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AMENDMENT NO 1 PROPOSED TO**

Cmte Sub for House Bill No. 863

BY: Representative Owen

1 **AMEND** after line 73 by inserting the following, and
2 renumbering the succeeding section:

3 **"SECTION 2.** The following shall be codified as Section 97-3-102,
4 Mississippi Code of 1972:

5 97-3-102. (1) For purposes of this act, the following words
6 and phrases shall have the meanings ascribed herein unless the
7 context clearly requires otherwise:

8 (a) "Clergy" means a priest, rabbi, Christian Science
9 practitioner, imam, minister, pastor, leader of any religious sect
10 or any spiritual leader of any church, religious body or religious
11 society, or person who holds himself or herself out to be a
12 priest, rabbi, Christian Science practitioner, imam, minister,
13 pastor, leader of any religious denomination or any spiritual
14 leader of any church, religious body or religious society.



15 (b) "Former patient or client" means a patient who
16 received services from the therapist within twelve (12) months
17 after the end of a patient or client-therapist relationship.

18 (c) "Mental health services" means the treatment,
19 assessment, or counseling of another person for a cognitive,
20 spiritual, behavioral, emotional, mental, or social issue.

21 (d) "Patient" means a person who receives paid or
22 unpaid services from the therapist.

23 (e) "Sexual contact" means kissing, touching, including
24 oral touching, of another person's inner thigh, breast, groin,
25 buttock, anus, pubes or genitals, whether clothed or unclothed,
26 sexual penetration as defined in Section 97-3-97, or encouraging
27 the patient to kiss, touch, including oral touch, of the patient's
28 inner thigh, breast, groin, buttock, anus, pubes or genitals,
29 whether clothed or unclothed, or penetrate any opening of the
30 patient's body for the pleasure or gratification of the therapist.

31 (f) "Spiritual leader" means a person in a religious
32 sect whose primary purpose is to provide spiritual guidance,
33 enrichment and instruction for or on behalf of the religious
34 denomination.

35 (g) "Therapist" means a physician, psychologist, nurse,
36 counselor, substance abuse counselor, social worker, clergy,
37 marriage or family therapist, mental health service provider,
38 hypnotist, any associate thereof, or other person, regardless of



39 whether the person is licensed or certified by this state, who
40 provides or purports to provide mental health services.

41 (2) It shall be unlawful for any person who is a therapist
42 or who holds himself or herself out to be a therapist to have
43 sexual contact with a patient or former patient regardless of
44 whether the sexual contact occurs during any treatment,
45 consultation, counseling, interview or examination of the patient.
46 Any person convicted for a violation of this section shall be
47 guilty of a felony and punished by imprisonment for not more than
48 five (5) years in the custody of the Department of Corrections,
49 fined not more than Ten Thousand Dollars (\$10,000.00), or both.

50 (3) Consent of the patient shall not be a defense to the
51 prohibition described in this section.

52 (4) The provisions of this section shall not be construed to
53 replace any other applicable provisions of law. The penalties
54 described in this section may be used in addition to any other
55 penalties authorized by law for the described conduct.

56 (5) It is not a violation of this section if the therapist
57 and the patient engaged in sexual contact before the existence of
58 the therapist-patient relationship.

59 **SECTION 3.** Section 97-3-95, Mississippi Code of 1972, is
60 amended as follows:

61 97-3-95. (1) A person is guilty of sexual battery if he or
62 she engages in sexual penetration with:

63 (a) Another person without his or her consent;



64 (b) A mentally defective, mentally incapacitated or
65 physically helpless person;

66 (c) A child at least fourteen (14) but under sixteen
67 (16) years of age, if the person is thirty-six (36) or more months
68 older than the child; or

69 (d) A child under the age of fourteen (14) years of
70 age, if the person is twenty-four (24) or more months older than
71 the child.

72 (2) A person is guilty of sexual battery if he or she
73 engages in sexual penetration with a child under the age of
74 eighteen (18) years if the person is in a position of trust or
75 authority over the child including, without limitation, the
76 child's teacher, counselor, physician, psychiatrist, psychologist,
77 minister, priest, physical therapist, chiropractor, legal
78 guardian, parent, stepparent, aunt, uncle, scout leader * * *,
79 coach or therapist as defined in Section 1 of this act.

80 **SECTION 4.** Section 73-54-29, Mississippi Code of 1972, is
81 amended as follows:

82 73-54-29. Licensees subject to this chapter shall conduct
83 their activities, services and practice in accordance with this
84 chapter and any rules promulgated under this chapter. Licensees
85 may be subject to the exercise of the disciplinary sanctions
86 enumerated in Section 73-53-23 if the board finds that a licensee
87 is guilty of any of the actions listed in Section 73-53-17(1) or
88 is guilty of any of the following:



89 (a) Violation of any provision of this chapter or any
90 rules or regulations of the board adopted under the provisions of
91 this chapter.

92 (b) Other just and sufficient cause which renders a
93 person unfit to practice marriage and family therapy as determined
94 by the board, but not limited to:

95 (i) Habitual use of alcohol or drugs to an extent
96 that affects professional competence;

97 (ii) Adjudication as being mentally incompetent by
98 a court of competent jurisdiction;

99 (iii) Practicing in a manner detrimental to the
100 public health and welfare;

101 (iv) Revocation of a license or certification by a
102 licensing agency or by a certifying professional organization;

103 (v) Any other violation of this chapter or the
104 code of ethical standards of the American Association for Marriage
105 and Family Therapy or other ethical standards adopted by the board
106 under the provisions of this chapter; * * *

107 (vi) Continued practice although the individual
108 failed to renew and has a lapsed license * * *; or

109 (c) Violation of Section 1 of this act.

110 **SECTION 5.** Section 73-53-17, Mississippi Code of 1972, is
111 amended as follows:

112 73-53-17. (1) Individuals licensed by the board shall
113 conduct their activities, services and practice in accordance with



114 the laws governing their professional practice and any rules
115 promulgated by the board. Licensees and applicants may be subject
116 to the exercise of the sanctions enumerated in Section 73-53-23 if
117 the board finds that a licensee or applicant has committed any of
118 the following:

119 (a) Negligence in the practice or performance of
120 professional services or activities;

121 (b) Engaging in dishonorable, unethical or
122 unprofessional conduct of a character likely to deceive, defraud
123 or harm the public in the course of professional services or
124 activities;

125 (c) Perpetrating or cooperating in fraud or material
126 deception in obtaining or renewing a license or attempting the
127 same;

128 (d) Violating the rules and regulations established by
129 the board;

130 (e) Violating the National Association of Social
131 Workers Code of Ethics or the American Association for Marriage
132 and Family Therapy Code of Ethics;

133 (f) Being convicted of any crime which has a
134 substantial relationship to the licensee's activities and services
135 or an essential element of which is misstatement, fraud or
136 dishonesty;

137 (g) Being convicted of any crime which is a felony
138 under the laws of this state or of the United States of America;



139 (h) Engaging in or permitting the performance of
140 unacceptable services personally due to the licensee's deliberate
141 or grossly negligent act or acts or failure to act, regardless of
142 whether actual damage or damages to the public is established, or
143 assuming responsibility for another's work by signing documents
144 without personal knowledge of the work as established by board
145 rule;

