

By: Representatives Owen, Hall

To: Judiciary B

HOUSE BILL NO. 1308
(As Sent to Governor)

1 AN ACT TO CREATE NEW SECTION 97-5-32, MISSISSIPPI CODE OF
2 1972, TO CREATE THE CRIME OF GROOMING OF A CHILD; TO DEFINE TERMS;
3 TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; TO AMEND SECTION
4 97-5-31, MISSISSIPPI CODE OF 1972, TO REMOVE THE DEFINITION OF
5 IDENTIFIABLE CHILD AND TO REMOVE IDENTIFIABLE CHILD IN THE
6 DEFINITION OF CHILD AND MORPHED IMAGES; TO BRING FORWARD SECTIONS
7 97-5-33, 97-5-35 AND 97-5-37, MISSISSIPPI CODE OF 1972, WHICH ARE
8 THE PROVISIONS THAT PROVIDE FOR THE OFFENSE OF EXPLOITATION OF A
9 CHILD, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD
10 SECTIONS 97-5-5 AND 97-5-7, MISSISSIPPI CODE OF 1972, WHICH ARE
11 THE PROVISIONS THAT PROVIDE FOR THE OFFENSES OF ENTICING A CHILD,
12 FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** The following shall be codified as Section
15 97-5-32, Mississippi Code of 1972:

16 97-5-32. (1) As used in this section, the following terms
17 shall have the meanings herein ascribed:

18 (a) "Electronic device" means any device used for the
19 purpose of communicating with a child for sexual purposes or any
20 device used to visually depict a child engaged in sexually
21 explicit conduct, store any image or audio of a child engaged in
22 sexually explicit conduct, or transmit any audio or visual image
23 of a child for sexual purposes. Such term may include, but shall



not be limited to, a computer, cellular phone, thumb drive, video game system, or any other electronic device that can be used in furtherance of exploiting a child for sexual purposes.

(b) "Pattern of conduct or communication" means a pattern of conduct or communication that would cause a reasonable adult person to believe that the person is communicating with a child with the purpose to entice, coerce, solicit, or prepare a child to engage in sexually explicit conduct, human trafficking, or sexual servitude.

(c) "Human trafficking" means that term as defined in Section 97-3-54.1.

(d) "Sexually explicit conduct" means that term as defined in Section 97-5-31(b).

(e) "Procure sexual servitude of a child" means knowingly subjecting, or attempting to subject, or recruiting, enticing, harboring, transporting, providing or obtaining by any means, or attempting to recruit, entice, harbor, transport, provide, or obtain by any means, a child, knowing that the child will engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or causing or attempting to cause a child to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material.

(f) "Child" means a person who is under sixteen (16) years of age for purposes of this section.



(2) A person over the age of twenty-one (21) commits the offense of grooming of a child when such person knowingly engages in a pattern of conduct or communication in person; through a third party; through the use of an electronic device, computer, social media, or text messages; or by any other means to gain access to, to gain the compliance of, to prepare, to persuade, to induce, or to coerce a child to engage in sexually explicit conduct or human trafficking or to procure the sexual servitude of a child.

(3) (a) Any person who violates this section shall be guilty of a felony, and upon conviction thereof, be imprisoned in the custody of the Department of Corrections for not less than two (2) years nor more than ten (10) years, or fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) (i) Any person who is eighteen (18) years of age or older and violates this section while that person was in a position of trust or authority over the child at the time of the offense shall be guilty of a felony, and upon conviction thereof, be imprisoned in the custody of the Department of Corrections for not less than five (5) years nor more than ten (10) years, or fined not more than Twenty Thousand Dollars (\$20,000.00), or both.

(ii) A person in a position of trust or authority over a child includes, without limitation, a child's teacher, counselor, physician, psychiatrist, psychologist, minister,



priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader, or coach.

(c) Any person who commits a subsequent offense under this section or any person that is a sex offender with a duty to register under Section 45-33-25 who commits an initial offense under this section shall be guilty of a felony, and upon conviction thereof, be imprisoned in the custody of the Department of Corrections for not less than ten (10) years nor more than twenty (20) years, or fined not more than Thirty Thousand Dollars (\$30,000.00), or both.

(4) The fines under this section shall be collected and deposited into the Victims of Human Trafficking and Commercial Sexual Exploitation Fund pursuant to Section 97-3-54.11.

(5) Investigation and prosecution of a defendant under this section does not preclude prosecution of the defendant for a violation of other applicable criminal laws of this state.

