but shall be made available to the victim or, if the  
3063 victim is a child, to the guardian of the victim. After an  
3064 indictment, if the case is dismissed, the defendant is found not  
3065 guilty or the case is not prosecuted within three (3) years of the  
3066 indictment, all records of tests shall be returned to the accused  
3067 or destroyed. Upon a showing of good cause, the court may retain  
3068 such records and allow a case to remain open after the expiration  
3069 of the three-year limitation provided herein.

3070 (2) Any defendant who is convicted of, or pleads guilty or  
3071 nolo contendere to, any offense or an attempt to commit any such  
3072 offense specified in subsection (1)(b) shall be ordered by the  
3073 court to make restitution to the Division of Victim Compensation  
3074 in an amount equal to the compensation paid by the Division of  
3075 Victim Compensation to the victim or medical provider for the  
3076 medical forensic examination and to the county for tests for  
3077 sexually transmitted diseases. Such restitution shall be in  
3078 addition to any restitution which the court orders the defendant



3079 to pay the victim under the provisions of Chapter 37 \* \* \*, Title  
3080 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of 1972.

3081 (3) The Division of Victim Compensation is hereby  
3082 authorized, in its discretion, to make application for and comply  
3083 with such requirements as may be necessary to qualify for any  
3084 federal funds as may be available as a result of services rendered  
3085 to crime victims under the provisions of this section.

3086 **SECTION 33.** Section 11-13-41, Mississippi Code of 1972, is  
3087 amended as follows:

3088 11-13-41. (1) A victim of stalking, as defined in Section  
3089 97-3-107, or sexual assault, as defined in Section 97-3-65 \* \* \*  
3090 97-3-95 or 97-3-97, who files an action seeking injunctive relief  
3091 preventing violent or threatening acts or harassment against, or  
3092 contact or communication with or physical proximity to the victim  
3093 against the perpetrator of that offense, shall not be assessed any  
3094 fees related to the filing of such request, the issuance of any  
3095 process of court, or the issuance of any order providing such  
3096 protection.

3097 (2) The court, upon issuing any such relief, shall assess  
3098 costs of court to the perpetrator of the offense. In the event  
3099 the court determines the request is frivolous, the court shall  
3100 assess the costs of court to the petitioner.

3101 **SECTION 34.** Section 93-21-25, Mississippi Code of 1972, is  
3102 amended as follows:



3103           93-21-25. (1) In order to provide a statewide registry for  
3104 protection orders and to aid law enforcement, prosecutors and  
3105 courts in handling such matters, the Attorney General is  
3106 authorized to create and administer a Mississippi Protection Order  
3107 Registry. The Attorney General's office shall implement policies  
3108 and procedures governing access to the registry by authorized  
3109 users, which shall include provisions addressing the  
3110 confidentiality of any information which may tend to reveal the  
3111 location or identity of a victim of domestic abuse.

3112           (2) All orders issued pursuant to Sections 93-21-1 through  
3113 93-21-29, 97-3-7 \* \* \*, 97-3-65 \* \* \*, 97-3-97 or 97-3-101 \* \* \*  
3114 will be maintained in the Mississippi Protection Order Registry.  
3115 It shall be the duty of the clerk of the issuing court to enter  
3116 all civil and criminal domestic abuse protection orders and all  
3117 criminal sexual assault protection orders, including any  
3118 modifications, amendments or dismissals of such orders, into the  
3119 Mississippi Protection Order Registry within twenty-four (24)  
3120 hours of issuance with no exceptions for weekends or holidays. A  
3121 separate copy of any order shall be provided to the sheriff's  
3122 department TAC officers of the county of the issuing court. The  
3123 copy may be provided in electronic format. Each qualifying  
3124 protection order submitted to the Mississippi Protection Order  
3125 Registry shall be automatically transmitted to the National  
3126 Criminal Information Center Protection Order File. Failure of the  
3127 clerk to enter the order into the registry or to provide a copy of



3128 the order to law enforcement shall have no effect on the validity  
3129 or enforcement of an otherwise valid protection order.

