Amend by striking all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. The Legislature finds that pornography contributes to:

(a) The hyper sexualization of teens and prepubescent children and may lead to low self-esteem, body image disorders;

(b) An increase in problematic sexual activity at younger ages, and increased desire among adolescents to engage in risky sexual behavior;

(c) Difficulty in forming or maintaining positive, intimate relationships, as well as promoting problematic or harmful sexual behaviors and addiction; and
A negative impact brain development and functioning, contribute to emotional and medical illnesses, shape deviant sexual arousal.

SECTION 2. As used in Sections 1 through 4 of this act, the following words shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Commercial entity" includes corporations, limited liability companies, partnerships, limited partnerships, sole proprietorships, or other legally recognized entities.

(b) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(c) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(d) "Material harmful to minors" is defined as all of the following:

(i) Any material that the average person, applying contemporary community standards would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest, including, but not limited to, child pornography or material that depicts or promotes child sexual exploitation or trafficking.

(ii) Any of the following material that exploits, is devoted to, or principally consists of descriptions of actual,
simulated, or animated display or depiction of any of the following, in a manner patently offensive with respect to minors:

1. Pubic hair, anus, vulva, genitals, or nipple of the female breast.

2. Touching, caressing, or fondling of nipples, breasts, buttocks, anuses, or genitals.

3. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, exhibitions, or any other sexual act.

(iii) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(iv) The material is sexually oriented, as defined in Section 97-5-27(2).

(e) "Minor" means any person under the age of eighteen (18) years.

(f) "News-gathering organization" means any of the following:

(i) An employee of a newspaper, news publication, or news source, printed or on an online or mobile platform, of current news and public interest, while operating as an employee as provided in this subparagraph, who can provide documentation of such employment with the newspaper, news publication, or news source.

(ii) An employee of a radio broadcast station, television broadcast station, cable television operator, or wire
service while operating as an employee as provided in this subparagraph, who can provide documentation of such employment.

(g) "Publish" means to communicate or make information available to another person or entity on a publicly available internet website.

(h) "Reasonable age verification methods" include verifying that the person seeking to access the material is eighteen (18) years of age or older by using any of the following methods:

(i) Provide a digitized identification card;

(ii) Require the person attempting to access the material to comply with a commercial age verification system that verifies in one or more of the following ways:

1. Government-issued identification; or

2. Any commercially reasonable method that relies on public or private transactional data to verify the age of the person attempting to access the information is at least eighteen (18) years of age or older.

(i) "Substantial portion" means more than thirty-three and one-third (33-1/3) percent of total material on a website, which meets the definition of "material harmful to minors" as defined by this section.

(j) "Transactional data" means a sequence of information that documents an exchange, agreement, or transfer between an individual, commercial entity, or third party used for
the purpose of satisfying a request or event. Transactional data can include, but is not limited to, records from mortgage, education, and employment entities.

**SECTION 3.** (1) Any commercial entity that knowingly and intentionally publishes or distributes material harmful to minors on the internet from a website that contains a substantial portion of such material shall be held liable if the entity fails to perform reasonable age verification methods to verify the age of individuals attempting to access the material.

(2) Any commercial entity or third party that performs the required age verification shall not retain any identifying information of the individual after access has been granted to the material.

(3) (a) Any commercial entity that is found to have violated this section shall be liable to an individual for damages resulting from a minor's accessing the material, including court costs and reasonable attorney fees as ordered by the court.

(b) A commercial entity that is found to have knowingly retained identifying information of the individual after access has been granted to the individual shall be liable to the individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney fees as ordered by the court.

(4) (a) A commercial entity or other person or vendor providing digital or online resources or databases to students in
a public school district, charter school, the Mississippi School of the Arts, the Mississippi School for Mathematics and Science, the Mississippi Virtual Public School, the Mississippi School for the Deaf and the Mississippi School for the Blind, or a minor in a public library, shall implement safety policies and technology protection measures that filter, block access to, or otherwise prohibit and prevent a minor from sending, receiving, viewing or downloading material harmful to minors.

(b) The provisions of this subsection take precedence over any contrary provision in a contract. Notwithstanding any contractual provision to the contrary in a contract between a public school district, upon a first occurrence of noncompliance with this subsection by a commercial entity or other person or vendor providing digital or online resources or databases, the state, or any of its agencies, or any public school district, local education agency, public school, public library or charter school is entitled to a reduction in the amount of ten percent (10%) of the agreed upon price in the contract to be paid to the provider. Upon a subsequent occurrence of noncompliance with this subsection by a commercial entity or other person or vendor providing digital or online resources or databases, the state or any of its agencies, or any public school district, local education agency, public school, public library or charter school is entitled to a complete refund of the agreed upon price of the contract to be paid to the provider.
(c) The State Auditor may audit a public school district, charter school, the Mississippi School of the Arts, the Mississippi School for Mathematics and Science, the Mississippi Virtual Public School, the Mississippi School for the Deaf and the Mississippi School for the Blind for compliance with this subsection and any violations shall be reported to the Auditor no later than thirty (30) days after the instance of noncompliance.

SECTION 4. (1) The provisions of this act shall not apply to any bona fide news or public interest broadcast, website video, report, or event and shall not be construed to affect the rights of any news-gathering organizations.

(2) No internet service provider, or its affiliates or subsidiaries, search engine, or cloud service provider shall be held to have violated the provisions of this act for providing access or connection to or from a website or other information or content on the internet or a facility, system, or network not under that provider's control, including transmission, downloading, storage, access software, or other to the extent such provider is not responsible for the creation of the content of the communication that constitutes material harmful to minors.