146 (i) Continued practice although the licensee has become
147 unfit to practice social work due to: (i) failure to keep abreast
148 of current professional theory or practice; or (ii) physical or
149 mental disability; the entry of an order or judgment by a court of
150 competent jurisdiction that a licensee is in need of mental
151 treatment or is incompetent shall constitute mental disability; or
152 (iii) addiction or severe dependency upon alcohol or other drugs
153 which may endanger the public by impairing the licensee's ability
154 to practice;

155 (j) Continued practice although the individual failed
156 to renew and has a lapsed license;

157 (k) Having disciplinary action taken against the
158 licensee's license in another state;

159 (l) Making differential, detrimental treatment against
160 any person because of race, color, creed, sex, religion or
161 national origin;

162 (m) Engaging in lewd conduct in connection with
163 professional services or activities;



164 (n) Engaging in false or misleading advertising;

165 (o) Contracting, assisting or permitting unlicensed
166 persons to perform services for which a license is required under
167 this chapter;

168 (p) Violation of any probation requirements placed on a
169 licensee by the board;

170 (q) Revealing confidential information except as may be
171 required by law;

172 (r) Failing to inform clients of the fact that the
173 client no longer needs the services or professional assistance of
174 the licensee;

175 (s) Charging excessive or unreasonable fees or engaging
176 in unreasonable collection practices * * *; or

177 (t) Violating Section 1 of this act.

178 (2) The board may order a licensee to submit to a reasonable
179 physical or mental examination if the licensee's physical or
180 mental capacity to practice safely is at issue in a disciplinary
181 proceeding.

182 (3) Failure to comply with a board order to submit to a
183 physical or mental examination shall render a licensee subject to
184 the summary suspension procedures described in Section 73-53-23.

185 (4) In addition to the reasons specified in subsection (1)
186 of this section, the board shall be authorized to suspend the
187 license of any licensee for being out of compliance with an order
188 for support, as defined in Section 93-11-153. The procedure for



189 suspension of a license for being out of compliance with an order
190 for support, and the procedure for the reissuance or reinstatement
191 of a license suspended for that purpose, and the payment of any
192 fees for the reissuance or reinstatement of a license suspended
193 for that purpose, shall be governed by Section 93-11-157 or
194 93-11-163, as the case may be. If there is any conflict between
195 any provision of Section 93-11-157 or 93-11-163 and any provision
196 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
197 as the case may be, shall control.

198 **SECTION 6.** Section 73-30-21, Mississippi Code of 1972, is
199 amended as follows:

200 73-30-21. (1) The board may, after notice and opportunity
201 for a hearing, suspend, revoke or refuse to issue or renew a
202 license or the privilege to practice or may reprimand the license
203 holder or holder of the privilege to practice, upon a
204 determination by the board that such license holder or holder of
205 the privilege to practice or applicant for licensure or the
206 privilege to practice has:

- 207 (a) Been adjudged by any court to be mentally
208 incompetent or have had a guardian of person appointed;
209 (b) Been convicted of a felony;
210 (c) Sworn falsely under oath or affirmation;
211 (d) Obtained a license or certificate or the privilege
212 to practice by fraud, deceit or other misrepresentation;



213 (e) Engaged in the conduct of professional counseling
214 in a grossly negligent or incompetent manner;

215 (f) Intentionally violated any provision of this
216 article;

217 (g) Violated any rules or regulations of the
218 board; * * *

219 (h) Aided or assisted another in falsely obtaining a
220 license or the privilege to practice under this article * * *; or

221 (i) Violated Section 1 of this act.

222 With regard to a refusal to issue a privilege to practice,
223 such refusal by the board shall be in accordance with the terms of
224 the Professional Counseling Compact instead of this subsection
225 (1).

226 (2) Appeals from disciplinary action are to be brought in
227 the circuit court in the county of residence of the practitioner.
228 In the event the practitioner resides out of state the appeal
229 should be brought in Hinds County Circuit Court.

230 (3) The board may assess and levy upon any licensee,
231 practitioner or applicant for licensure or the privilege to
232 practice the costs incurred or expended by the board in the
233 investigation and prosecution of any licensure, privilege to
234 practice or disciplinary action, including, but not limited to,
235 the costs of process service, court reporters, expert witnesses,
236 investigators and attorney's fees.



237 (4) No revoked license or privilege to practice may be
238 reinstated within twelve (12) months after such revocation.
239 Reinstatement thereafter shall be upon such conditions as the
240 board may prescribe, which may include, without being limited to,
241 successful passing of the examination required by this article.

242 (5) A license or privilege to practice certificate issued by
243 the board is the property of the board and must be surrendered on
244 demand.

245 (6) The chancery court is hereby vested with the
246 jurisdiction and power to enjoin the unlawful practice of
247 counseling and/or the false representation as a licensed counselor
248 in a proceeding brought by the board or any members thereof or by
249 any citizen of this state.

250 (7) In addition to the reasons specified in subsection (1)
251 of this section, the board shall be authorized to suspend the
252 license of any licensee for being out of compliance with an order
253 for support, as defined in Section 93-11-153. The procedure for
254 suspension of a license for being out of compliance with an order
255 for support, and the procedure for the reissuance or reinstatement
256 of a license suspended for that purpose, and the payment of any
257 fees for the reissuance or reinstatement of a license suspended
258 for that purpose, shall be governed by Section 93-11-157 or
259 93-11-163, as the case may be. If there is any conflict between



260 any provision of Section 93-11-157 or 93-11-163 and any provision
261 of this article, the provisions of Section 93-11-157 or 93-11-163,
262 as the case may be, shall control.

263 **SECTION 7.** Section 73-31-21, Mississippi Code of 1972, is
264 amended as follows:

265 73-31-21. (1) The board, by an affirmative vote of at least
266 four (4) of its seven (7) members, shall withhold, deny, revoke or
267 suspend any license issued or applied for in accordance with the
268 provisions of this article, or otherwise discipline a licensed
269 psychologist, upon proof that the applicant or licensed
270 psychologist:

271 (a) Has violated the current code of ethics of the
272 American Psychological Association or other codes of ethical
273 standards adopted by the board; or

274 (b) Has been convicted of a felony or any offense
275 involving moral turpitude, the record of conviction being
276 conclusive evidence thereof; or

277 (c) Is using any substance or any alcoholic beverage to
278 an extent or in a manner dangerous to any other person or the
279 public, or to an extent that the use impairs his or her ability to
280 perform the work of a professional psychologist with safety to the
281 public; or

282 (d) Has impersonated another person holding a
283 psychologist license or allowed another person to use his or her
284 license; or



285 (e) Has used fraud or deception in applying for a
286 license or in taking an examination provided for in this article;
287 or

288 (f) Has accepted commissions or rebates or other forms
289 of remuneration for referring clients to other professional
290 persons; or

291 (g) Has performed psychological services outside of the
292 area of his or her training, experience or competence; or

293 (h) Has allowed his or her name or license issued under
294 this article to be used in connection with any person or persons
295 who perform psychological services outside of the area of their
296 training, experience or competence; or

297 (i) Is legally adjudicated mentally incompetent, the
298 record of that adjudication being conclusive evidence thereof; or

299 (j) Has willfully or negligently violated any of the
300 provisions of this article. The board may recover from any person
301 disciplined under this article, the costs of investigation,
302 prosecution, and adjudication of the disciplinary action * * *; or

303 (k) Has violated Section 1 of this act.