3130 Any information regarding the registration or issuance of a  
3131 civil or criminal domestic abuse protection order or a criminal  
3132 sexual assault protection order, or the filing of a petition for a  
3133 civil domestic abuse protection order which is maintained in the  
3134 Mississippi Protection Order Registry and would tend to reveal the  
3135 identity or location of the protected person(s) shall not  
3136 constitute a public record and shall be exempt from disclosure  
3137 pursuant to the Mississippi Public Records Act of 1983. This  
3138 information may be disclosed to appropriate law enforcement,  
3139 prosecutors or courts for protection order enforcement purposes.

3140 **SECTION 35.** Section 99-3-7, Mississippi Code of 1972, is  
3141 amended as follows:

3142 99-3-7. (1) An officer or private person may arrest any  
3143 person without warrant, for an indictable offense committed, or a  
3144 breach of the peace threatened or attempted in his presence; or  
3145 when a person has committed a felony, though not in his presence;  
3146 or when a felony has been committed, and he has reasonable ground  
3147 to suspect and believe the person proposed to be arrested to have  
3148 committed it; or on a charge, made upon reasonable cause, of the  
3149 commission of a felony by the party proposed to be arrested. And  
3150 in all cases of arrests without warrant, the person making such  
3151 arrest must inform the accused of the object and cause of the





3152 arrest, except when he is in the actual commission of the offense,  
3153 or is arrested on pursuit.

3154 (2) Any law enforcement officer may arrest any person on a  
3155 misdemeanor charge without having a warrant in his possession when  
3156 a warrant is in fact outstanding for that person's arrest and the  
3157 officer has knowledge through official channels that the warrant  
3158 is outstanding for that person's arrest. In all such cases, the  
3159 officer making the arrest must inform such person at the time of  
3160 the arrest the object and cause therefor. If the person arrested  
3161 so requests, the warrant shall be shown to him as soon as  
3162 practicable.

3163 (3) (a) Any law enforcement officer shall arrest a person  
3164 with or without a warrant when he has probable cause to believe  
3165 that the person has, within twenty-four (24) hours of such arrest,  
3166 knowingly committed a misdemeanor or felony that is an act of  
3167 domestic violence or knowingly violated provisions of a criminal  
3168 domestic violence or sexual assault protection order issued  
3169 pursuant to Section 97-3-7 \* \* \*, 97-3-65 \* \* \*, 97-3-97 or  
3170 97-3-101 \* \* \* or an ex parte protective order, protective order  
3171 after hearing or court-approved consent agreement entered by a  
3172 chancery, circuit, county, justice or municipal court pursuant to  
3173 the Protection from Domestic Abuse Law, Sections 93-21-1 through  
3174 93-21-29, Mississippi Code of 1972, or a restraining order entered  
3175 by a foreign court of competent jurisdiction to protect an  
3176 applicant from domestic violence.



3177           (b) If a law enforcement officer has probable cause to  
3178 believe that two (2) or more persons committed an act of domestic  
3179 violence as defined herein, or if two (2) or more persons make  
3180 complaints of domestic violence to the officer, the officer shall  
3181 attempt to determine who was the principal aggressor. The term  
3182 principal aggressor is defined as the party who poses the most  
3183 serious ongoing threat, or who is the most significant, rather  
3184 than the first, aggressor. The officer shall presume that arrest  
3185 is not the appropriate response for the person or persons who were  
3186 not the principal aggressor. If the officer affirmatively finds  
3187 more than one (1) principal aggressor was involved, the officer  
3188 shall document those findings.

