

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 1467

1 AN ACT TO CREATE THE ACT OF "SEXTING" AS A DELINQUENT ACT  
2 WITHIN THE ORIGINAL JURISDICTION OF THE YOUTH COURT; TO CREATE  
3 CERTAIN EXCEPTIONS; TO CREATE DEFENSES; AND FOR RELATED PURPOSES.

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

5 **SECTION 1. Use of a computer or electronic communication**  
6 **device by a minor to possess, produce, transmit, disseminate,**  
7 **distribute or display an indecent visual image of a minor. (1)**

8 For the purposes of this section, the following words and phrases  
9 shall have the meanings given to them in this subsection unless  
10 the context clearly requires otherwise:

11 (a) "Computer" has the meaning given in Title 18,  
12 United States Code, Section 1030.

13 (b) "Disseminate" means to cause or make an electronic  
14 communication from one (1) person, place or electronic  
15 communication device to two (2) or more other persons, places or  
16 electronic communication devices.

17 (c) "Distribute" means to send, share, forward or  
18 deliver.



19           (d) "Electronic communication" means any transfer,  
20 including by computer, phone, or Internet of signs, signals,  
21 writing, images, sounds, data, or intelligence of any nature,  
22 transmitted in whole or in part by a wire, radio, computer,  
23 electromagnetic, photoelectric or photo-optical system.

24           (e) "Electronic communication device" means an  
25 electronic device including, but not limited to, a wireless  
26 telephone, personal digital assistant, or a portable or mobile  
27 computer, that is capable of transmitting images or pictures.

28           (f) "Indecent visual image" means any image depicting  
29 the sexually explicit conduct of an actual child under the age of  
30 eighteen (18) years.

31           (g) "Minor" means any individual who has not attained  
32 the age of eighteen (18) years.

33           (h) "Produce" with respect to visual material includes  
34 any conduct that directly contributes to the creation or  
35 manufacture of the material.

36           (i) "Sexually explicit conduct" means actual or  
37 simulated:

38                   (i) Oral genital contact, oral anal contact, or  
39 sexual intercourse as defined in Section 97-3-65, whether between  
40 persons of the same or opposite sex;

41                   (ii) Bestiality;

42                   (iii) Masturbation;

43                   (iv) Sadistic or masochistic abuse;



44 (v) Lascivious exhibition of the female breast,  
45 genitals, pubic area or buttocks;

46 (vi) Fondling or other erotic touching of the  
47 genitals, pubic area, buttocks, anus or breast.

48 (j) "Simulated" means any depicting of the genitals or  
49 rectal areas that gives the appearance of sexual conduct or  
50 incipient sexual conduct.

51 (k) "Transmit" means to cause or make an electronic  
52 communication from one (1) person, place or electronic  
53 communication device to only one (1) other person, place or  
54 electronic communication device.

55 (l) "Visual image" means:

56 (i) Any film, photograph, videotape, negative, or  
57 slide or any photographic reproduction that contains or  
58 incorporates in any manner any film, photograph, videotape,  
59 negative, or slide; or

60 (ii) Any disk, diskette, or other physical medium  
61 that allows an image to be displayed on a computer or other video  
62 screen and any image transmitted to a computer or other video  
63 screen by telephone line, cable, satellite transmission, or other  
64 method.

65 (2) (a) No minor shall knowingly and voluntarily and  
66 without threat or coercion use a computer or electronic  
67 communication device to produce, transmit, disseminate, distribute  
68 or display an indecent visual image of the minor or another minor.



69           (b) No minor shall knowingly possess or receive an  
70 indecent visual image of another minor that has been produced,  
71 transmitted, disseminated, distributed or displayed through use of  
72 a computer or electronic communication device.

73           (3) A violation of this section is in the original  
74 jurisdiction of the youth court. Except as provided in subsection  
75 (6) of this section, acts prohibited by this section, if  
76 prosecuted in a court with criminal jurisdiction, would constitute  
77 a misdemeanor.

78           (4) It is an affirmative defense to a violation charged  
79 under subsection (2)(a) of this section if the indecent visual  
80 image that has been produced depicts only the minor in possession  
81 and was not intentionally transmitted, disseminated, distributed  
82 or displayed to another person.

83           (5) It is an affirmative defense to a violation charged  
84 under subsection (2)(b) of this section if the minor who was in  
85 possession of the indecent visual image of another minor:

86           (a) Did not knowingly purchase, procure, solicit or  
87 request the indecent visual image or take any other action to  
88 cause the indecent visual image to come into his or her  
89 possession; and

90           (b) Upon receiving the indecent visual image, did not  
91 distribute, display or otherwise share the image with anyone other  
92 than a legal guardian, a law enforcement officer, school official  
93 or other adult in a position of trust or authority; and



94 (i) Took reasonable steps to destroy each image;

95 or

96 (ii) Reported the matter to a legal guardian, law

97 enforcement officer or school official and gave the legal

98 guardian, law enforcement officer or school official access to

99 each image.

100 (6) Acts prohibited by this section constitute a felony,

101 prosecutable in a court with criminal jurisdiction, and subject

102 the minor in violation to adjudication or, where applicable,

103 conviction under Section 97-5-33 or another applicable felony

104 statute within the Mississippi Code if any one (1) of the

105 following circumstances applies:

106 (a) The minor depicted in the indecent visual image is

107 three (3) or more years younger than the minor who committed any

108 act prohibited by this section.

109 (b) The minor who committed an act prohibited by this

110 section obtained or otherwise caused the indecent visual image to

111 be produced, transmitted, disseminated, distributed or displayed

112 through the use of force, extortion, blackmail, coercion, threats,

113 or intimidation.

114 (c) The minor has previously been adjudicated twice for

115 a violation of this section or has been previously adjudicated

116 delinquent under Section 97-5-33, Mississippi Code of 1972.

117 (7) A minor adjudicated delinquent under this section is not

118 required to register as a sex offender.



119           **SECTION 2.** This act shall take effect and be in force from  
120 and after July 1, 2018.