304 (2) Notice shall be effected by registered mail or personal
305 service setting forth the particular reasons for the proposed
306 action and fixing a date not less than thirty (30) days nor more
307 than sixty (60) days from the date of the mailing or that service,
308 at which time the applicant or licensee shall be given an
309 opportunity for a prompt and fair hearing. For the purpose of the



310 hearing, the board, acting by and through its executive secretary,
311 may subpoena persons and papers on its own behalf and on behalf of
312 the applicant or licensee, may administer oaths and may take
313 testimony. That testimony, when properly transcribed, together
314 with the papers and exhibits, shall be admissible in evidence for
315 or against the applicant or licensee. At the hearing, the
316 applicant or licensee may appear by counsel and personally in his
317 or her own behalf. Any person sworn and examined by a witness in
318 the hearing shall not be held to answer criminally, nor shall any
319 papers or documents produced by the witness be competent evidence
320 in any criminal proceedings against the witness other than for
321 perjury in delivering his or her evidence. On the basis of any
322 such hearing, or upon default of applicant or licensee, the board
323 shall make a determination specifying its findings of fact and
324 conclusions of law. A copy of that determination shall be sent by
325 registered mail or served personally upon the applicant or
326 licensee. The decision of the board denying, revoking or
327 suspending the license shall become final thirty (30) days after
328 so mailed or served, unless within that period the applicant or
329 licensee appeals the decision to the chancery court, under the
330 provisions hereof, and the proceedings in chancery shall be
331 conducted as other matters coming before the court. All
332 proceedings and evidence, together with exhibits, presented at the
333 hearing before the board shall be admissible in evidence in court
334 in the appeal.



335 (3) The board may subpoena persons and papers on its own
336 behalf and on behalf of the respondent, may administer oaths and
337 may compel the testimony of witnesses. It may issue commissions
338 to take testimony, and testimony so taken and sworn to shall be
339 admissible in evidence for and against the respondent. The board
340 shall be entitled to the assistance of the chancery court or the
341 chancellor in vacation, which, on petition by the board, shall
342 issue ancillary subpoenas and petitions and may punish as for
343 contempt of court in the event of noncompliance therewith.

344 (4) Every order and judgment of the board shall take effect
345 immediately on its promulgation unless the board in the order or
346 judgment fixes a probationary period for the applicant or
347 licensee. The order and judgment shall continue in effect unless
348 upon appeal the court by proper order or decree terminates it
349 earlier. The board may make public its order and judgments in
350 any manner and form as it deems proper. It shall, in event of the
351 suspension or revocation of a license, direct the clerk of the
352 circuit court of the county in which that license was recorded to
353 cancel that record.

354 (5) Nothing in this section shall be construed as limiting
355 or revoking the authority of any court or of any licensing or
356 registering officer or board, other than the Mississippi Board of
357 Psychology, to suspend, revoke and reinstate licenses and to
358 cancel registrations under the provisions of Section 41-29-311.



359 (6) Suspension by the board of the license of a psychologist
360 shall be for a period not exceeding one (1) year. At the end of
361 this period the board shall reevaluate the suspension, and shall
362 either reinstate or revoke the license. A person whose license
363 has been revoked under the provisions of this section may reapply
364 for a license after more than two (2) years have elapsed from the
365 date that the denial or revocation is legally effective.

366 (7) In addition to the reasons specified in subsection (1)
367 of this section, the board shall be authorized to suspend the
368 license of any licensee for being out of compliance with an order
369 for support, as defined in Section 93-11-153. The procedure for
370 suspension of a license for being out of compliance with an order
371 for support, and the procedure for the reissuance or reinstatement
372 of a license suspended for that purpose, and the payment of any
373 fees for the reissuance or reinstatement of a license suspended
374 for that purpose, shall be governed by Section 93-11-157. Actions
375 taken by the board in suspending a license when required by
376 Section 93-11-157 or 93-11-163 are not actions from which an
377 appeal may be taken under this section. Any appeal of a license
378 suspension that is required by Section 93-11-157 or 93-11-163
379 shall be taken in accordance with the appeal procedure specified
380 in Section 93-11-157 or 93-11-163, as the case may be, rather than
381 the procedure specified in this section. If there is any conflict
382 between any provision of Section 93-11-157 or 93-11-163 and any



383 provision of this article, the provisions of Section 93-11-157 or
384 93-11-163, as the case may be, shall control.

385 (8) The board may issue a nondisciplinary, educational
386 letter to licensees as provided in Section 73-31-7(2)(g). The
387 board may also direct a psychologist to obtain a formal assessment
388 of ability to practice safely if there is reason to believe there
389 may be impairment due to substance abuse or mental incapacity.
390 Licensees who may be impaired, but who are able to practice
391 safely, may be required by the board to seek appropriate treatment
392 and/or supervision. That action by the board in itself will not
393 be considered disciplinary.

394 (9) The board may discipline any person who has been granted
395 the authority to practice interjurisdictional telepsychology or
396 the temporary authorization to practice under the Psychology
397 Interjurisdictional Compact provided for under Section 73-31-51,
398 for any of the grounds specified in subsection (1) of this section
399 in the same manner as the board disciplines a licensed
400 psychologist under this section.

401 **SECTION 8.** Section 73-25-29, Mississippi Code of 1972, is
402 amended as follows:

403 73-25-29. The grounds for the nonissuance, suspension,
404 revocation or restriction of a license or the denial of
405 reinstatement or renewal of a license are:



406 (1) Habitual personal use of narcotic drugs, or any
407 other drug having addiction-forming or addiction-sustaining
408 liability.

409 (2) Habitual use of intoxicating liquors, or any
410 beverage, to an extent which affects professional competency.

411 (3) Administering, dispensing or prescribing any
412 narcotic drug, or any other drug having addiction-forming or
413 addiction-sustaining liability otherwise than in the course of
414 legitimate professional practice.

415 (4) Conviction of violation of any federal or state law
416 regulating the possession, distribution or use of any narcotic
417 drug or any drug considered a controlled substance under state or
418 federal law, a certified copy of the conviction order or judgment
419 rendered by the trial court being prima facie evidence thereof,
420 notwithstanding the pendency of any appeal.

421 (5) Procuring, or attempting to procure, or aiding in,
422 an abortion that is not medically indicated.

423 (6) Conviction of a felony or misdemeanor involving
424 moral turpitude, a certified copy of the conviction order or
425 judgment rendered by the trial court being prima facie evidence
426 thereof, notwithstanding the pendency of any appeal.

427 (7) Obtaining or attempting to obtain a license by
428 fraud or deception.

429 (8) Unprofessional conduct, which includes, but is not
430 limited to:



431 (a) Practicing medicine under a false or assumed
432 name or impersonating another practitioner, living or dead.

433 (b) Knowingly performing any act which in any way
434 assists an unlicensed person to practice medicine.