3189           (c) To determine which party was the principal  
3190 aggressor, the officer shall consider the following factors,  
3191 although such consideration is not limited to these factors:

3192                   (i) Evidence from the persons involved in the  
3193 domestic abuse;

3194                   (ii) The history of domestic abuse between the  
3195 parties, the likelihood of future injury to each person, and the  
3196 intent of the law to protect victims of domestic violence from  
3197 continuing abuse;

3198                   (iii) Whether one (1) of the persons acted in  
3199 self-defense; and

3200                   (iv) Evidence from witnesses of the domestic  
3201 violence.



3202 (d) A law enforcement officer shall not base the  
3203 decision of whether to arrest on the consent or request of the  
3204 victim.

3205 (e) A law enforcement officer's determination regarding  
3206 the existence of probable cause or the lack of probable cause  
3207 shall not adversely affect the right of any party to independently  
3208 seek appropriate remedies.

3209 (4) (a) Any person authorized by a court of law to  
3210 supervise or monitor a convicted offender who is under an  
3211 intensive supervision program may arrest the offender when the  
3212 offender is in violation of the terms or conditions of the  
3213 intensive supervision program, without having a warrant, provided  
3214 that the person making the arrest has been trained at the Law  
3215 Enforcement Officers Training Academy established under Section  
3216 45-5-1 et seq., or at a course approved by the Board on Law  
3217 Enforcement Officer Standards and Training.

3218 (b) For the purposes of this subsection, the term  
3219 "intensive supervision program" means an intensive supervision  
3220 program of the Department of Corrections as described in Section  
3221 47-5-1001 et seq., or any similar program authorized by a court  
3222 for offenders who are not under jurisdiction of the Department of  
3223 Corrections.

3224 (5) As used in subsection (3) of this section, the phrase  
3225 "misdemeanor or felony that is an act of domestic violence" shall  
3226 mean one or more of the following acts between current or former



3227 spouses or a child of current or former spouses, persons living as  
3228 spouses or who formerly lived as spouses or a child of persons  
3229 living as spouses or who formerly lived as spouses, a parent,  
3230 grandparent, child, grandchild or someone similarly situated to  
3231 the defendant, persons who have a current or former dating  
3232 relationship, or persons who have a biological or legally adopted  
3233 child together:

3234           (a) Simple or aggravated domestic violence within the  
3235 meaning of Section 97-3-7;

3236           (b) Disturbing the family or public peace within the  
3237 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

3238           (c) Stalking within the meaning of Section 97-3-107.

3239           (6) Any arrest made pursuant to subsection (3) of this  
3240 section shall be designated as domestic assault or domestic  
3241 violence on both the arrest docket and the incident report. Any  
3242 officer investigating a complaint of a misdemeanor or felony that  
3243 is a crime of domestic violence who finds probable cause that such  
3244 an offense has occurred within the past twenty-four (24) hours  
3245 shall file an affidavit on behalf of the victim(s) of the crime,  
3246 regardless of whether an arrest is made within that time period.  
3247 If the crime is reported or investigated outside of that  
3248 twenty-four-hour period, the officer may file the affidavit on  
3249 behalf of the victim. In the event the officer does not file an  
3250 affidavit on behalf of the victim, the officer shall instruct the  
3251 victim of the procedure for filing on his or her own behalf.



3252 (7) A law enforcement officer shall not be held liable in  
3253 any civil action for an arrest based on probable cause and in good  
3254 faith pursuant to subsection (3) of this section, or failure, in  
3255 good faith, to make an arrest pursuant to subsection (3) of this  
3256 section.

3257 (8) The authority for the State Chief Deputy Fire Marshal  
3258 and deputy state fire marshals to make arrests shall be governed  
3259 by the provisions of Section 45-11-1.

3260 **SECTION 36.** Section 99-47-1, Mississippi Code of 1972, is  
3261 amended as follows:

3262 99-47-1. (1) **Definitions.** As used in this section:

3263 (a) "Confidential address" means any residential street  
3264 address, school address, or work address of an individual, as  
3265 specified on the individual's application to be a program  
3266 participant under this section.

3267 (b) "Program participant" means a person certified as a  
3268 program participant under this section.

