

By: Representatives Gunn, Williamson,
Arnold, Eubanks

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1341

1 AN ACT TO CREATE NEW SECTIONS 37-11-81 AND 39-3-25,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE PUBLIC SCHOOLS, CHARTER
3 SCHOOLS, THE MISSISSIPPI SCHOOL OF THE ARTS, THE MISSISSIPPI
4 SCHOOL FOR MATHEMATICS AND SCIENCE, THE MISSISSIPPI VIRTUAL PUBLIC
5 SCHOOL, THE MISSISSIPPI SCHOOL FOR THE DEAF, THE MISSISSIPPI
6 SCHOOL FOR THE BLIND AND PUBLIC LIBRARIES TO OFFER DIGITAL OR
7 ONLINE RESOURCES OR DATABASES TO PERSONS UNDER FIFTEEN YEARS OF
8 AGE ONLY IF THE VENDOR PROVIDING THOSE RESOURCES VERIFIES THAT IT
9 HAS IN PLACE SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES
10 THAT PROHIBIT CHILDREN FROM ACCESSING AND SENDING CHILD
11 PORNOGRAPHY, OBSCENE AND SEXUALLY ORIENTED MATERIALS AND OTHER
12 MATERIALS HARMFUL TO CHILDREN; TO ESTABLISH MONETARY PENALTIES FOR
13 A VENDOR THAT FAILS TO CORRECT NONCOMPLIANCE; TO REQUIRE REPORTS
14 OF NONCOMPLIANCE TO BE MADE TO THE STATE AUDITOR; TO BRING FORWARD
15 SECTIONS 97-5-27, 97-5-29, 97-5-31, 97-5-33, 97-5-37, 97-29-101,
16 97-29-107 and 97-29-109, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
17 OF POSSIBLE AMENDMENTS; TO PROVIDE SEVERABILITY IF ANY PART OF
18 THIS ACT IS FOUND UNCONSTITUTIONAL; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** The following shall be codified as Section
21 37-11-81, Mississippi Code of 1972:

22 37-11-81. (1) A school district, charter school, the
23 Mississippi School of the Arts, the Mississippi School for
24 Mathematics and Science, the Mississippi Virtual Public School,
25 the Mississippi School for the Deaf and the Mississippi School for
26 the Blind may offer digital or online resources or databases to



27 students in kindergarten through twelfth grade only if the vendor
28 or other person or entity providing the resources verifies that
29 all the resources will comply with the provisions of subsection
30 (2) of this section.

31 (2) A vendor or other person or entity providing digital or
32 online resources or databases under the authority of this section
33 for use by a person under fifteen (15) years of age must have
34 safety policies and technology protection measures that:

35 (a) Prohibit and prevent a person under fifteen (15)
36 years of age from sending, receiving, viewing or downloading
37 materials that are:

38 (i) Child pornography;

39 (ii) Materials that depict or promote child sexual
40 exploitation or trafficking;

41 (iii) Obscene materials, as defined in this act;

42 (iv) Inappropriate materials depicting or dealing
43 with matters of sex, cruelty and violence in a manner likely to be
44 injurious or harmful to a child; or

45 (v) Materials that are sexually oriented, as
46 defined in Section 97-5-27(2); and

47 (b) Filter or block access to obscene materials,
48 inappropriate materials, materials that are sexually oriented or
49 materials that depict, describe or promote child pornography or
50 child sexual exploitation.



51 (c) For the purposes of this act, material is obscene,
52 if:

53 (i) To the average person, applying contemporary
54 community standards, taken as a whole, it appeals to the prurient
55 interest, that is, a lustful, erotic, shameful, or morbid interest
56 in nudity, sex or excretion; and

57 (ii) The material taken as a whole lacks serious
58 literary, artistic, political or scientific value; and

59 (iii) The material depicts or describes in a
60 patently offensive way, sexual contact specifically defined in
61 items 1 through 5 below:

62 1. Acts of sexual intercourse of any kind,
63 normal or perverted, actual or simulated;

64 2. Acts of masturbation;

65 3. Acts involving excretory functions or lewd
66 exhibition of the genitals;

67 4. Acts of bestiality or the fondling of sex
68 organs of animals; or

69 5. Sexual acts of flagellation, torture or
70 other violence indicating a sadomasochistic sexual relationship.