435 (c) Making or willfully causing to be made any
436 flamboyant claims concerning the licensee's professional
437 excellence.

438 (d) Being guilty of any dishonorable or unethical
439 conduct likely to deceive, defraud or harm the public.

440 (e) Obtaining a fee as personal compensation or
441 gain from a person on fraudulent representation of a disease or
442 injury condition generally considered incurable by competent
443 medical authority in the light of current scientific knowledge and
444 practice can be cured or offering, undertaking, attempting or
445 agreeing to cure or treat the same by a secret method, which he
446 refuses to divulge to the board upon request.

447 (f) Use of any false, fraudulent or forged
448 statement or document, or the use of any fraudulent, deceitful,
449 dishonest or immoral practice in connection with any of the
450 licensing requirements, including the signing in his professional
451 capacity any certificate that is known to be false at the time he
452 makes or signs such certificate.

453 (g) Failing to identify a physician's school of
454 practice in all professional uses of his name by use of his earned
455 degree or a description of his school of practice.



456 (h) Violating Section 1 of this act.

457 (9) The refusal of a licensing authority of another
458 state or jurisdiction to issue or renew a license, permit or
459 certificate to practice medicine in that jurisdiction or the
460 revocation, suspension or other restriction imposed on a license,
461 permit or certificate issued by such licensing authority which
462 prevents or restricts practice in that jurisdiction, a certified
463 copy of the disciplinary order or action taken by the other state
464 or jurisdiction being prima facie evidence thereof,
465 notwithstanding the pendency of any appeal.

466 (10) Surrender of a license or authorization to
467 practice medicine in another state or jurisdiction or surrender of
468 membership on any medical staff or in any medical or professional
469 association or society while under disciplinary investigation by
470 any of those authorities or bodies for acts or conduct similar to
471 acts or conduct which would constitute grounds for action as
472 defined in this section.

473 (11) Final sanctions imposed by the United States
474 Department of Health and Human Services, Office of Inspector
475 General or any successor federal agency or office, based upon a
476 finding of incompetency, gross misconduct or failure to meet
477 professionally recognized standards of health care; a certified
478 copy of the notice of final sanction being prima facie evidence
479 thereof. As used in this paragraph, the term "final sanction"
480 means the written notice to a physician from the United States



481 Department of Health and Human Services, Officer of Inspector
482 General or any successor federal agency or office, which
483 implements the exclusion.

484 (12) Failure to furnish the board, its investigators or
485 representatives information legally requested by the board.

486 (13) Violation of any provision(s) of the Medical
487 Practice Act or the rules and regulations of the board or of any
488 order, stipulation or agreement with the board.

489 (14) Violation(s) of the provisions of Sections
490 41-121-1 through 41-121-9 relating to deceptive advertisement by
491 health care practitioners.

492 (15) Performing or inducing an abortion on a woman in
493 violation of any provision of Sections 41-41-131 through
494 41-41-145.

495 (16) Performing an abortion on a pregnant woman after
496 determining that the unborn human individual that the pregnant
497 woman is carrying has a detectable fetal heartbeat as provided in
498 Section 41-41-34.1.

499 (17) Violation(s) of any provision of Title 41, Chapter
500 141, Mississippi Code of 1972.

501 In addition to the grounds specified above, the board shall
502 be authorized to suspend the license of any licensee for being out
503 of compliance with an order for support, as defined in Section
504 93-11-153. The procedure for suspension of a license for being
505 out of compliance with an order for support, and the procedure for



506 the reissuance or reinstatement of a license suspended for that
507 purpose, and the payment of any fees for the reissuance or
508 reinstatement of a license suspended for that purpose, shall be
509 governed by Section 93-11-157 or 93-11-163, as the case may be.
510 If there is any conflict between any provision of Section
511 93-11-157 or 93-11-163 and any provision of this chapter, the
512 provisions of Section 93-11-157 or 93-11-163, as the case may be,
513 shall control.

514 A physician who provides a written certification as
515 authorized under the Mississippi Medical Cannabis Act and in
516 compliance with rules and regulations adopted thereunder shall not
517 be subject to any disciplinary action under this section solely
518 due to providing the written certification.

519 **SECTION 9.** Section 97-3-97, Mississippi Code of 1972, is
520 brought forward as follows:

521 97-3-97. For purposes of Sections 97-3-95 through 97-3-103
522 the following words shall have the meaning ascribed herein unless
523 the context otherwise requires:

524 (a) "Sexual penetration" includes cunnilingus,
525 fellatio, buggery or pederasty, any penetration of the genital or
526 anal openings of another person's body by any part of a person's
527 body, and insertion of any object into the genital or anal
528 openings of another person's body.

529 (b) A "mentally defective person" is one who suffers
530 from a mental disease, defect or condition which renders that



531 person temporarily or permanently incapable of knowing the nature
532 and quality of his or her conduct.

533 (c) A "mentally incapacitated person" is one rendered
534 incapable of knowing or controlling his or her conduct, or
535 incapable of resisting an act due to the influence of any drug,
536 narcotic, anesthetic, or other substance administered to that
537 person without his or her consent.

538 (d) A "physically helpless person" is one who is
539 unconscious or one who for any other reason is physically
540 incapable of communicating an unwillingness to engage in an act.

541 **SECTION 10.** Section 97-3-101, Mississippi Code of 1972, is
542 brought forward as follows:

543 97-3-101. (1) Every person who shall be convicted of sexual
544 battery under Section 97-3-95(1) (a), (b) or (2) shall be
545 imprisoned in the State Penitentiary for a period of not more than
546 thirty (30) years, and for a second or subsequent such offense
547 shall be imprisoned in the Penitentiary for not more than forty
548 (40) years.

549 (2) (a) Every person who shall be convicted of sexual
550 battery under Section 97-3-95(1) (c) who is at least eighteen (18)
551 but under twenty-one (21) years of age shall be imprisoned for not
552 more than five (5) years in the State Penitentiary or fined not
553 more than Five Thousand Dollars (\$5,000.00), or both;

554 (b) Every person who shall be convicted of sexual
555 battery under Section 97-3-95(1) (c) who is twenty-one (21) years



556 of age or older shall be imprisoned not more than thirty (30)
557 years in the State Penitentiary or fined not more than Ten
558 Thousand Dollars (\$10,000.00), or both, for the first offense, and
559 not more than forty (40) years in the State Penitentiary for each
560 subsequent offense.

561 (3) Every person who shall be convicted of sexual battery
562 under Section 97-3-95(1)(d) who is eighteen (18) years of age or
563 older shall be imprisoned for life in the State Penitentiary or
564 such lesser term of imprisonment as the court may determine, but
565 not less than twenty (20) years.

566 (4) Every person who shall be convicted of sexual battery
567 who is thirteen (13) years of age or older but under eighteen (18)
568 years of age shall be sentenced to such imprisonment, fine or
569 other sentence as the court, in its discretion, may determine.