3269 (c) "Domestic violence" means any of the following acts  
3270 committed against a current or former spouse, a person living as a  
3271 spouse or who formerly lived as a spouse or a child of persons  
3272 living as spouses or who formerly lived as spouses, a parent,  
3273 grandparent, child, grandchild or someone similarly situated to  
3274 the defendant, a person with whom the defendant has a biological  
3275 or legally adopted child in common, or a person in a current or  
3276 former dating relationship:



3277 (i) A violation of a domestic violence protection  
3278 order;

3279 (ii) Simple or aggravated domestic violence as  
3280 defined in Section 97-3-7(3) or 97-3-7(4); or

3281 (iii) Threats of such acts.

3282 (d) "Sexual assault" means an act as defined in Section  
3283 45-33-23(h) as a sex offense and in Section 97-3-97.

3284 (e) "Stalking" means an act as defined in Section  
3285 97-3-107 or Section 97-45-15.

3286 (f) "Substitute address" means an address designated  
3287 and assigned by the Office of the Attorney General to a program  
3288 participant as a substitute mailing address under the Address  
3289 Confidentiality Program.

3290 (g) "Victim" means an individual against whom domestic  
3291 violence, sexual assault, or stalking has been committed.

3292 (2) **Address Confidentiality Program.** (a) An adult, a  
3293 parent or guardian acting on behalf of a minor, or a guardian  
3294 acting on behalf of an incapacitated person, may apply to the  
3295 Office of the Attorney General to have an address designated by  
3296 the Office of the Attorney General serve as the substitute address  
3297 for the person, the minor or the incapacitated person. The Office  
3298 of the Attorney General shall approve an application if it is  
3299 filed in the manner and on the form prescribed by the Office of  
3300 the Attorney General and if it contains:



3301 (i) A sworn statement by the applicant that the  
3302 applicant has good reason to believe that the applicant, or the  
3303 minor or incapacitated person on whose behalf the application is  
3304 made, is a victim of domestic violence, stalking, or sexual  
3305 assault, and that the applicant fears for his or her safety, or  
3306 his or her children's safety, or the safety of the minor or  
3307 incapacitated person on whose behalf the application is made;

3308 (ii) A designation of the Office of the Attorney  
3309 General as agent for purposes of services of process and for the  
3310 purpose of receipt of mail;

3311 (iii) The confidential address where the applicant  
3312 can be contacted by the Office of the Attorney General, and the  
3313 telephone number or numbers where the applicant can be contacted  
3314 by the Office of the Attorney General;

3315 (iv) The confidential address or addresses that  
3316 the applicant requests not be disclosed for the reason that  
3317 disclosure will increase the risk of domestic violence, stalking,  
3318 or sexual assault;

3319 (v) A statement of any existing or pending court  
3320 order or court action involving the applicant that is related to  
3321 divorce proceedings, child support, child custody, or child  
3322 visitation; the court that issued each order or has jurisdiction  
3323 over an action shall be noted;

3324 (vi) The signature of the applicant and a  
3325 representative of a domestic violence shelter or rape crisis



3326 center as designated under subsection (6) who assisted in the  
3327 preparation of the application;

3328 (vii) The date on which the applicant signed the  
3329 application; and

3330 (viii) Evidence that the applicant is a victim of  
3331 domestic violence, sexual assault, or stalking. This evidence  
3332 shall include at least one (1) of the following:

3333 1. Law enforcement, court or other local,  
3334 state or federal agency records or files;

3335 2. Documentation from a domestic violence  
3336 shelter or rape crisis center; or

3337 3. Other form of evidence as determined by  
3338 the Office of the Attorney General.

3339 (b) Applications shall be filed with the Office of the  
3340 Attorney General.

3341 (c) Upon approval of an application, the Office of the  
3342 Attorney General shall certify the applicant as a program  
3343 participant. Upon certification, the Office of the Attorney  
3344 General shall issue an Address Confidentiality Program  
3345 authorization card to the program participant. Applicants shall  
3346 be certified for four (4) years following the date of  
3347 certification unless the certification is withdrawn, cancelled or  
3348 invalidated before that date.