71 (3) (a) The provisions of this section take precedence over
72 any provision in a contract between a school district or school
73 and a vendor or other person or entity providing digital or online
74 resources or databases to the contrary. Notwithstanding any
75 provision in a contract between a school district or school and a



76 provider to the contrary, if a provider of digital or online
77 resources or databases fails to comply with the requirements of
78 this section, the school district or school shall withhold further
79 payments, if any, to the provider pending verification of
80 compliance.

81 (b) Upon a first occurrence by a provider of digital or
82 online resources or databases of noncompliance with subsection (2)
83 of this section and failure to verify within thirty (30) days of
84 receiving notice of the noncompliance from a school district or
85 school that the provider is in compliance with this section, the
86 school district or school shall consider the provider's
87 noncompliance to be a breach of contract.

88 (c) Upon a second occurrence by a provider of
89 noncompliance with subsection (2) and failure to verify within
90 thirty (30) days of receiving notice of the noncompliance from a
91 school district or school that the provider is in compliance with
92 the requirements of this section, the school district or school is
93 entitled to a reduction in the amount of ten percent (10%) of the
94 agreed upon price in the contract to be paid by the school
95 district or school to the provider. The school district or school
96 shall adjust any future payments due to the provider under the
97 contract accordingly to effectuate the ten percent (10%)
98 reduction. However, if the contract price has been paid in full,
99 or if the balance owed on the contract price is equal to less than
100 ten percent (10%) of the contract price, the provider must return



101 to the school district or school such amount that is required to
102 effectuate a ten percent (10%) reduction of the contract price.

103 (d) Upon a third occurrence by a provider of
104 noncompliance with subsection (2) and failure to verify within
105 thirty (30) days of receiving notice of the noncompliance from a
106 school district or school that the provider is in compliance with
107 the requirements of this section, the contract must be considered
108 terminated and the school district or school is entitled to a
109 complete refund of the agreed upon price in the contract to be
110 paid by the school district or school to the provider. The school
111 district or school shall withhold any future payments that may be
112 due to the provider, and the provider must return to the school
113 district or school all amounts previously paid to the provider
114 under the contract.

115 (4) The State Auditor may audit a school district or
116 school's compliance with this section. A school district or
117 school must report to the State Auditor a provider's failure to
118 comply with subsection (2) of this section no later than thirty
119 (30) days after the district or school learns of the provider's
120 noncompliance.

121 **SECTION 2.** The following shall be codified as Section
122 39-3-25, Mississippi Code of 1972:

123 39-3-25. (1) A public library may offer digital or online
124 resources or databases to persons under fifteen (15) years of age
125 only if the vendor or other person or entity providing the



126 resources verifies that all the resources will comply with the
127 provisions of subsection (2) of this section.

128 (2) A vendor or other person or entity providing digital or
129 online resources or databases under the authority of this section
130 for use by a person under fifteen (15) years of age must have
131 safety policies and technology protection measures that:

132 (a) Prohibit and prevent a person under fifteen (15)
133 years of age from sending, receiving, viewing or downloading
134 materials that are:

135 (i) Child pornography;

136 (ii) Materials that depict or promote child sexual
137 exploitation or trafficking;

138 (iii) Obscene materials, as defined in Section 1
139 of this act;

140 (iv) Inappropriate materials depicting or dealing
141 with matters of sex, cruelty and violence in a manner likely to be
142 injurious or harmful to a child; or

143 (v) Materials that are sexually oriented, as
144 defined in Section 97-5-27(2); and

145 (b) Filter or block access to obscene materials,
146 inappropriate materials, materials that are sexually oriented or
147 materials that depict, describe or promote child pornography or
148 child sexual exploitation.

