

## **Senate Amendments to House Bill No. 1308**

**TO THE CLERK OF THE HOUSE:**

**THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:**

### **AMENDMENT NO. 1**

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

45       **SECTION 1.** The following shall be codified as Section  
46       97-5-32, Mississippi Code of 1972:

47       97-5-32. (1) As used in this section, the following terms  
48       shall have the meanings herein ascribed:

49               (a) "Electronic device" means any device used for the  
50       purpose of communicating with a child for sexual purposes or any  
51       device used to visually depict a child engaged in sexually  
52       explicit conduct, store any image or audio of a child engaged in  
53       sexually explicit conduct, or transmit any audio or visual image  
54       of a child for sexual purposes. Such term may include, but shall  
55       not be limited to, a computer, cellular phone, thumb drive, video  
56       game system, or any other electronic device that can be used in  
57       furtherance of exploiting a child for sexual purposes.

58               (b) "Pattern of conduct or communication" means a  
59       pattern of conduct or communication that would cause a reasonable  
60       adult person to believe that the person is communicating with a  
61       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 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

87 conduct or human trafficking or to procure the sexual servitude of  
88 a child.

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

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

101 (ii) A person in a position of trust or authority  
102 over a child includes, without limitation, a child's teacher,  
103 counselor, physician, psychiatrist, psychologist, minister,  
104 priest, physical therapist, chiropractor, legal guardian, parent,  
105 stepparent, aunt, uncle, scout leader, or coach.

106 (c) Any person who commits a subsequent offense under  
107 this section or any person that is a sex offender with a duty to  
108 register under Section 45-33-25 who commits an initial offense  
109 under this section shall be guilty of a felony, and upon  
110 conviction thereof, be imprisoned in the custody of the Department  
111 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 in sexually explicit conduct or in the simulation of sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

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

(3) No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any

187 photograph, drawing, sketch, film, video tape or other visual  
188 depiction of an actual child engaging in sexually explicit  
189 conduct.

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

195 (5) No person shall, by any means, including computer,  
196 knowingly possess or knowingly access with intent to view any  
197 photograph, drawing, sketch, film, video tape or other visual  
198 depiction of an actual child engaging in sexually explicit  
199 conduct.

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

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

208 (8) The fact that an undercover operative or law enforcement  
209 officer posed as a child or was involved in any other manner in  
210 the detection and investigation of an offense under this section  
211 shall not constitute a defense to a prosecution under this  
212 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.** (1) (a) Each public school district, public charter school and agricultural high school, the Mississippi Schools for the Deaf and the Blind, the Mississippi School of the Arts, and the Mississippi School for Mathematics and Science shall, no later than January 1, 2026, adopt and send to the State Department of Education a specific policy banning the possession, or restricting the use, of cell phones by students during class or while under the supervision and control of a school employee. The State Department of Education shall retain a copy of the policy on file.

(b) If a school or school district fails to adopt and transmit a policy as required in this subsection, the State Department of Education shall deduct one (1) day's worth of the school's or district's funds under the total funding formula for each day after January 1, 2026, that the school or district is noncompliant.

(2) In developing and adopting a policy under this section, a school or district may include exceptions to allow a student to possess or use a cell phone under any of the following circumstances:

(a) In the case of an emergency, or in response to a perceived threat of danger;

(b) When a licensed advanced practice registered nurse, physician or surgeon determines that the possession or use of a cell phone is medically necessary for the health or well-being of the student; or

(c) When the possession or use of a cell phone is required in a student's individualized education program.

(3) Students may be suspended or expelled from attendance at school for sufficient cause; however, in no case may sufficient cause for suspension or expulsion consist of only a violation of the cell phone possession and use policy developed and implemented under this section, except that suspension may be used as a disciplinary measure of last resort.

**SECTION 9.** (1) For the purposes of Sections 9 through 14 of this act, the following words shall have the meaning herein ascribed unless the context clearly requires otherwise:

(a) "Audio" means the transmission, reception or reproduction of sound.

(b) "Digitization" means to alter an image or audio in a realistic manner utilizing images or audio of a person, other than the person depicted, or utilizing computer-generated images or audio. "Digitization" includes the creation of an image or audio through the use of software, machine learning, artificial intelligence or any other computer-generated or technological means.

316 (c) "Disseminate" means to give, provide, lend,  
317 deliver, mail, send, forward, transfer or transmit, electronically  
318 or otherwise to another person.

319 (d) "Intimate part" means the naked genitals, pubic  
320 area, anus or female nipple of the person.

321 (e) "Image" means a still image or a video image with  
322 or without audio.