3349 (d) A program applicant who falsely attests in an  
3350 application that disclosure of the applicant's address would





3351 endanger the applicant's safety or the safety of the applicant's  
3352 children or the minor or incapacitated person on whose behalf the  
3353 application is made, or who knowingly provides false or incorrect  
3354 information upon making an application or while a program  
3355 participant, shall be guilty of a misdemeanor, punishable by a  
3356 fine not to exceed Five Hundred Dollars (\$500.00) or by  
3357 imprisonment in the county jail for a term not to exceed six (6)  
3358 months.

3359           (e) A fraudulent attempt to gain access to a program  
3360 participant's confidential address shall constitute a felony,  
3361 punishable by a fine not to exceed Two Thousand Dollars  
3362 (\$2,000.00) or by imprisonment in the county jail for a term not  
3363 to exceed two (2) years.

3364           (f) Knowingly entering the Address Confidentiality  
3365 Program to evade civil liability or criminal prosecution shall  
3366 constitute a felony, punishable by a fine not to exceed Two  
3367 Thousand Dollars (\$2,000.00) or by imprisonment in the county jail  
3368 for a term not to exceed two (2) years.

3369           (g) A program participant may terminate the  
3370 certification by filing a notarized request for withdrawal from  
3371 the program with the Office of the Attorney General.

3372           (3) **Certification cancellation.** (a) If the program  
3373 participant obtains a name change, the person's program  
3374 participation is terminated and the person may immediately reapply  
3375 for certification under the new name.



3376           (b) The Office of the Attorney General may cancel a  
3377 program participant's certification if there is a change in the  
3378 residential address or telephone number from the address or the  
3379 telephone number listed for the program participant on the  
3380 application unless the program participant provides the Office of  
3381 the Attorney General with a minimum of seven (7) days' notice  
3382 before the change of address occurs.

3383           (c) The Office of the Attorney General may cancel  
3384 certification of a program participant if mail forwarded by the  
3385 Office of the Attorney General to the program participant's  
3386 confidential address is returned as undeliverable or if service of  
3387 process documents are returned to the Office of the Attorney  
3388 General as unable to be served.

3389           (d) The Office of the Attorney General shall cancel  
3390 certification of a program participant who applies using false  
3391 information.

3392           (e) The Office of the Attorney General shall send  
3393 notice of cancellation to the program participant. Notice of  
3394 cancellation shall set out the reasons for cancellation. That  
3395 program participant shall have thirty (30) days from receipt of  
3396 notification of cancellation to appeal the cancellation decisions  
3397 under procedures adopted by the Office of the Attorney General.

3398           (f) An individual who ceases to be a program  
3399 participant is responsible for notifying persons, who use the  
3400 substitute address designated by the Office of the Attorney



3401 General as the program participant's address, that the designated  
3402 substitute address is no longer the individual's address.

3403       (4) **Agency use of designated address.** (a) Except as  
3404 otherwise provided in this section, a program participant may  
3405 request that public bodies use the address designated by the  
3406 Office of the Attorney General as the participant's substitute  
3407 address. The program participant, and not the Office of the  
3408 Attorney General, domestic violence shelter, nor rape crisis  
3409 center, is responsible for requesting that any public body use the  
3410 address designated by the Office of the Attorney General as the  
3411 substitute address of the program participant. If there is any  
3412 criminal proceeding on behalf of the program participant, the  
3413 program participant is also responsible for notifying any law  
3414 enforcement agency and the district attorney's office of the  
3415 person's participation in the program. There shall be no  
3416 responsibility on the part of any district attorney's office or  
3417 any law enforcement agency to request that a public body use the  
3418 substitute address. Public bodies shall accept the address  
3419 designated by the Office of the Attorney General as a program  
3420 participant's substitute address, unless the Office of the  
3421 Attorney General has determined that:

3422               (i) The public body has a bona fide statutory or  
3423 administrative requirement for the use of the confidential address  
3424 of the program participant as defined in this section; and



3425 (ii) The confidential address will be used only  
3426 for those statutory and administrative purposes.