149 (3) (a) The provisions of this section take precedence over
150 any provision in a contract between a public library and a vendor



151 or other person or entity providing digital or online resources or
152 databases to the contrary. Notwithstanding any provision in a
153 contract between a public library and a provider to the contrary,
154 if a provider of digital or online resources or databases fails to
155 comply with the requirements of this section, the library shall
156 withhold further payments, if any, to the provider pending
157 verification of compliance.

158 (b) Upon a first occurrence by a provider of digital or
159 online resources or databases of noncompliance with subsection (2)
160 of this section and failure to verify within thirty (30) days of
161 receiving notice of the noncompliance from a public library that
162 the provider is in compliance with this section, the library shall
163 consider the provider's noncompliance to be a breach of contract.

164 (c) Upon a second occurrence by a provider of
165 noncompliance with subsection (2) and failure to verify within
166 thirty (30) days of receiving notice of the noncompliance from a
167 public library that the provider is in compliance with the
168 requirements of this section, the library is entitled to a
169 reduction in the amount of ten percent (10%) of the agreed upon
170 price in the contract to be paid by the library to the provider.
171 The library shall adjust any future payments due to the provider
172 under the contract accordingly to effectuate the ten percent (10%)
173 reduction. However, if the contract price has been paid in full,
174 or if the balance owed on the contract price is equal to less than
175 ten percent (10%) of the contract price, the provider must return



176 to the library such amount that is required to effectuate a ten
177 percent (10%) reduction of the contract price.

178 (d) Upon a third occurrence by a provider of
179 noncompliance with subsection (2) and failure to verify within
180 thirty (30) days of receiving notice of the noncompliance from a
181 public library that the provider is in compliance with the
182 requirements of this section, the contract must be considered
183 terminated and the library is entitled to a complete refund of the
184 agreed upon price in the contract to be paid by the library to the
185 provider. The library shall withhold any future payments that may
186 be due to the provider, and the provider must return to the
187 library all amounts previously paid to the provider under the
188 contract.

189 (4) The State Auditor may audit a public library's
190 compliance with this section. A public library must report to the
191 State Auditor a provider's failure to comply with subsection (2)
192 of this section no later than thirty (30) days after the library
193 learns of the provider's noncompliance.

194 **SECTION 3.** Section 97-5-27, Mississippi Code of 1972, is
195 brought forward as follows:

196 97-5-27. (1) Any person who intentionally and knowingly
197 disseminates sexually oriented material to any person under
198 eighteen (18) years of age shall be guilty of a misdemeanor and,
199 upon conviction, shall be fined for each offense not less than
200 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars



201 (\$5,000.00) or be imprisoned for not more than one (1) year in the
202 county jail, or be punished by both such fine and imprisonment. A
203 person disseminates sexually oriented material within the meaning
204 of this section if he:

205 (a) Sells, delivers or provides, or offers or agrees to
206 sell, deliver or provide, any sexually oriented writing, picture,
207 record or other representation or embodiment that is sexually
208 oriented; or

209 (b) Presents or directs a sexually oriented play, dance
210 or other performance or participates directly in that portion
211 thereof which makes it sexually oriented; or

212 (c) Exhibits, presents, rents, sells, delivers or
213 provides, or offers or agrees to exhibit, present, rent or to
214 provide any sexually oriented still or motion picture, film,
215 filmstrip or projection slide, or sound recording, sound tape or
216 sound track or any matter or material of whatever form which is a
217 representation, embodiment, performance or publication that is
218 sexually oriented.