570 (5) (a) Upon conviction under this section, the court may
571 issue a criminal sexual assault protection order prohibiting the
572 offender from any contact with the victim, without regard to the
573 relationship between the victim and offender. The court may
574 include in a criminal sexual assault protection order any relief
575 available under Section 93-21-15. The term of a criminal sexual
576 assault protection order shall be for a time period determined by
577 the court, but all orders shall, at a minimum, remain in effect
578 for a period of two (2) years following the expiration of any
579 sentence of imprisonment and subsequent period of community
580 supervision, conditional release, probation, or parole. Upon



581 issuance of a criminal sexual assault protection order, the clerk
582 of the issuing court shall enter the order in the Mississippi
583 Protection Order Registry within twenty-four (24) hours of
584 issuance with no exceptions for weekends or holidays as provided
585 in Section 93-21-25, and a copy must be provided to both the
586 victim and offender.

587 (b) Criminal sexual assault protection orders shall be
588 issued on the standardized form developed by the Office of the
589 Attorney General.

590 (c) It is a misdemeanor to knowingly violate any
591 condition of a criminal sexual assault protection order. Upon
592 conviction for a violation, the defendant shall be punished by a
593 fine of not more than Five Hundred Dollars (\$500.00) or by
594 imprisonment in the county jail for not more than six (6) months,
595 or both. Any sentence imposed for the violation of a criminal
596 sexual assault protection order shall run consecutively to any
597 other sentences imposed on the offender. The court may extend the
598 criminal sexual assault protection order for a period of one (1)
599 year for each violation. The incarceration of a person at the
600 time of the violation is not a bar to prosecution under this
601 section. Nothing in this subsection shall be construed to
602 prohibit the imposition of any other penalties or disciplinary
603 action otherwise allowed by law or policy.

604 **SECTION 11.** In addition to any other immunity provided by
605 law, any person or entity who reports abuse, neglect and/or



606 commercial sexual exploitation or human trafficking or any other
607 form of sexual battery or rape regardless of when the incident
608 occurred or the age of the victim when the person or entity learns
609 of such, shall be presumed to be acting in good faith; and be
610 immune from civil and criminal liability arising from the act of
611 reporting that might otherwise be incurred for such reporting.

612 **SECTION 12.** (1) Any person who is listed as a mandatory
613 reporter or any other person or entity that learns in their
614 professional capacity that an adult was sexually, emotionally or
615 physically abused as a child by a person who is associated with
616 the mandatory reporter, the person or the entity shall report the
617 abuse.

618 (2) Any person who reports abuse as required by subsection
619 (1) of this section shall be immune from liability which may be
620 incurred by the act of reporting or disclosing confidential
621 information.

622 **SECTION 13.** Section 43-21-353, Mississippi Code of 1972, is
623 amended as follows:

624 43-21-353. (1) Any attorney, physician, dentist, intern,
625 resident, nurse, psychologist, social worker, family protection
626 worker, family protection specialist, child caregiver, minister,
627 law enforcement officer, public or private school employee or any
628 other person having reasonable cause to suspect that a child is a
629 neglected child, an abused child, or a victim of commercial sexual
630 exploitation or human trafficking shall cause an oral report to be



631 made immediately by telephone or otherwise and followed as soon
632 thereafter as possible by a report in writing to the Department of
633 Child Protection Services, and immediately a referral shall be
634 made by the Department of Child Protection Services to the youth
635 court intake unit, which unit shall promptly comply with Section
636 43-21-357. In the course of an investigation, at the initial time
637 of contact with the individual(s) about whom a report has been
638 made under this Youth Court Act or with the individual(s)
639 responsible for the health or welfare of a child about whom a
640 report has been made under this chapter, the Department of Child
641 Protection Services shall inform the individual of the specific
642 complaints or allegations made against the individual. Consistent
643 with subsection (4), the identity of the person who reported his
644 or her suspicion shall not be disclosed at that point. Where
645 appropriate, the Department of Child Protection Services shall
646 additionally make a referral to the youth court prosecutor.

647 Upon receiving a report that a child has been sexually
648 abused, is a victim of commercial sexual exploitation or human
649 trafficking or has been burned, tortured, mutilated or otherwise
650 physically abused in such a manner as to cause serious bodily
651 harm, or upon receiving any report of abuse that would be a felony
652 under state or federal law, the Department of Child Protection
653 Services shall immediately notify the law enforcement agency in
654 whose jurisdiction the abuse occurred. Within forty-eight (48)
655 hours, the department must notify the appropriate prosecutor and



656 the Statewide Human Trafficking Coordinator. The department shall
657 have the duty to provide the law enforcement agency all the names
658 and facts known at the time of the report; this duty shall be of a
659 continuing nature. The law enforcement agency and the department
660 shall investigate the reported abuse immediately and shall file a
661 preliminary report with the appropriate prosecutor's office within
662 twenty-four (24) hours and shall make additional reports as new or
663 additional information or evidence becomes available. The
664 department shall advise the clerk of the youth court and the youth
665 court prosecutor of all cases of abuse reported to the department
666 within seventy-two (72) hours and shall update such report as
667 information becomes available. In addition, if the Department of
668 Child Protection Services determines that a parent or other person
669 responsible for the care or welfare of an abused or neglected
670 child maintains active duty status within the military, the
671 department shall notify the applicable military installation
672 family advocacy program that there is an allegation of abuse or
673 neglect that relates to that child.

674 (2) Any report shall contain the names and addresses of the
675 child and his parents or other persons responsible for his care,
676 if known, the child's age, the nature and extent of the child's
677 injuries, including any evidence of previous injuries, any other
678 information that might be helpful in establishing the cause of the
679 injury, and the identity of the perpetrator.



680 (3) The Department of Child Protection Services shall
681 maintain a statewide incoming wide-area telephone service or
682 similar service for the purpose of receiving reports of suspected
683 cases of child abuse, commercial sexual exploitation or human
684 trafficking; provided that any attorney, physician, dentist,
685 intern, resident, nurse, psychologist, social worker, family
686 protection worker, family protection specialist, child caregiver,
687 minister, law enforcement officer or public or private school
688 employee who is required to report under subsection (1) of this
689 section shall report in the manner required in subsection (1).

690 (4) Reports of abuse, neglect and commercial sexual
691 exploitation or human trafficking made under this chapter and the
692 identity of the reporter are confidential except when the court in
693 which the investigation report is filed, in its discretion,
694 determines the testimony of the person reporting to be material to
695 a judicial proceeding or when the identity of the reporter is
696 released to law enforcement agencies and the appropriate
697 prosecutor pursuant to subsection (1). Reports made under this
698 section to any law enforcement agency or prosecutorial officer are
699 for the purpose of criminal investigation and prosecution only and
700 no information from these reports may be released to the public
701 except as provided by Section 43-21-261. Disclosure of any
702 information by the prosecutor shall be according to the
703 Mississippi Uniform Rules of Circuit and County Court Procedure.
704 The identity of the reporting party shall not be disclosed to



705 anyone other than law enforcement officers or prosecutors without
706 an order from the appropriate youth court. Any person disclosing
707 any reports made under this section in a manner not expressly
708 provided for in this section or Section 43-21-261 shall be guilty
709 of a misdemeanor and subject to the penalties prescribed by
710 Section 43-21-267. Notwithstanding the confidentiality of the
711 reporter's identity under this section, the Department of Child
712 Protection Services may disclose a reporter's identity to the
713 appropriate law enforcement agency or prosecutor if the department
714 has reason to suspect the reporter has made a fraudulent report,
715 and the Department of Child Protection Services must provide to
716 the subject of the alleged fraudulent report written notification
717 of the disclosure.