SECTION 5. Section 97-29-107, Mississippi Code of 1972, is amended as follows:

97-29-107. (1) Sections 97-29-101 through 97-29-109 shall not apply when the distribution or wholesale distribution of the material, performance or device was made by:
(a) A person, corporation, company, partnership, firm, association, business, establishment or other legal entity to a person associated with an institution of higher learning, either as a member of the faculty or as a matriculated student, teaching or pursuing a course of study related to such material, performance or device;

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

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

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

(2) Any exemption from prosecution claimed under the provisions of this section may be raised at a pretrial hearing by
motion, and the court shall determine whether sufficient evidence exists to constitute an exemption from prosecution under the provisions of Sections 97-29-101 through 97-29-109. If the motion is sustained, the case shall be dismissed; provided, however, if the motion is not sustained then the defendant may offer into evidence at trial as an affirmative defense to conviction under Sections 97-29-101 through 97-29-109 any matter which could have been raised by the defendant in the motion to dismiss.

SECTION 6. Section 97-29-109, Mississippi Code of 1972, is brought forward as follows:

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

Any person who wholesale distributes in violation of Section 97-29-101 or Section 97-29-105 shall, upon conviction, be fined not more than Ten Thousand Dollars ($10,000.00) or imprisoned for
a term not to exceed one (1) year, or both. If the person has
been previously convicted of a violation of Section 97-29-101 or
Section 97-29-105 or of Section 97-5-27 or 97-5-29, Mississippi
Code of 1972, then the person shall, upon conviction, be fined not
less than Two Thousand Five Hundred Dollars ($2,500.00) nor more
than Fifty Thousand Dollars ($50,000.00) or imprisoned for a term
not to exceed one (1) year, or both.

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

SECTION 7. This act shall take effect and be in force from
and after July 1, 2023, and shall stand repealed on June 30, 2023.

Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:

AN ACT TO REGULATE PORNOGRAPHIC MEDIA EXPOSURE TO CHILDREN;
TO PROVIDE THE LEGISLATIVE INTENT; TO PROVIDE DEFINITIONS; TO
REQUIRE COMMERCIAL ENTITIES THAT PROVIDE SUCH CONTENT TO HAVE AGE
VERIFICATION SYSTEMS; TO PROVIDE LIABILITY FOR THOSE COMMERCIAL
ENTITIES THAT DO NOT PROVIDE AN AGE VERIFICATION; TO REQUIRE A
COMMERCIAL ENTITY OR OTHER PERSON OR VENDOR PROVIDING DIGITAL OR
ONLINE RESOURCES OR DATABASES TO STUDENTS IN A PUBLIC SCHOOL
DISTRICT, CHARTER SCHOOL, THE MISSISSIPPI SCHOOL OF THE ARTS, THE
MISSISSIPPI SCHOOL FOR MATHEMATICS AND SCIENCE, THE MISSISSIPPI
VIRTUAL PUBLIC SCHOOL, THE MISSISSIPPI SCHOOL FOR THE DEAF AND THE
MISSISSIPPI SCHOOL FOR THE BLIND, OR A MINOR IN A PUBLIC LIBRARY,
TO IMPLEMENT SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES
THAT FILTER, BLOCK ACCESS TO, OR OTHERWISE PROHIBIT AND PREVENT A
MINOR FROM SENDING, RECEIVING, VIEWING OR DOWNLOADING MATERIAL
HARMFUL TO MINORS; TO PROVIDE THAT THE REQUIREMENT TO IMPLEMENT
SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES TAKE PRECEDENCE
OVER ANY CONTRARY PROVISION IN A CONTRACT; TO PROVIDE FOR CERTAIN
PENALTIES UPON NONCOMPLIANCE BY A COMMERCIAL ENTITY OR OTHER
PERSON OR VENDOR; TO AUTHORIZE THE STATE AUDITOR TO AUDIT A PUBLIC
SCHOOL DISTRICT, CHARTER SCHOOL, THE MISSISSIPPI SCHOOL OF THE
ARTS, THE MISSISSIPPI SCHOOL FOR MATHEMATICS AND SCIENCE, THE
MISSISSIPPI VIRTUAL PUBLIC SCHOOL, THE MISSISSIPPI SCHOOL FOR THE
DEAF AND THE MISSISSIPPI SCHOOL FOR THE BLIND FOR COMPLIANCE WITH
THE REQUIREMENT THAT A COMMERCIAL ENTITY OR OTHER PERSON OR VENDOR
PROVIDING DIGITAL OR ONLINE RESOURCES OR DATABASES TO STUDENTS IN
THE SCHOOLS IMPLEMENT CERTAIN SAFETY POLICIES AND TECHNOLOGY
PROTECTION MEASURES; TO AMEND SECTION 97-29-107, MISSISSIPPI CODE
OF 1972, TO DELETE THE EXEMPTION FOR ANY PUBLIC OR PRIVATE SCHOOL
LIBRARY IN THIS STATE FROM THE CRIME OF DISTRIBUTING OBSCENE
MATERIALS; TO BRING FORWARD SECTION 97-29-109, MISSISSIPPI CODE OF
1972, WHICH PROVIDES THE EXEMPTIONS AND PENALTIES FOR DISTRIBUTION
OF OBSCENE MATERIALS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED
PURPOSES.