(6) It shall not be a defense to prosecution under this section that no sexually explicit conduct, human trafficking, or sexual servitude occurred or was accomplished.

(7) For the purposes of venue under this section, any violation of this section shall be considered to have been committed:

(a) In any county in which any act was performed in furtherance of any violation of this section; or



(b) In any county in which the electronic device used to violate this act established a signal, whether by wire, electromagnetic waves, electronic connection, or any other means of connectivity or communication; or

(c) In any county in which the child is located at the time of the offense of this section.

SECTION 2. Section 97-5-31, Mississippi Code of 1972, is amended as follows:

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

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

(b) "Sexually explicit conduct" means actual, morphed or simulated:

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

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse;

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

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



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

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

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

(f) "Morphed image" means any visual depiction or representation, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, simulated or other means, of sexually explicit conduct, where such visual depiction or representation has been created, adapted, or modified to appear * * * to be a minor is engaging in sexual conduct or sexually explicit activity or appearing in a state of sexually explicit nudity.

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

* * *

SECTION 3. Section 97-5-33, Mississippi Code of 1972, is brought forward as follows:

97-5-33. (1) No person shall, by any means, including computer, cause, solicit or knowingly permit any child to engage



147 in sexually explicit conduct or in the simulation of sexually
148 explicit conduct for the purpose of producing any visual depiction
149 of such conduct.

150 (2) No person shall, by any means, including computer,
151 photograph, film, video tape or otherwise depict or record a child
152 engaging in sexually explicit conduct or in the simulation of
153 sexually explicit conduct.

154 (3) No person shall, by any means including computer,
155 knowingly send, transport, transmit, ship, mail or receive any
156 photograph, drawing, sketch, film, video tape or other visual
157 depiction of an actual child engaging in sexually explicit
158 conduct.

159 (4) No person shall, by any means including computer,
160 receive with intent to distribute, distribute for sale, sell or
161 attempt to sell in any manner any photograph, drawing, sketch,
162 film, video tape or other visual depiction of an actual child
163 engaging in sexually explicit conduct.

164 (5) No person shall, by any means, including computer,
165 knowingly possess or knowingly access with intent to view any
166 photograph, drawing, sketch, film, video tape or other visual
167 depiction of an actual child engaging in sexually explicit
168 conduct.

169 (6) No person shall, by any means, including computer,
170 knowingly entice, induce, persuade, seduce, solicit, advise,



coerce, or order a child to meet with the defendant or any other person for the purpose of engaging in sexually explicit conduct.

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

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

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

SECTION 4. Section 97-5-35, Mississippi Code of 1972, is brought forward as follows:

97-5-35. Any person who violates any provision of Section 97-5-33 shall be guilty of a felony and upon conviction shall be fined not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00) and shall be imprisoned for not less than five (5) years nor more than forty (40) years. Any person convicted of a second or subsequent violation of Section 97-5-33 shall be fined not less than One



Hundred Thousand Dollars (\$100,000.00) nor more than One Million Dollars (\$1,000,000.00) and shall be confined in the custody of the Department of Corrections for life or such lesser term as the court may determine, but not less than twenty (20) years.

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

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

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

97-5-5. Every person who shall maliciously, willfully, or fraudulently lead, take, carry away, decoy or entice away, any child under the age of fourteen (14) years, with intent to detain or conceal such child from its parents, guardian, or other person having lawful charge of such child, or for the purpose of prostitution, concubinage, or marriage, shall, on conviction, be imprisoned in the custody of the Department of Corrections for not less than two (2) years nor more than ten (10) years, or fined not



more than Ten Thousand Dollars (\$10,000.00), or both.
Investigation and prosecution of a defendant under this section
does not preclude prosecution of the defendant for a violation of
other applicable criminal laws, including, but not limited to, the
Mississippi Human Trafficking Act, Section 97-3-54 et seq.

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

97-5-7. Any person who shall persuade, entice or decoy away
from its father or mother with whom it resides any child under the
age of eighteen (18) years, being unmarried, for the purpose of
employing such child without the consent of its parents, or one of
them, shall upon conviction be punished by a fine of not more than
One Thousand Dollars (\$1,000.00) or imprisoned in the county jail
not more than one (1) year, or both. Investigation and
prosecution of a defendant under this section does not preclude
prosecution of the defendant for a violation of other applicable
criminal laws, including, but not limited to, the Mississippi
Human Trafficking Act, Section 97-3-54 et seq.

SECTION 8. This act shall take effect and be in force from
and after July 1, 2025.