718 (5) All final dispositions of law enforcement investigations
719 described in subsection (1) of this section shall be determined
720 only by the appropriate prosecutor or court. All final
721 dispositions of investigations by the Department of Child
722 Protection Services as described in subsection (1) of this section
723 shall be determined only by the youth court. Reports made under
724 subsection (1) of this section by the Department of Child
725 Protection Services to the law enforcement agency and to the
726 district attorney's office shall include the following, if known
727 to the department:

- 728 (a) The name and address of the child;
- 729 (b) The names and addresses of the parents;



730 (c) The name and address of the suspected perpetrator;

731 (d) The names and addresses of all witnesses, including
732 the reporting party if a material witness to the abuse;

733 (e) A brief statement of the facts indicating that the
734 child has been abused, including whether the child experienced
735 commercial sexual exploitation or human trafficking, and any other
736 information from the agency files or known to the family
737 protection worker or family protection specialist making the
738 investigation, including medical records or other records, which
739 may assist law enforcement or the district attorney in
740 investigating and/or prosecuting the case; and

741 (f) What, if any, action is being taken by the
742 Department of Child Protection Services.

743 (6) In any investigation of a report made under this chapter
744 of the abuse or neglect of a child as defined in Section
745 43-21-105(1) or (m), the Department of Child Protection Services
746 may request the appropriate law enforcement officer with
747 jurisdiction to accompany the department in its investigation, and
748 in such cases the law enforcement officer shall comply with such
749 request.

750 (7) Anyone who willfully violates any provision of this
751 section shall be, upon being found guilty, punished by a fine not
752 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
753 jail not to exceed one (1) year, or both.



754 (8) If a report is made directly to the Department of Child
755 Protection Services that a child has been abused or neglected or
756 experienced commercial sexual exploitation or human trafficking in
757 an out-of-home setting, a referral shall be made immediately to
758 the law enforcement agency in whose jurisdiction the abuse
759 occurred and the department shall notify the district attorney's
760 office and the Statewide Human Trafficking Coordinator within
761 forty-eight (48) hours of such report. The Department of Child
762 Protection Services shall investigate the out-of-home setting
763 report of abuse or neglect to determine whether the child who is
764 the subject of the report, or other children in the same
765 environment, comes within the jurisdiction of the youth court and
766 shall report to the youth court the department's findings and
767 recommendation as to whether the child who is the subject of the
768 report or other children in the same environment require the
769 protection of the youth court. The law enforcement agency shall
770 investigate the reported abuse immediately and shall file a
771 preliminary report with the district attorney's office within
772 forty-eight (48) hours and shall make additional reports as new
773 information or evidence becomes available. If the out-of-home
774 setting is a licensed facility, an additional referral shall be
775 made by the Department of Child Protection Services to the
776 licensing agency. The licensing agency shall investigate the
777 report and shall provide the department, the law enforcement
778 agency and the district attorney's office with their written



779 findings from such investigation as well as that licensing
780 agency's recommendations and actions taken.

781 (9) If a child protective investigation does not result in
782 an out-of-home placement, a child protective investigator must
783 provide information to the parent or guardians about community
784 service programs that provide respite care, counseling and support
785 for children who have experienced commercial sexual exploitation
786 or human trafficking, voluntary guardianship or other support
787 services for families in crisis.

788 (10) Any person or entity who reports abuse, neglect and/or
789 commercial sexual exploitation or human trafficking under this
790 chapter is presumed to be acting in good faith. Any person or
791 institution reporting in good faith shall be immune from civil and
792 criminal liability that might otherwise be incurred.

793 **SECTION 14.** Section 97-3-54.1, Mississippi Code of 1972, is
794 amended as follows:

795 97-3-54.1. (1) (a) A person who coerces, recruits,
796 entices, harbors, transports, provides or obtains by any means, or
797 attempts to coerce, recruit, entice, harbor, transport, provide or
798 obtain by any means, another person, intending or knowing that the
799 person will be subjected to forced labor or services, or who
800 benefits, whether financially or by receiving anything of value
801 from participating in an enterprise that he knows or reasonably
802 should have known has engaged in such acts, shall be guilty of the
803 crime of human trafficking.



804 (b) A person who knowingly purchases the forced labor
805 or services of a trafficked person or who otherwise knowingly
806 subjects, or attempts to subject, another person to forced labor
807 or services or who benefits, whether financially or by receiving
808 anything of value from participating in an enterprise that he
809 knows or reasonably should have known has engaged in such acts,
810 shall be guilty of the crime of procuring involuntary servitude.

811 (c) A person who knowingly subjects, or attempts to
812 subject, or who recruits, entices, harbors, transports, provides
813 or obtains by any means, or attempts to recruit, entice, harbor,
814 transport, provide or obtain by any means, a minor, knowing that
815 the minor will engage in commercial sexual activity, sexually
816 explicit performance, or the production of sexually oriented
817 material, or causes or attempts to cause a minor to engage in
818 commercial sexual activity, sexually explicit performance, or the
819 production of sexually oriented material, shall be guilty of
820 procuring sexual servitude of a minor and shall be punished by
821 commitment to the custody of the Department of Corrections for not
822 less than twenty (20) years nor more than life in prison, or by a
823 fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more
824 than Five Hundred Thousand Dollars (\$500,000.00), or both. It is
825 not a defense in a prosecution under this section that a minor
826 consented to engage in the commercial sexual activity, sexually
827 explicit performance, or the production of sexually oriented



828 material, or that the defendant reasonably believed that the minor
829 was eighteen (18) years of age or older.

830 (2) If the victim is not a minor, a person who is convicted
831 of an offense set forth in subsection (1)(a) or (b) of this
832 section shall be committed to the custody of the Department of
833 Corrections for not less than two (2) years nor more than twenty
834 (20) years, or by a fine of not less than Ten Thousand Dollars
835 (\$10,000.00) nor more than One Hundred Thousand Dollars
836 (\$100,000.00), or both. If the victim of the offense is a minor,
837 a person who is convicted of an offense set forth in subsection
838 (1)(a) or (b) of this section shall be committed to the custody of
839 the Department of Corrections for not less than twenty (20) years
840 nor more than life in prison, or by a fine of not less than Twenty
841 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand
842 Dollars (\$100,000.00), or both.

843 (3) An enterprise may be prosecuted for an offense under
844 this chapter if:

845 (a) An agent of the enterprise knowingly engages in
846 conduct that constitutes an offense under this chapter while
847 acting within the scope of employment and for the benefit of the
848 entity.

849 (b) An employee of the enterprise engages in conduct
850 that constitutes an offense under this chapter and the commission
851 of the offense was part of a pattern of illegal activity for the
852 benefit of the enterprise, which an agent of the enterprise either



853 knew was occurring or recklessly disregarded, and the agent failed
854 to take effective action to stop the illegal activity.