323 (f) "Publish" means to:

324 (i) Disseminate, as defined in paragraph (c) of  
325 this subsection, with the intent that such image or images be  
326 disseminated to ten (10) or more persons;

327 (ii) Disseminate with the intent that such images  
328 be sold by another person;

329 (iii) Post, present, display, exhibit, circulate,  
330 advertise or allow access, electronically or otherwise, so as to  
331 make an image or images available to the public; or

332 (iv) Disseminate with the intent that an image or  
333 images be posted, presented, displayed, exhibited, circulated,  
334 advertised or made accessible, electronically or otherwise and to  
335 make such image or images available to the public.

336 (g) "Sexual conduct" means sexual intercourse, oral  
337 sexual conduct, anal sexual conduct, or sexual contact.

338 (h) "Sexual contact" means any touching of the sexual  
339 or other intimate parts of a person for the purpose of gratifying  
340 sexual desire of either party. It includes the touching of the  
341 actor by the victim, as well as the touching of the victim by the

actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.

**SECTION 10.** (1) A person is guilty of unlawful dissemination or publication of an intimate image or audio created or altered by digitization when:

(a) With intent to cause harm to the emotional, financial or physical welfare of another person, he or she intentionally disseminates or publishes an image or audio created or altered by digitization depicting such other person with one or more intimate parts exposed or engaging in sexual conduct with another person, where such person may reasonably be identified from the image or audio itself or from information displayed in connection with the image or audio; and

(b) The actor knew or reasonably should have known that the person depicted did not consent to such dissemination or publication, including the dissemination or publication of an image or audio recording taken with the consent of the person depicted when such person had a reasonable expectation that the image or audio recording taken would remain private, regardless of whether the actor was present when such image or audio recording was taken.

(2) (a) Except as provided in paragraph (c) of this subsection, a person convicted of an offense under this section who was over the age of twenty-one (21) at the time of the offense shall be guilty of a felony and, upon conviction, shall be

368 punished as provided in Section 97-29-63 for the offense of  
369 photographing or filming another without permission where there is  
370 an expectation of privacy.

371 (b) Except as provided in paragraph (c) of this  
372 subsection, a person convicted of an offense under this section  
373 who was under the age of twenty-one (21) at the time of the  
374 offense shall be guilty of a misdemeanor and, upon conviction,  
375 shall be punished by a fine of not more than Two Thousand Five  
376 Hundred Dollars (\$2,500.00) or by imprisonment for not more than  
377 one (1) year, or both.

378 (c) Any person who is convicted under this section of a  
379 second or subsequent offense which arises from a separate nucleus  
380 of operative fact, at least thirty (30) days after the previous  
381 offense, shall be guilty of a felony and shall be punished by up  
382 to twice the penalty provided by this subsection.

383 **SECTION 11.** (1) A person is guilty of unlawful  
384 dissemination or publication of an image or audio created or  
385 altered by digitization when:

386 (a) With intent to cause harm to the emotional,  
387 financial or physical welfare of another person, he or she  
388 intentionally disseminates or publishes an image or audio created  
389 or altered by digitization depicting such other person where such  
390 person may reasonably be identified from the image or audio itself  
391 or from information displayed in connection with the image; and

(b) The actor knew or reasonably should have known that the person depicted did not consent to such dissemination or publication.

(2) A person convicted of an offense under subsection (4) of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00) or by imprisonment for not more than one (1) year, or both.

**SECTION 12.** (1) A person commits an offense under this section if the person threatens to commit a criminal offense prohibited under Section 10 or Section 11 of this act to obtain a benefit:

(a) In return for not making the publication or dissemination; or

(b) In connection with the threatened publication or dissemination.

(2) A person committing an offense under this section shall be subject to the criminal penalties criminal offense that was threatened as provided in either Section 10 or Section 11 of this act.

**SECTION 13.** The criminal offenses and penalties authorized by this act shall be in addition to any other criminal offenses and penalties authorized by law.

**SECTION 14.** Sections 9 through 14 of this act shall not apply to the following:

(a) The reporting of unlawful conduct;

(b) Dissemination or publication of an intimate image, image or audio made during lawful and common practices of law enforcement, legal proceedings or medical treatment;

(c) An intimate image, image or audio involving voluntary exposure in a public or commercial setting;

(d) Dissemination or publication of an intimate image, image or audio made for a legitimate public purpose; or

(e) An internet service provider, or its affiliates or subsidiaries, search engine, or cloud service provider solely 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 the control of that provider, including transmission, downloading, intermediate storage, access software or other related capabilities.