219 (2) For purposes of this section, any material is sexually
220 oriented if the material contains representations or descriptions,
221 actual or simulated, of masturbation, sodomy, excretory functions,
222 lewd exhibition of the genitals or female breasts, sadomasochistic
223 abuse (for the purpose of sexual stimulation or gratification),
224 homosexuality, lesbianism, bestiality, sexual intercourse, or
225 physical contact with a person's clothed or unclothed genitals,



226 pubic area, buttocks, or the breast or breasts of a female for the
227 purpose of sexual stimulation, gratification or perversion.

228 (3) (a) A person is guilty of computer luring when:

229 (i) Knowing the character and content of any
230 communication of sexually oriented material, he intentionally uses
231 any computer communication system allowing the input, output,
232 examination or transfer of computer data or computer programs from
233 one (1) computer to another, to initiate or engage in such
234 communication with a person under the age of eighteen (18); and

235 (ii) By means of such communication he importunes,
236 invites or induces a person under the age of eighteen (18) years
237 to engage in sexual intercourse, deviant sexual intercourse or
238 sexual contact with him, or to engage in a sexual performance,
239 obscene sexual performance or sexual conduct for his benefit.

240 (b) A person who engages in the conduct proscribed by
241 this subsection (3) is presumed to do so with knowledge of the
242 character and content of the material.

243 (c) In any prosecution for computer luring, it shall be
244 a defense that:

245 (i) The defendant made a reasonable effort to
246 ascertain the true age of the minor and was unable to do so as a
247 result of actions taken by the minor; or

248 (ii) The defendant has taken, in good faith,
249 reasonable, effective and appropriate actions under the
250 circumstances to restrict or prevent access by minors to the



251 materials prohibited, which may involve any appropriate measures
252 to restrict minors from access to such communications, including
253 any method which is feasible under available technology; or

254 (iii) The defendant has restricted access to such
255 materials by requiring use of a verified credit card, debit
256 account, adult access code or adult personal identification
257 number; or

258 (iv) The defendant has in good faith established a
259 mechanism such that the labeling, segregation or other mechanism
260 enables such material to be automatically blocked or screened by
261 software or other capabilities reasonably available to responsible
262 adults wishing to effect such blocking or screening and the
263 defendant has not otherwise solicited minors not subject to such
264 screening or blocking capabilities to access that material or to
265 circumvent any such screening or blocking.

266 (d) In any prosecution for computer luring:

267 (i) No person shall be held to have violated this
268 subsection (3) solely for providing access or connection to or
269 from a facility, system, or network not under that person's
270 control, including transmission, downloading, intermediate
271 storage, access software or other related capabilities that are
272 incidental to providing such access or connection that do not
273 include the creation of the content of the communication.

274 (ii) No employer shall be held liable for the
275 actions of an employee or agent unless the employee's or agent's



276 conduct is within the scope of his employment or agency or the
277 employer, having knowledge of such conduct, authorizes or ratifies
278 such conduct, or recklessly disregards such conduct.

279 (iii) The limitations provided by this paragraph
280 (d) shall not be applicable to a person who is a conspirator with
281 an entity actively involved in the creation or knowing
282 distribution of communications that violate such provisions, or
283 who knowingly advertises the availability of such communications,
284 nor to a person who provides access or connection to a facility,
285 system or network engaged in the violation of such provisions that
286 is owned or controlled by such person.

287 (e) Computer luring is a felony, and any person
288 convicted thereof shall be punished by commitment to the custody
289 of the Department of Corrections for a term not to exceed three
290 (3) years and by a fine not to exceed Ten Thousand Dollars
291 (\$10,000.00).

292 (4) Investigation and prosecution of a defendant under this
293 section does not preclude prosecution of the defendant for a
294 violation of other applicable criminal laws, including, but not
295 limited to, the Mississippi Human Trafficking Act, Section 97-3-54
296 et seq.