855 (c) It is an affirmative defense to a prosecution of an
856 enterprise that the enterprise had in place adequate procedures,
857 including an effective complaint procedure, designed to prevent
858 persons associated with the enterprise from engaging in the
859 unlawful conduct and to promptly correct any violations of this
860 chapter.

861 (d) The court may consider the severity of the
862 enterprise's offense and order penalties, including: (i) a fine
863 of not more than One Million Dollars (\$1,000,000.00); (ii)
864 disgorgement of profit; and (iii) debarment from government
865 contracts. Additionally, the court may order any of the relief
866 provided in Section 97-3-54.7.

867 (4) In addition to the mandatory reporting provisions
868 contained in Sections 43-21-353 and 97-5-51, any person who has
869 reasonable cause to suspect that a minor under the age of eighteen
870 (18) is a trafficked person shall immediately make a report of the
871 suspected child abuse or neglect to the Department of Child
872 Protection Services and to the Statewide Human Trafficking
873 Coordinator. The Department of Child Protection Services or the
874 Statewide Human Trafficking Coordinator, whichever is applicable,
875 shall then immediately notify the law enforcement agency in the
876 jurisdiction where the suspected child abuse, neglect or
877 trafficking occurred as required in Section 43-21-353, and the



878 department that received the report shall also commence an initial
879 investigation into the suspected abuse or neglect as required in
880 Section 43-21-353. The department that received such report shall
881 provide an annual report to the Speaker of the Mississippi House
882 of Representatives, the Lieutenant Governor, the Chairpersons of
883 the House and Senate Judiciary Committees that includes the number
884 of reports received, the number of cases screened in or out, the
885 number of cases in which care and services were provided as a
886 result of the report, and the type of care and services that were
887 provided. A minor who has been identified as a victim of
888 trafficking shall not be liable for criminal activity in violation
889 of this section. Any person or entity who reports abuse, neglect
890 and/or commercial sexual exploitation or human trafficking under
891 this chapter is presumed to be acting in good faith. Any person
892 or institution reporting in good faith shall be immune from civil
893 and criminal liability that might otherwise be incurred from such
894 reporting.

895 (5) It is an affirmative defense in a prosecution under this
896 act that the defendant:

897 (a) Is a victim; and

898 (b) Committed the offense under a reasonable
899 apprehension created by a person that, if the defendant did not
900 commit the act, the person would inflict serious harm on the
901 defendant, a member of the defendant's family, or a close
902 associate.



903 **SECTION 15.** Section 97-5-51, Mississippi Code of 1972, is
904 brought forward as follows:

905 97-5-51. (1) **Definitions.** For the purposes of this
906 section:

907 (a) "Sex crime against a minor" means any offense under
908 at least one (1) of the following statutes when committed by an
909 adult against a minor who is under the age of sixteen (16):

910 (i) Section 97-3-65 relating to rape;

911 (ii) Section 97-3-71 relating to rape and assault
912 with intent to ravish;

913 (iii) Section 97-3-95 relating to sexual battery;

914 (iv) Section 97-5-23 relating to the touching of a
915 child, mentally defective or incapacitated person or physically
916 helpless person for lustful purposes;

917 (v) Section 97-5-41 relating to the carnal
918 knowledge of a stepchild, adopted child or child of a cohabiting
919 partner;

920 (vi) Section 97-5-33 relating to exploitation of
921 children;

922 (vii) Section 97-3-54.1(1)(c) relating to
923 procuring sexual servitude of a minor;

924 (viii) Section 43-47-18 relating to sexual abuse
925 of a vulnerable person;

926 (ix) Section 97-1-7 relating to the attempt to
927 commit any of the offenses listed in this subsection;



928 (x) Section 97-29-51 relating to procuring sexual
929 services of a minor; and

930 (xi) Section 43-47-18 and Section 43-47-19
931 relating to sexual battery abuse of a vulnerable person who is a
932 minor.

933 (b) "Mandatory reporter" means any of the following
934 individuals performing their occupational duties: health care
935 practitioner, clergy member, teaching or child care provider, law
936 enforcement officer, or commercial image processor.

937 (c) "Health care practitioner" means any individual who
938 provides health care services, including a physician, surgeon,
939 physical therapist, psychiatrist, psychologist, medical resident,
940 medical intern, hospital staff member, licensed nurse, midwife and
941 emergency medical technician or paramedic.

942 (d) "Clergy member" means any priest, rabbi or duly
943 ordained deacon or minister.

944 (e) "Teaching or child care provider" means anyone who
945 provides training or supervision of a minor under the age of
946 sixteen (16), including a teacher, teacher's aide, principal or
947 staff member of a public or private school, social worker,
948 probation officer, foster home parent, group home or other child
949 care institutional staff member, personnel of residential home
950 facilities, a licensed or unlicensed day care provider.

951 (f) "Commercial image processor" means any person who,
952 for compensation: (i) develops exposed photographic film into



953 negatives, slides or prints; (ii) makes prints from negatives or
954 slides; or (iii) processes or stores digital media or images from
955 any digital process, including, but not limited to, website
956 applications, photography, live streaming of video, posting,
957 creation of power points or any other means of intellectual
958 property communication or media including conversion or
959 manipulation of still shots or video into a digital show stored on
960 a photography site or a media storage site.

961 (g) "Caretaker" means any person legally obligated to
962 provide or secure adequate care for a minor under the age of
963 sixteen (16), including a parent, guardian, tutor, legal custodian
964 or foster home parent.

965 (2) (a) **Mandatory reporter requirement.** A mandatory
966 reporter shall make a report if it would be reasonable for the
967 mandatory reporter to suspect that a sex crime against a minor has
968 occurred.

969 (b) Failure to file a mandatory report shall be
970 punished as provided in this section.

971 (c) Reports made under this section and the identity of
972 the mandatory reporter are confidential except when the court
973 determines the testimony of the person reporting to be material to
974 a judicial proceeding or when the identity of the reporter is
975 released to law enforcement agencies and the appropriate
976 prosecutor. The identity of the reporting party shall not be
977 disclosed to anyone other than law enforcement or prosecutors



978 except under court order; violation of this requirement is a
979 misdemeanor. Reports made under this section are for the purpose
980 of criminal investigation and prosecution only and information
981 from these reports is not a public record. Disclosure of any
982 information by the prosecutor shall conform to the Mississippi
983 Uniform Rules of Circuit and County Court Procedure.

984 (d) Any mandatory reporter who makes a required report
985 under this section or participates in a judicial proceeding
986 resulting from a mandatory report shall be presumed to be acting
987 in good faith. Any person or institution reporting in good faith
988 shall be immune from any liability, civil or criminal, that might
989 otherwise be incurred or imposed.

990 (3) (a) **Mandatory reporting procedure.** A report required
991 under subsection (2) must be made immediately to the law
992 enforcement agency in whose jurisdiction the reporter believes the
993 sex crime against the minor occurred. Except as otherwise
994 provided in this subsection (3), a mandatory reporter may not
995 delegate to any other person the responsibility to report, but
996 shall make the report personally.

997 (i) The reporting requirement under this
998 subsection (3) is satisfied if a mandatory reporter in good faith
999 reports a suspected sex crime against a minor to the Department of
1000 Child Protection Services under Section 43-21-353.