**SECTION 15.** This act shall take effect and be in force from and after July 1, 2025.

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

AN ACT TO CREATE NEW SECTION 97-5-32, MISSISSIPPI CODE OF 1972, TO CREATE THE CRIME OF GROOMING OF A CHILD; TO DEFINE TERMS; TO PROVIDE CRIMINAL PENALTIES FOR VIOLATIONS; TO AMEND SECTION 97-5-31, MISSISSIPPI CODE OF 1972, TO REMOVE THE DEFINITION OF IDENTIFIABLE CHILD AND TO REMOVE IDENTIFIABLE CHILD IN THE DEFINITION OF CHILD AND MORPHED IMAGES; TO BRING FORWARD SECTIONS 97-5-33, 97-5-35 AND 97-5-37, MISSISSIPPI CODE OF 1972, WHICH ARE THE PROVISIONS THAT PROVIDE FOR THE OFFENSE OF EXPLOITATION OF A CHILD, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTIONS 97-5-5 AND 97-5-7, MISSISSIPPI CODE OF 1972, WHICH ARE THE PROVISIONS THAT PROVIDE FOR THE OFFENSES OF ENTICING A CHILD, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO REQUIRE EACH PUBLIC SCHOOL DISTRICT, PUBLIC CHARTER SCHOOL AND AGRICULTURAL HIGH SCHOOL, AND CERTAIN STATE HIGH SCHOOLS, TO ADOPT AND SEND TO THE



15 STATE DEPARTMENT OF EDUCATION, NO LATER THAN JANUARY 1, 2026, A  
16 SPECIFIC POLICY BANNING THE POSSESSION, OR RESTRICTING THE USE, OF  
17 CELL PHONES BY STUDENTS DURING CLASS OR WHILE UNDER THE  
18 SUPERVISION AND CONTROL OF A SCHOOL EMPLOYEE; TO PROVIDE THAT, IF  
19 A SCHOOL OR SCHOOL DISTRICT FAILS TO ADOPT AND TRANSMIT A POLICY  
20 AS REQUIRED, THE STATE DEPARTMENT OF EDUCATION SHALL DEDUCT ONE  
21 DAY'S WORTH OF THE SCHOOL'S OR DISTRICT'S FUNDS UNDER THE TOTAL  
22 FUNDING FORMULA FOR EACH DAY AFTER JANUARY 1, 2026, THAT THE  
23 SCHOOL OR DISTRICT IS NONCOMPLIANT; TO PROVIDE FOR POTENTIAL  
24 EXCEPTIONS WHICH ALLOW STUDENTS TO POSSESS OR USE CELL PHONES  
25 UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT SUFFICIENT CAUSE FOR  
26 SUSPENSION OR EXPULSION MAY NOT CONSIST OF ONLY A VIOLATION OF THE  
27 CELL PHONE POSSESSION AND USE POLICY DEVELOPED AND IMPLEMENTED  
28 UNDER THIS ACT, EXCEPT THAT SUSPENSION MAY BE USED AS A  
29 DISCIPLINARY MEASURE OF LAST RESORT; TO CRIMINALIZE THE UNLAWFUL  
30 DISSEMINATION OR PUBLICATION OF AN INTIMATE OR NONINTIMATE IMAGE  
31 OR AUDIO CREATED OR ALTERED BY DIGITIZATION WHERE THE IMAGE OR  
32 AUDIO IS DISSEMINATED OR PUBLISHED WITH INTENT TO CAUSE HARM TO  
33 THE EMOTIONAL, FINANCIAL OR PHYSICAL WELFARE OF ANOTHER PERSON AND  
34 THE ACTOR KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE PERSON  
35 DEPICTED DID NOT CONSENT TO SUCH DISSEMINATION OR PUBLICATION; TO  
36 DEFINE TERMS; TO PROVIDE THAT THE CRIMES INCLUDE THE USE OF IMAGES  
37 OR AUDIO CREATED OR ALTERED BY DIGITIZATION, WHERE SUCH PERSON MAY  
38 REASONABLY BE IDENTIFIED FROM THE IMAGE OR AUDIO ITSELF OR FROM  
39 INFORMATION DISPLAYED IN CONNECTION WITH THE IMAGE OR AUDIO; TO  
40 CRIMINALIZE A PERSON FOR THREATENING TO COMMIT A CRIMINAL OFFENSE  
41 IN ORDER TO OBTAIN CERTAIN BENEFITS; TO PROVIDE CRIMINAL  
42 PENALTIES; TO PROVIDE CERTAIN EXCEPTIONS TO THE CRIME; AND FOR  
43 RELATED PURPOSES.

SS26\HB1308PS.J

Amanda White  
Secretary of the Senate