3427 (b) A program participant may use the substitute  
3428 address designated by the Office of the Attorney General as his or  
3429 her work address.

3430 (c) The Office of the Attorney General shall forward  
3431 all first-class, certified or registered mail to the program  
3432 participant at the confidential address provided by the program  
3433 participant. The Office of the Attorney General shall not be  
3434 required to track or otherwise maintain records of any mail  
3435 received on behalf of a program participant unless the mail is  
3436 certified or registered.

3437 (d) A program participant's name, confidential address,  
3438 telephone number and any other identifying information within the  
3439 possession of a public body, as defined by Section 25-61-3, shall  
3440 not constitute a public record within the meaning of the  
3441 Mississippi Public Records Act of 1983. The program participant's  
3442 actual name, address and telephone number shall be confidential  
3443 and no public body shall disclose the program participant's name,  
3444 address, telephone number, or any other identifying information.

3445 (5) **Disclosure of records prohibited; exceptions.** A program  
3446 participant's confidential address and telephone number and any  
3447 other identifying information in the possession of the Office of  
3448 the Attorney General shall not constitute a public record within  
3449 the meaning of the Mississippi Public Records Act of 1983, and



3450 shall not be disclosed during discovery in any criminal  
3451 prosecution. The Office of the Attorney General shall not make  
3452 any records in a program participant's file available for  
3453 inspection or copying other than the address designated by the  
3454 Office of the Attorney General, except under the following  
3455 circumstances:

3456 (a) If requested by a law enforcement agency, to the  
3457 law enforcement agency for official use only, but not to be  
3458 included in any reports made by the law enforcement agency or  
3459 required to be produced in discovery in any criminal prosecution;

3460 (b) If directed by a court order, to a person  
3461 identified in the order; or

3462 (c) To verify, if requested by a public body, the  
3463 participation of a specific program participant, in which case the  
3464 Office of the Attorney General may only confirm participation in  
3465 the program and confirm information supplied by the requester.

3466 (6) **Assistance for program applicants.** The Office of the  
3467 Attorney General shall refer potential participants to domestic  
3468 violence shelters or rape crisis centers that provide shelter and  
3469 counseling services to either victims of domestic violence,  
3470 stalking, or sexual assault to assist persons applying to be  
3471 program participants.

3472 (7) **Address confidentiality funding.** Expenses of  
3473 administering the Address Confidentiality Program shall be paid  
3474 from the Crime Victims' Compensation Fund.



3475           (8) **Immunity.** The Office of the Attorney General and/or its  
3476 agents and/or employees are immune from civil and/or criminal  
3477 liability for damages for conduct within the scope and arising out  
3478 of the performance of the duties imposed under this section. Any  
3479 district attorney and his agents and employees, any law  
3480 enforcement agency and its agents and employees, and any local or  
3481 state agency and its agents and employees are immune from  
3482 liability, whether civil or criminal, for damages for conduct  
3483 within the scope and arising out of the program. Any employee or  
3484 representative of a domestic violence shelter or rape crisis  
3485 center who acts in good faith to assist a victim complete an  
3486 application for participation in the Address Confidentiality  
3487 Program shall be immune from civil and/or criminal liability. Any  
3488 assistance rendered pursuant to this section, by the Office of the  
3489 Attorney General, its agents or employees, shall in no way be  
3490 construed as legal advice.

3491           (9) **Adoption of rules.** The Office of the Attorney General  
3492 Victim Compensation Division is authorized to adopt rules and  
3493 regulations as shall be necessary for carrying out the provisions  
3494 of this section.

3495           **SECTION 37.** This act shall take effect and be in force from  
3496 and after July 1, 2018.

