

By: Representatives Mims, Moak, Myers,
Vince, Lott

To: Judiciary B

HOUSE BILL NO. 381

1 AN ACT TO AMEND SECTION 97-3-107, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CERTAIN STALKING VIOLATIONS BY REGISTERED SEX
3 OFFENDERS SHALL BE FELONIES; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 97-3-107, Mississippi Code of 1972, is
6 amended as follows:

7 97-3-107. (1) Any person who willfully, maliciously and
8 repeatedly follows or harasses another person, or who makes a
9 credible threat, with the intent to place that person in
10 reasonable fear of death or great bodily injury is guilty of the
11 crime of stalking, and upon conviction thereof shall be punished
12 by imprisonment in the county jail for not more than one (1) year
13 or by a fine of not more than One Thousand Dollars (\$1,000.00), or
14 by both such fine and imprisonment. A violation of this
15 subsection by a registered sex offender convicted of a sex
16 offense, as that term is defined in Section 45-33-23, in this
17 state, any other state or in federal or military court where the
18 victim is under the age of eighteen (18) years is a felony subject
19 to a fine of Two Thousand Dollars (\$2,000.00) and imprisonment for
20 two (2) years in the State Penitentiary.

21 (2) Any person who violates subsection (1) of this section
22 when there is a valid temporary restraining order, ex parte
23 protective order, protective order after hearing, court approved
24 consent agreement, or an injunction issued by a municipal,
25 justice, county, circuit or chancery court, federal or tribal
26 court or by a foreign court of competent jurisdiction in effect
27 prohibiting the behavior described in subsection (1) of this

28 section against the same party, shall be punishable by
29 imprisonment in the county jail for not more than one (1) year and
30 by a fine of not more than One Thousand Five Hundred Dollars
31 (\$1,500.00). A violation of this subsection by a registered sex
32 offender convicted of a sex offense, as that term is defined in
33 Section 45-33-23, in this state, any other state or in federal or
34 military court where the victim is under the age of eighteen (18)
35 years is a felony subject to a fine of Three Thousand Dollars
36 (\$3,000.00) and imprisonment for two (2) years in the State
37 Penitentiary.

38 (3) A second or subsequent conviction occurring within seven
39 (7) years of a prior conviction under subsection (1) of this
40 section against the same victim, and involving an act of violence
41 or "a credible threat" of violence as defined in subsection (5) of
42 this section, shall be punishable by imprisonment for not more
43 than three (3) years and by a fine of not more than Two Thousand
44 Dollars (\$2,000.00). A second or subsequent conviction under this
45 subsection by a registered sex offender convicted of a sex
46 offense, as that term is defined in Section 45-33-23, in this
47 state, any other state or in federal or military court where the
48 victim is under the age of eighteen (18) years is punishable by
49 imprisonment for six (6) years in the State Penitentiary and a
50 fine of Four Thousand Dollars (\$4,000.00).

51 (4) For the purposes of this section, "harasses" means a
52 knowing and willful course of conduct directed at a specific
53 person which seriously alarms, annoys, or harasses the person, and
54 which serves no legitimate purpose. The course of conduct must be
55 such as would cause a reasonable person to suffer substantial
56 emotional distress, and must actually cause substantial emotional
57 distress to the person. "Course of conduct" means a pattern of
58 conduct composed of a series of acts over a period of time,
59 however short, evidencing a continuity of purpose.

60 Constitutionally protected activity is not included within the
61 meaning of "course of conduct."

62 (5) For the purposes of this section, "a credible threat"
63 means a threat made with the intent and the apparent ability to
64 carry out the threat so as to cause the person who is the target
65 of the threat to reasonably fear for his or her safety.

66 **SECTION 2.** This act shall take effect and be in force from
67 and after its passage.