297 **SECTION 4.** Section 97-5-29, Mississippi Code of 1972, is
298 brought forward as follows:

299 97-5-29. (1) Any person who intentionally and knowingly
300 places sexually oriented materials upon public display, or who



301 knowingly and intentionally fails to take prompt action to remove
302 such a display from property in his possession after learning of
303 its existence shall be guilty of a misdemeanor and upon conviction
304 shall be fined for each offense not less than Five Hundred Dollars
305 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or be
306 imprisoned for not more than one (1) year in the county jail, or
307 be punished by both such fine and imprisonment.

308 (2) For purposes of this section any material is sexually
309 oriented if the material consists of representations or
310 descriptions of actual or simulated masturbation, sodomy,
311 excretory functions, lewd exhibition of the genitals or female
312 breasts, sadomasochistic abuse (for the purpose of sexual
313 stimulation or gratification), homosexuality, lesbianism,
314 bestiality, sexual intercourse or physical contact with a person's
315 clothed or unclothed genitals, pubic area, buttocks or the breast
316 or breasts of a female for the purpose of sexual stimulation,
317 gratification or perversion.

318 (3) A person places sexually oriented material upon public
319 display within the meaning of this section if he places the
320 material on or in a billboard, viewing screen, theater stage or
321 marquee, newsstand, display rack, window, showcase, display case
322 or other similar place, including a viewing screen in a vehicle,
323 so that sexually oriented material is easily visible from a public
324 street, public road or sidewalk or from areas of public businesses
325 in which minors are normally business invitees.



326 **SECTION 5.** Section 97-5-31, Mississippi Code of 1972, is
327 brought forward as follows:

328 97-5-31. As used in Sections 97-5-33 through 97-5-37, the
329 following words and phrases shall have the meanings given to them
330 in this section:

331 (a) "Child" means any individual who has not attained
332 the age of eighteen (18) years.

333 (b) "Sexually explicit conduct" means actual or
334 simulated:

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

338 (ii) Bestiality;

339 (iii) Masturbation;

340 (iv) Sadistic or masochistic abuse;

341 (v) Lascivious exhibition of the genitals or pubic
342 area of any person; or

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

345 (c) "Producing" means producing, directing,
346 manufacturing, issuing, publishing or advertising.

347 (d) "Visual depiction" includes, without limitation,
348 developed or undeveloped film and video tape or other visual
349 unaltered reproductions by computer.



350 (e) "Computer" has the meaning given in Title 18,
351 United States Code, Section 1030.

352 (f) "Simulated" means any depicting of the genitals or
353 rectal areas that gives the appearance of sexual conduct or
354 incipient sexual conduct.

355 **SECTION 6.** Section 97-5-33, Mississippi Code of 1972, is
356 brought forward as follows:

357 97-5-33. (1) No person shall, by any means including
358 computer, cause, solicit or knowingly permit any child to engage
359 in sexually explicit conduct or in the simulation of sexually
360 explicit conduct for the purpose of producing any visual depiction
361 of such conduct.

362 (2) No person shall, by any means including computer,
363 photograph, film, video tape or otherwise depict or record a child
364 engaging in sexually explicit conduct or in the simulation of
365 sexually explicit conduct.

366 (3) No person shall, by any means including computer,
367 knowingly send, transport, transmit, ship, mail or receive any
368 photograph, drawing, sketch, film, video tape or other visual
369 depiction of an actual child engaging in sexually explicit
370 conduct.

371 (4) No person shall, by any means including computer,
372 receive with intent to distribute, distribute for sale, sell or
373 attempt to sell in any manner any photograph, drawing, sketch,



374 film, video tape or other visual depiction of an actual child
375 engaging in sexually explicit conduct.

376 (5) No person shall, by any means including computer,
377 knowingly possess or knowingly access with intent to view any
378 photograph, drawing, sketch, film, video tape or other visual
379 depiction of an actual child engaging in sexually explicit
380 conduct.

381 (6) No person shall, by any means including computer,
382 knowingly entice, induce, persuade, seduce, solicit, advise,
383 coerce, or order a child to meet with the defendant or any other
384 person for the purpose of engaging in sexually explicit conduct.

