

By: Representative Hines

To: Judiciary B

HOUSE BILL NO. 280

1 AN ACT TO AMEND SECTION 97-45-15, MISSISSIPPI CODE OF 1972,
 2 TO ADD CERTAIN SOCIAL MEDIA COMMUNICATIONS TO THE CRIME OF
 3 CYBERSTALKING; TO AMEND SECTION 95-1-1, MISSISSIPPI CODE OF 1972,
 4 TO REVISE THE DEFINITION OF ACTIONABLE COMMUNICATIONS; TO AMEND
 5 SECTION 95-1-5 AND 97-45-23, MISSISSIPPI CODE OF 1972, TO CONFORM
 6 TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 97-45-15, Mississippi Code of 1972, is
 9 amended as follows:

10 97-45-15. (1) It is unlawful for a person to:

11 (a) Use in electronic mail or electronic communication
 12 any words or language threatening to inflict bodily harm to any
 13 person or to that person's child, sibling, spouse or dependent, or
 14 physical injury to the property of any person, or for the purpose
 15 of extorting money or other things of value from any person.

16 (b) Electronically mail or electronically communicate
 17 to another repeatedly, whether or not conversation ensues, for the
 18 purpose of threatening, terrifying or harassing any person.

19 (c) Electronically mail or electronically communicate
 20 to another and to knowingly make any false statement concerning



21 death, injury, illness, disfigurement, indecent conduct, or
22 criminal conduct of the person electronically mailed or of any
23 member of the person's family or household with the intent to
24 threaten, terrify or harass.

25 (d) Use in electronic mail, social media or electronic
26 communication, any inflammatory misleading words or language on a
27 continuous basis that accuse, allege or speculate unlawful or
28 immoral behavior by a person in any manner that results in loss of
29 employment or loss of income for the person.

30 (* * *e) Knowingly permit an electronic communication
31 device under the person's control to be used for any purpose
32 prohibited by this section.

33 (2) Whoever commits the offense of cyberstalking shall be
34 punished, upon conviction:

35 (a) Except as provided herein, the person is guilty of
36 a felony punishable by imprisonment for not more than two (2)
37 years or a fine of not more than Five Thousand Dollars
38 (\$5,000.00), or both.

39 (b) If any of the following apply, the person is guilty
40 of a felony punishable by imprisonment for not more than five (5)
41 years or a fine of not more than Ten Thousand Dollars
42 (\$10,000.00), or both:

43 (i) The offense is in violation of a restraining
44 order and the person has received actual notice of that



45 restraining order or posting the message is in violation of an
46 injunction or preliminary injunction.

47 (ii) The offense is in violation of a condition of
48 probation, a condition of parole, a condition of pretrial release
49 or a condition of release on bond pending appeal.

50 (iii) The offense results in a credible threat
51 being communicated to the victim, a member of the victim's family,
52 or another individual living in the same household as the victim.

53 (iv) The person has been previously convicted of
54 violating this section or a substantially similar law of another
55 state, a political subdivision of another state, or of the United
56 States.

57 (3) This section does not apply to any peaceable,
58 nonviolent, or nonthreatening activity intended to express
59 political views or to provide lawful information to others. This
60 section shall not be construed to impair any constitutionally
61 protected activity, including speech, protest or assembly.

62 **SECTION 2.** Section 95-1-1, Mississippi Code of 1972, is
63 amended as follows:

64 95-1-1. All words which, from their usual construction and
65 common acceptance, are considered as insults, misrepresentations
66 and calculated to lead to a breach of the peace or termination of
67 employment, shall be actionable; and a plea, exception or demurrer
68 shall not be sustained to preclude a jury from passing thereon,
69 who are the sole judges of the damages sustained; but this shall



70 not deprive the courts of the power to grant new trials, as in
71 other cases.

72 **SECTION 3.** Section 95-1-5, Mississippi Code of 1972, is
73 amended as follows:

74 95-1-5. (1) Before any civil action is brought for
75 publication, in * * * any newspaper * * *, social media website,
76 electronic mail, electronic communication or any other words or
77 language in a manner that subjects such to the jurisdiction of the
78 courts of this state, of a libel, slander or against any person,
79 radio or television station domiciled in this state, the plaintiff
80 shall, at least ten (10) days before instituting any such action,
81 serve notice in writing on the defendant at its regular place of
82 business, specifying the article, broadcast or telecast, and the
83 statements therein, which he alleges to be false and defamatory.

84 (2) If it appears upon the trial that * * * the article,
85 social media or electronic communication was published, broadcast
86 or telecast in good faith, that its falsity was due to an honest
87 mistake of the facts, and there were * * * some evidence to
88 believe that the statements in * * * the article, broadcast or
89 telecast were true, and that within ten (10) days after the
90 service of * * * the notice a full and fair correction, apology
91 and retraction was published in the same edition or corresponding
92 issues of the newspaper in which said article appeared, and in as
93 conspicuous place and type as was said original article, or was
94 broadcast or telecast under like conditions correcting an honest



95 mistake, and if the jury shall so find, the plaintiff in such case
96 shall recover only actual damages. The burden of proof of the
97 foregoing facts shall be affirmative defenses of the defendant and
98 pled as such.

99 (3) This section shall not apply to any publication
100 concerning a candidate for public office made within ten (10) days
101 of any primary, general or special election in which such
102 candidate's candidacy for or election to public office is to be
103 determined, and this section shall not apply to any editorial or
104 to any regularly published column in which matters of opinions are
105 expressed.

106 **SECTION 4.** Section 97-45-23, Mississippi Code of 1972, is
107 amended as follows:

108 97-45-23. Prosecutions for violations under Title 97,
109 Chapter 45, or Section 97-5-33, may be instituted by the Attorney
110 General, his designee or the district attorney of the district in
111 which the violation occurred * * *. In the prosecution of any
112 criminal proceeding in accordance with this subsection by the
113 Attorney General, his designee, and in any proceeding before a
114 grand jury in connection therewith, the Attorney General, or his
115 designee, shall exercise all the powers and perform all the duties
116 which the district attorney would otherwise be authorized or
117 required to exercise or perform. The Attorney General, or his
118 designee, shall have the authority to issue and serve subpoenas in



119 the investigation of any matter which may violate Title 97,
120 Chapter 45, or Section 97-5-33.

121 **SECTION 5.** This act shall take effect and be in force from
122 and after July 1, 2024.

