

By: Senator(s) Robertson, Moffatt

To: Judiciary

## SENATE BILL NO. 2476

1       AN ACT TO PROTECT VICTIMS OF FELONY PARENTAL CHILD SEXUAL  
2 ABUSE; TO ENACT STANDARDS; TO CREATE A LOCAL REGISTRY; TO ENACT  
3 PENALTIES; AND FOR RELATED PURPOSES.       BE IT ENACTED BY THE  
4 LEGISLATURE OF THE STATE OF MISSISSIPPI:

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6       SECTION 1.   (1)   (a)   For purposes of this act, a conviction  
7 of felony parental child sexual abuse shall include any nolo  
8 contendere plea, guilty plea or conviction at trial to any offense  
9 enumerated in Section 93-15-103(3)(g) or any other statute of the  
10 State of Mississippi whereby a parent may be penalized as a felon  
11 on account of sexual abuse of his or her own child; and shall  
12 include any conviction by plea or trial in any other state of the  
13 United States to an offense whereby a parent may be penalized as a  
14 felon for sexual abuse of his or her own child under the laws of  
15 that state, or which would be so penalized for such conduct had  
16 the act or acts been committed in the State of Mississippi.

17       (b)   A certified copy of the court order or judgment  
18 evidencing such a conviction shall be accepted by any public  
19 office with responsibilities pursuant to this act, and by any  
20 court in the State of Mississippi, as conclusive evidence of the  
21 conviction.

22       (2)   (a)   No person who has been convicted of felony parental  
23 child sexual abuse shall contact or attempt to contact the victim  
24 child without the prior express written permission of the child's  
25 then legal custodian, who may be the other parent, a guardian,  
26 person in loco parentis or person with legal or physical custody  
27 of a child.

28           (b) No person who has been convicted of felony parental  
29 child sexual abuse shall harass, threaten, intimidate or by any  
30 other means menace the victim child or any legal custodian of the  
31 child, who may be the other parent, a guardian, person in loco  
32 parentis or person with legal or physical custody of a child.

33           (c) Any person who believes that a person who has been  
34 convicted of felony parental child sexual abuse may violate the  
35 provisions of subsection (2)(a) or (2)(b) hereof may register with  
36 the sheriff and any municipal law enforcement agency of the  
37 child's county and municipality of residence, setting forth the  
38 factual basis for that belief which shall include a certified copy  
39 of the court order or judgment evidencing the conviction of the  
40 child sexual abuse felon. The sheriff's office of each county and  
41 all municipal law enforcement agencies shall maintain a separate  
42 and distinct register for the purpose of recording the data  
43 required herein, and shall advise the reporting party of how  
44 emergency contact can be made with that office at any time with  
45 respect to a threatened violation of subsection (2)(a) or (2)(b)  
46 hereof. Immediate response with police protection shall be  
47 provided to any emergency contact made pursuant to this section,  
48 which police protection shall be continued in such reasonable  
49 manner as to deter future violations and protect the child and any  
50 person with legal custody of the child.

51           (d) Any person who has been convicted of felony  
52 parental child sexual abuse who violates subsection (2)(a) hereof  
53 shall, upon conviction, be punished by imprisonment in the county  
54 jail for not more than one (1) year. Any person who has been  
55 convicted of felony parental child sexual abuse who violates  
56 subsection (2)(b) hereof shall, upon conviction, be punished by  
57 imprisonment in the state penitentiary for not more than five (5)  
58 years.

59           (3) No person who has been convicted of felony parental  
60 child sexual abuse shall be entitled to have parental or other

61 visitation rights as to that child who was the victim, unless he  
62 or she files a petition in the chancery court of the county in  
63 which the child resides, reciting the conviction, and joining as  
64 parties defendant any other parent, guardian, person standing in  
65 loco parentis or having legal or physical custody of the child. A  
66 guardian ad litem shall be appointed to represent the child at  
67 petitioner's expense. The court shall appoint a qualified  
68 psychologist or psychiatrist to conduct an independent examination  
69 of the petitioner to determine whether contact with that person  
70 poses a physical or emotional risk to the child, and report to the  
71 court. Such examination shall be at petitioner's expense. The  
72 court shall require any such petitioner to deposit with the court  
73 sufficient funds to pay expenses chargeable to a petitioner  
74 hereunder, the amount of such deposit to be within the discretion  
75 of the chancellor. Any defendant and the child through his or her  
76 guardian ad litem shall be entitled to a full evidentiary hearing  
77 on the petition. In no event shall a child be required to testify  
78 in court or by deposition, or be subjected to any psychological  
79 examination, without the express consent of the child through his  
80 or her guardian ad litem. Such guardian ad litem shall consult  
81 with the child's legal guardian or custodians before consenting to  
82 such testimony or examination. At any hearing there is a  
83 rebuttable presumption that contact with the child poses a  
84 physical and emotional risk to the child. That presumption may be  
85 rebutted and visitation or contact allowed on such terms and  
86 conditions that the chancery court shall set only upon specific  
87 written findings by the court that:

88           (a) Contact between the child and the offending parent  
89 is appropriate and poses minimal risk to the child;

90           (b) If the child has received counseling, that the  
91 child's counselor believes such contact is in the child's best  
92 interest;

93           (c) The offending parent has successfully engaged in

94 treatment for sex offenders or is engaged in such treatment and  
95 making progress; and

96 (d) The offending parent's treatment provider believes  
97 contact with the child is appropriate and poses minimal risk to  
98 the child. If the court, in its discretion, allows visitation or  
99 contact it may impose such conditions to the visitation or contact  
100 which it finds reasonable, including supervision of contact or  
101 visitation by a neutral and independent adult with a detailed plan  
102 for supervision of any such contact or visitation.

103 SECTION 2. This act shall take effect and be in force from  
104 and after July 1, 1999.