1001 (ii) The reporting requirement under this
1002 subsection (3) is satisfied if a mandatory reporter reports a



1003 suspected sex crime against a minor by following a reporting
1004 procedure that is imposed:

1005 1. By state agency rule as part of licensure
1006 of any person or entity holding a state license to provide
1007 services that include the treatment or education of abused or
1008 neglected children; or

1009 2. By statute.

1010 (b) **Contents of the report.** The report shall identify,
1011 to the extent known to the reporter, the following:

1012 (i) The name and address of the minor victim;

1013 (ii) The name and address of the minor's
1014 caretaker;

1015 (iii) Any other pertinent information known to the
1016 reporter.

1017 (4) A law enforcement officer who receives a mandated report
1018 under this section shall file an affidavit against the offender on
1019 behalf of the State of Mississippi if there is probable cause to
1020 believe that the offender has committed a sex crime against a
1021 minor.

1022 (5) **Collection of forensic samples.** (a) (i) When an
1023 abortion is performed on a minor who is less than fourteen (14)
1024 years of age at the time of the abortion procedure, fetal tissue
1025 extracted during the abortion shall be collected in accordance
1026 with rules and regulations adopted pursuant to this section if it



1027 would be reasonable to suspect that the pregnancy being terminated
1028 is the result of a sex crime against a minor.

1029 (ii) When a minor who is under sixteen (16) years
1030 of age gives birth to an infant, umbilical cord blood shall be
1031 collected, if possible, in accordance with rules and regulations
1032 adopted pursuant to this section if it would be reasonable to
1033 suspect that the minor's pregnancy resulted from a sex crime
1034 against a minor.

1035 (iii) It shall be reasonable to suspect that a sex
1036 crime against a minor has occurred if the mother of an infant was
1037 less than sixteen (16) years of age at the time of conception and
1038 at least one (1) of the following conditions also applies:

1039 1. The mother of the infant will not identify
1040 the father of the infant;

1041 2. The mother of the infant lists the father
1042 of the infant as unknown;

1043 3. The person the mother identifies as the
1044 father of the infant disputes his fatherhood;

1045 4. The person the mother identifies as the
1046 father of the infant is twenty-one (21) years of age or older; or

1047 5. The person the mother identifies as the
1048 father is deceased.

1049 (b) The State Medical Examiner shall adopt rules and
1050 regulations consistent with Section 99-49-1 that prescribe:



1051 (i) The amount and type of fetal tissue or
1052 umbilical cord blood to be collected pursuant to this section;
1053 (ii) Procedures for the proper preservation of the
1054 tissue or blood for the purpose of DNA testing and examination;
1055 (iii) Procedures for documenting the chain of
1056 custody of such tissue or blood for use as evidence;
1057 (iv) Procedures for proper disposal of fetal
1058 tissue or umbilical cord blood collected pursuant to this section;
1059 (v) A uniform reporting instrument mandated to be
1060 utilized, which shall include the complete residence address and
1061 name of the parent or legal guardian of the minor who is the
1062 subject of the report required under this subsection (5); and
1063 (vi) Procedures for communication with law
1064 enforcement agencies regarding evidence and information obtained
1065 pursuant to this section.

1066 (6) **Penalties.** (a) A person who is convicted of a first
1067 offense under this section shall be guilty of a misdemeanor and
1068 fined not more than Five Hundred Dollars (\$500.00).

1069 (b) A person who is convicted of a second offense under
1070 this section shall be guilty of a misdemeanor and fined not more
1071 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
1072 than thirty (30) days, or both.

1073 (c) A person who is convicted of a third or subsequent
1074 offense under this section shall be guilty of a misdemeanor and



1075 fined not more than Five Thousand Dollars (\$5,000.00), or
1076 imprisoned for not more than one (1) year, or both.

1077 (7) A health care practitioner or health care facility shall
1078 be immune from any penalty, civil or criminal, for good-faith
1079 compliance with any rules and regulations adopted pursuant to this
1080 section."

1081

1082

1083 **AMEND FURTHER THE TITLE AS FOLLOWS:**

1084 "TO CREATE NEW SECTION 97-3-102, MISSISSIPPI CODE OF 1972, TO
1085 PROVIDE A CRIME FOR A THERAPIST WHO ENGAGES IN SEXUAL CONTACT WITH
1086 A PATIENT; TO AMEND SECTION 97-3-95, MISSISSIPPI CODE OF 1972, TO
1087 INCLUDE THE TERM "THERAPIST" IN THE PROVISION OF LAW THAT
1088 REGULATES THE CRIME OF SEXUAL BATTERY; TO AMEND SECTION 73-54-29,
1089 MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN SEXUAL CONTACT WITH A
1090 PATIENT TO THE GROUNDS FOR DISCIPLINARY ACTION OF MARRIAGE AND
1091 FAMILY THERAPISTS; TO AMEND SECTION 73-53-17, MISSISSIPPI CODE OF
1092 1972, TO ADD ENGAGING IN SEXUAL CONTACT WITH A PATIENT TO THE
1093 GROUNDS FOR DISCIPLINARY ACTION OF SOCIAL WORKERS; TO AMEND
1094 SECTION 73-30-21, MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN
1095 SEXUAL CONTACT WITH A PATIENT TO THE GROUNDS FOR DISCIPLINARY
1096 ACTION OF LICENSED PROFESSIONAL COUNSELORS; TO AMEND SECTION
1097 73-31-21, MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN SEXUAL
1098 CONTACT WITH A PATIENT TO THE GROUNDS FOR DISCIPLINARY ACTION OF



1099 PSYCHOLOGISTS; TO AMEND SECTION 73-25-29, MISSISSIPPI CODE OF
1100 1972, TO ADD ENGAGING IN SEXUAL CONTACT WITH A PATIENT TO THE
1101 GROUNDS FOR DISCIPLINARY ACTION OF PHYSICIANS; TO BRING FORWARD
1102 SECTION 97-3-97, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
1103 DEFINITIONS FOR THE CRIME OF SEXUAL BATTERY; TO BRING FORWARD
1104 SECTION 97-3-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE
1105 PENALTIES FOR THE CRIME OF SEXUAL BATTERY; TO PROVIDE ADDITIONAL
1106 IMMUNITY FOR ANY PERSON WHO, IN GOOD FAITH, REPORTS ABUSE, NEGLECT
1107 OR COMMERCIAL SEXUAL EXPLOITATION; TO REQUIRE ANY PERSON OR ENTITY
1108 WHO LEARNS THAT AN ADULT WAS ABUSED AS A CHILD BY A PERSON WHO WAS
1109 OR IS ASSOCIATED WITH THE PERSON OR ENTITY; TO PROVIDE IMMUNITY TO
1110 SUCH PERSON FOR REPORTING; TO AMEND SECTIONS 43-21-353 AND
1111 97-3-54.1, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY FOR THE
1112 REPORTER OF SEXUAL ABUSE WHICH MAY BE INCURRED AS A RESULT OF
1113 REPORTING; TO BRING FORWARD SECTION 97-5-51, MISSISSIPPI CODE OF
1114 1972, WHICH PROVIDES FOR MANDATORY REPORTING, FOR PURPOSES OF
1115 AMENDMENT;"