385 (7) No person shall by any means, including computer,
386 knowingly entice, induce, persuade, seduce, solicit, advise,
387 coerce or order a child to produce any visual depiction of adult
388 sexual conduct or any sexually explicit conduct.

389 (8) The fact that an undercover operative or law enforcement
390 officer posed as a child or was involved in any other manner in
391 the detection and investigation of an offense under this section
392 shall not constitute a defense to a prosecution under this
393 section.

394 (9) For purposes of determining jurisdiction, the offense is
395 committed in this state if all or part of the conduct described in
396 this section occurs in the State of Mississippi or if the
397 transmission that constitutes the offense either originates in
398 this state or is received in this state.



399 **SECTION 7.** Section 97-5-37, Mississippi Code of 1972, is
400 brought forward as follows:

401 97-5-37. The provisions of Sections 97-5-31 through 97-5-37
402 are supplemental to any statute relating to child abuse or
403 neglect, obscenity, enticement of children or contributing to
404 delinquency of a minor and acquittal or conviction pursuant to any
405 other statute shall not be a bar to prosecution under Sections
406 97-5-31 through 97-5-37. Acquittal or conviction under Sections
407 97-5-31 through 97-5-37 shall not be a bar to prosecution and
408 conviction under other statutes defining crimes or misdemeanors,
409 nor to any civil or administrative remedy otherwise available.

410 **SECTION 8.** Section 97-29-101, Mississippi Code of 1972, is
411 brought forward as follows:

412 97-29-101. A person commits the offense of distributing
413 obscene materials or obscene performances when he sells, rents,
414 leases, advertises, publishes or exhibits to any person any
415 obscene material or obscene performance of any description knowing
416 the obscene nature thereof, or offers to do so, or possesses such
417 material with the intent to do so. A person commits the offense
418 of wholesale distributing obscene materials or obscene
419 performances when he distributes for the purpose of resale any
420 obscene material or obscene performance of any description knowing
421 the obscene nature thereof, or offers to do so, or possesses such
422 material with the intent to do so. The word "knowing" as used in
423 this section means either actual or constructive knowledge of the



424 obscene contents of the subject matter, and a person has
425 constructive knowledge of the obscene contents if he has knowledge
426 of facts which would put a reasonable and prudent person on notice
427 as to the suspect nature of the material. The character and
428 reputation of an individual charged with an offense under Sections
429 97-29-101 through 97-29-109 and, if a commercial dissemination of
430 obscene material or an obscene performance is involved, the
431 character and reputation of the business establishment involved,
432 may be placed in evidence by the defendant on the question of
433 intent to violate Sections 97-29-101 through 97-29-109.

434 Any person, other than a city attorney, county prosecuting
435 attorney or district attorney, who shall sign an affidavit
436 charging an offense prescribed by this section shall file a bond
437 in the amount of Five Hundred Dollars (\$500.00) at the time such
438 affidavit is lodged. Such bond shall be conditioned that the
439 affidavit was not filed frivolously, maliciously or out of ill
440 will.

441 **SECTION 9.** Section 97-29-107, Mississippi Code of 1972, is
442 brought forward as follows:

443 97-29-107. (1) Sections 97-29-101 through 97-29-109 shall
444 not apply when the distribution or wholesale distribution of the
445 material, performance or device was made by:

446 (a) A person, corporation, company, partnership, firm,
447 association, business, establishment or other legal entity to a
448 person associated with an institution of higher learning, either



449 as a member of the faculty or as a matriculated student, teaching
450 or pursuing a course of study related to such material,
451 performance or device;

452 (b) A licensed physician or a licensed psychologist to
453 a person whose receipt of such material or device was authorized
454 in writing by such physician or psychologist in the course of
455 medical or psychological treatment or care;

456 (c) A person who while acting in his capacity as an
457 employee is employed on a full-time or part-time basis by (i) any
458 recognized historical society or museum accorded charitable status
459 by the federal government; (ii) any state, county or municipal
460 public library; or (iii) any library of any public or private
461 school, college or university in this state; or

462 (d) A community television antenna services system or a
463 cable television system operating pursuant to a written agreement
464 not in conflict with this paragraph granted by a county,
465 municipality or other political subdivision of this state, or by
466 an employee of such system while acting within the scope of his
467 employment, when the signal transmitting the material or
468 performance originates outside of the State of Mississippi.

