

**Adopted
AMENDMENT NO 1 TO COMMITTEE AMENDMENT NO 1 PROPOSED
TO**

House Bill No. 1308

BY: Senator(s) Fillingane

1 **AMEND by inserting the following after line 238 and**
2 **renumbering subsequent section(s) accordingly:**

3 **SECTION 8.** (1) (a) Each public school district, public
4 charter school and agricultural high school, the Mississippi
5 Schools for the Deaf and the Blind, the Mississippi School of the
6 Arts, and the Mississippi School for Mathematics and Science
7 shall, no later than January 1, 2026, adopt and send to the State
8 Department of Education a specific policy banning the possession,
9 or restricting the use, of cell phones by students during class or
10 while under the supervision and control of a school employee. The
11 State Department of Education shall retain a copy of the policy on
12 file.



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

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

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

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

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

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



37 **SECTION 9.** (1) For the purposes of Sections 9 through 14 of

38 this act, the following words shall have the meaning herein
39 ascribed unless the context clearly requires otherwise:

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

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

49 (c) "Disseminate" means to give, provide, lend,
50 deliver, mail, send, forward, transfer or transmit, electronically
51 or otherwise to another person.

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

54 (e) "Image" means a still image or a video image with
55 or without audio.

56 (f) "Publish" means to:

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

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



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

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

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

(h) "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the 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



87 from the image or audio itself or from information displayed in
88 connection with the image or audio; and

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

97 (2) (a) Except as provided in paragraph (c) of this
98 subsection, a person convicted of an offense under this section
99 who was over the age of twenty-one (21) at the time of the offense
100 shall be guilty of a felony and, upon conviction, shall be
101 punished as provided in Section 97-29-63 for the offense of
102 photographing or filming another without permission where there is
103 an expectation of privacy.

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



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

SECTION 11. (1) A person is guilty of unlawful dissemination or publication of an 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 where such person may reasonably be identified from the image or audio itself 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



160 providing access or connection to or from a website or other
161 information or content on the internet or a facility, system, or
162 network not under the control of that provider, including
163 transmission, downloading, intermediate storage, access software
164 or other related capabilities.

165 **AMEND on line 240 by deleting "**, and shall stand repealed on
166 June 30, 2025"

167 **FURTHER, AMEND the title on line 12 by inserting the**
168 **following after the semicolon:**

169 TO REQUIRE EACH PUBLIC SCHOOL DISTRICT, PUBLIC CHARTER SCHOOL AND
170 AGRICULTURAL HIGH SCHOOL, AND CERTAIN STATE HIGH SCHOOLS, TO ADOPT
171 AND SEND TO THE STATE DEPARTMENT OF EDUCATION, NO LATER THAN
172 JANUARY 1, 2026, A SPECIFIC POLICY BANNING THE POSSESSION, OR
173 RESTRICTING THE USE, OF CELL PHONES BY STUDENTS DURING CLASS OR
174 WHILE UNDER THE SUPERVISION AND CONTROL OF A SCHOOL EMPLOYEE; TO
175 PROVIDE THAT, IF A SCHOOL OR SCHOOL DISTRICT FAILS TO ADOPT AND
176 TRANSMIT A POLICY AS REQUIRED, THE STATE DEPARTMENT OF EDUCATION
177 SHALL DEDUCT ONE DAY'S WORTH OF THE SCHOOL'S OR DISTRICT'S FUNDS
178 UNDER THE TOTAL FUNDING FORMULA FOR EACH DAY AFTER JANUARY 1,
179 2026, THAT THE SCHOOL OR DISTRICT IS NONCOMPLIANT; TO PROVIDE FOR
180 POTENTIAL EXCEPTIONS WHICH ALLOW STUDENTS TO POSSESS OR USE CELL
181 PHONES UNDER CERTAIN CIRCUMSTANCES; TO PROVIDE THAT SUFFICIENT
182 CAUSE FOR SUSPENSION OR EXPULSION MAY NOT CONSIST OF ONLY A
183 VIOLATION OF THE CELL PHONE POSSESSION AND USE POLICY DEVELOPED
184 AND IMPLEMENTED UNDER THIS ACT, EXCEPT THAT SUSPENSION MAY BE USED
185 AS A DISCIPLINARY MEASURE OF LAST RESORT; TO CRIMINALIZE THE
186 UNLAWFUL DISSEMINATION OR PUBLICATION OF AN INTIMATE OR
187 NONINTIMATE IMAGE OR AUDIO CREATED OR ALTERED BY DIGITIZATION
188 WHERE THE IMAGE OR AUDIO IS DISSEMINATED OR PUBLISHED WITH INTENT
189 TO CAUSE HARM TO THE EMOTIONAL, FINANCIAL OR PHYSICAL WELFARE OF
190 ANOTHER PERSON AND THE ACTOR KNEW OR REASONABLY SHOULD HAVE KNOWN
191 THAT THE PERSON DEPICTED DID NOT CONSENT TO SUCH DISSEMINATION OR
192 PUBLICATION; TO DEFINE TERMS; TO PROVIDE THAT THE CRIMES INCLUDE
193 THE USE OF IMAGES OR AUDIO CREATED OR ALTERED BY DIGITIZATION,
194 WHERE SUCH PERSON MAY REASONABLY BE IDENTIFIED FROM THE IMAGE OR
195 AUDIO ITSELF OR FROM INFORMATION DISPLAYED IN CONNECTION WITH THE
196 IMAGE OR AUDIO; TO CRIMINALIZE A PERSON FOR THREATENING TO COMMIT
197 A CRIMINAL OFFENSE IN ORDER TO OBTAIN CERTAIN BENEFITS; TO PROVIDE
198 CRIMINAL PENALTIES; TO PROVIDE CERTAIN EXCEPTIONS TO THE CRIME;