469 (2) Any exemption from prosecution claimed under the
470 provisions of this section may be raised at a pretrial hearing by
471 motion, and the court shall determine whether sufficient evidence
472 exists to constitute an exemption from prosecution under the
473 provisions of Sections 97-29-101 through 97-29-109. If the motion



474 is sustained, the case shall be dismissed; provided, however, if
475 the motion is not sustained then the defendant may offer into
476 evidence at trial as an affirmative defense to conviction under
477 Sections 97-29-101 through 97-29-109 any matter which could have
478 been raised by the defendant in the motion to dismiss.

479 **SECTION 10.** Section 97-29-109, Mississippi Code of 1972, is
480 brought forward as follows:

481 97-29-109. Any person, except one who wholesale distributes,
482 who violates Section 97-29-101 or Section 97-29-105 shall be
483 guilty of a misdemeanor and, upon conviction, shall, in the case
484 of the first offense, be fined not more than Five Thousand Dollars
485 (\$5,000.00) or imprisoned in the county jail for a term not to
486 exceed six (6) months, or both. If the person has been previously
487 convicted of a violation of Section 97-29-101 or Section 97-29-105
488 or of Section 97-5-27 or 97-5-29, Mississippi Code of 1972, then
489 the person shall be fined not less than Two Thousand Five Hundred
490 Dollars (\$2,500.00) nor more than Ten Thousand Dollars
491 (\$10,000.00) or imprisoned for a term not to exceed one (1) year,
492 or both.

493 Any person who wholesale distributes in violation of Section
494 97-29-101 or Section 97-29-105 shall, upon conviction, be fined
495 not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for
496 a term not to exceed one (1) year, or both. If the person has
497 been previously convicted of a violation of Section 97-29-101 or
498 Section 97-29-105 or of Section 97-5-27 or 97-5-29, Mississippi



499 Code of 1972, then the person shall, upon conviction, be fined not
500 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
501 than Fifty Thousand Dollars (\$50,000.00) or imprisoned for a term
502 not to exceed one (1) year, or both.

503 A corporation, company, partnership, firm, association,
504 business, establishment, organization or other legal entity other
505 than an individual convicted of distributing obscenity or unlawful
506 sexual devices or wholesale distribution of obscenity or unlawful
507 sexual devices shall be fined not less than One Thousand Dollars
508 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). If
509 such legal entity has been previously convicted of distributing
510 obscenity or unlawful sexual devices or wholesale distribution of
511 obscenity or unlawful sexual devices or of a violation of Section
512 97-5-27 or Section 97-5-29, Mississippi Code of 1972, then such
513 legal entity shall be fined not less than Five Thousand Dollars
514 (\$5,000.00) nor more than Fifty Thousand Dollars (\$50,000.00).

515 **SECTION 11.** If any section, paragraph, sentence, clause,
516 phrase or any part of this act passed on or after the effective
517 date of this act is declared to be unconstitutional or void, or if
518 for any reason is declared to be invalid or of no effect, the
519 remaining sections, paragraphs, sentences, clauses, phrases or
520 parts of this act shall be in no manner affected thereby but shall
521 remain in full force and effect.

522 Unless the contrary intent shall clearly appear in the
523 particular act in question, each and every act passed hereafter



524 shall be read and construed as though the provisions of the first
525 paragraph of this section form an integral part thereof, whether
526 expressly set out therein or not.

527 **SECTION 12.** This act shall take effect and be in force from
528 and after July 1, 2023.

