

## Senate Amendments to House Bill No. 381

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:

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

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

26           (2) Any person who violates subsection (1) of this section  
27 when there is a valid temporary restraining order, ex parte  
28 protective order, protective order after hearing, court approved  
29 consent agreement, or an injunction issued by a municipal,  
30 justice, county, circuit or chancery court, federal or tribal  
31 court or by a foreign court of competent jurisdiction in effect  
32 prohibiting the behavior described in subsection (1) of this  
33 section against the same party, shall be punishable by  
34 imprisonment in the county jail for not more than one (1) year and  
35 by a fine of not more than One Thousand Five Hundred Dollars

36 (\$1,500.00). A violation of this subsection by a person required  
37 to register as a sex offender for a sex offense listed in Section  
38 45-33-23, in this state or another jurisdiction, whether state,  
39 federal or military, where the victim is under the age of eighteen  
40 (18) years, is a felony subject to a fine of Three Thousand  
41 Dollars (\$3,000.00) and imprisonment for two (2) years in the  
42 State Penitentiary.

43 (3) A second or subsequent conviction occurring within seven  
44 (7) years of a prior conviction under subsection (1) of this  
45 section against the same victim, and involving an act of violence  
46 or "a credible threat" of violence as defined in subsection (5) of  
47 this section, shall be punishable by imprisonment for not more  
48 than three (3) years and by a fine of not more than Two Thousand  
49 Dollars (\$2,000.00). A second or subsequent conviction under this  
50 subsection by a person required to register as a sex offender for  
51 a sex offense listed in Section 45-33-23, in this state or another  
52 jurisdiction, whether state, federal or military, where the victim  
53 is under the age of eighteen (18) years, is punishable by  
54 imprisonment for six (6) years in the State Penitentiary and a  
55 fine of Four Thousand Dollars (\$4,000.00).

56 (4) For the purposes of this section, "harasses" means a  
57 knowing and willful course of conduct directed at a specific  
58 person which seriously alarms, annoys, or harasses the person, and  
59 which serves no legitimate purpose. The course of conduct must be  
60 such as would cause a reasonable person to suffer substantial  
61 emotional distress, and must actually cause substantial emotional  
62 distress to the person. "Course of conduct" means a pattern of  
63 conduct composed of a series of acts over a period of time,  
64 however short, evidencing a continuity of purpose.  
65 Constitutionally protected activity is not included within the  
66 meaning of "course of conduct."

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

71           **SECTION 2.** Sections 2 through 6 of this act may be known and  
72 cited as the Mississippi Anti-Human Trafficking Act.

73           **SECTION 3.** (1) (a) A person who recruits, entices,  
74 harbors, transports, provides or obtains by any means, or attempts  
75 to recruit, entice, harbor, transport, provide or obtain by any  
76 means, another person, intending or knowing that the person will  
77 be subjected to forced labor or services, shall be guilty of the  
78 crime of human-trafficking.

79                   (b) A person who knowingly subjects, or attempts to  
80 subject, another person to forced labor or services shall be  
81 guilty of the crime of procuring involuntary servitude.

82                   (c) A person who knowingly subjects, or attempts to  
83 subject, or who recruits, entices, harbors, transports, provides  
84 or obtains by any means, or attempts to recruit, entice, harbor,  
85 transport, provide or obtain by any means, a minor, knowing that  
86 the minor will engage in commercial sexual activity,  
87 sexually-explicit performance, or the production of sexually  
88 oriented material, or causes or attempts to cause a minor to  
89 engage in commercial sexual activity, sexually-explicit  
90 performance, or the production of sexually oriented material,  
91 shall be guilty of procuring sexual servitude of a minor and shall  
92 be punished by commitment to the custody of the Department of  
93 Corrections as follows:

94                           (i) In cases involving a minor who is sixteen (16)  
95 or seventeen (17) years of age and not involving forced labor or  
96 services, for not more than twenty (20) years;

97                           (ii) In cases in which the minor is fifteen (15)  
98 years of age or younger and not involving forced labor or  
99 services, for not more than twenty-five (25) years; and

100                           (iii) In cases involving a minor of any age in  
101 which the violation involved forced labor or services, for not  
102 more than thirty (30) years.

103           (2) A person who is convicted of an offense set forth in  
104 subsection (1)(a) or (b) of this section, or who benefits, whether  
105 financially or by receiving anything of value, from participation

106 in a venture that has engaged in an act described in this section,  
107 shall be committed to the custody of the Department of Corrections  
108 for not more than twenty (20) years.

109 **SECTION 4.** Anyone who knowingly destroys, conceals, removes,  
110 confiscates or possesses, or attempts to destroy, conceal, remove,  
111 confiscate or possess, any actual or purported passport or other  
112 immigration document, or any other actual or purported government  
113 identification document of any person to prevent or restrict, or  
114 attempt to prevent or restrict, without lawful authority, the  
115 person's liberty to move or travel in order to maintain the labor  
116 or services of that person, when the person is or has been a  
117 victim of a violation set out in Section 3 of this act, shall be  
118 punished by commitment to the custody of the Department of  
119 Corrections for not more than five (5) years.

120 **SECTION 5.** A person who knowingly aids, abets or conspires  
121 with one or more persons to violate Sections 2 through 6 of this  
122 act shall be considered a principal in the offense and shall be  
123 indicted and punished as such whether the principal has been  
124 previously convicted or not.

125 **SECTION 6.** For the purposes of Sections 2 through 6 of this  
126 act, the following words and phrases shall have the meanings  
127 ascribed herein unless the context clearly requires otherwise:

128 (a) "Actor" means a person who violates any of the  
129 provisions of this act.

130 (b) "Blackmail" means obtaining property or things of  
131 value of another by threatening to (i) inflict bodily injury on  
132 anyone; (ii) commit any other criminal offense; or (iii) expose  
133 any secret tending to subject any person to hatred, contempt or  
134 ridicule.

135 (c) "Commercial sexual activity" means any sex act on  
136 account of which anything of value is given to, promised to, or  
137 received by any person.

138 (d) "Financial harm" includes, but is not limited to,  
139 extortion as defined by Section 97-3-82, Mississippi Code of 1972,

140 or violation of the usury law as defined by Title 75, Chapter 17,  
141 Mississippi Code of 1972.

142 (e) "Forced labor or services" means labor or services  
143 that are performed or provided by another person and are obtained  
144 or maintained through an actor:

145 (i) Causing or threatening to cause serious harm  
146 to any person;

147 (ii) Physically restraining or threatening to  
148 physically restrain any person;

149 (iii) Abusing or threatening to abuse the law or  
150 legal process;

151 (iv) Knowingly destroying, concealing, removing,  
152 confiscating or possessing any actual or purported passport or  
153 other immigration document, or any other actual or purported  
154 government identification document, of another person;

155 (v) Using blackmail;

156 (vi) Causing or threatening to cause financial  
157 harm to any person; or

158 (vii) Using any scheme, plan or pattern intended  
159 to cause any person to believe that, if the person did not perform  
160 such labor or services, that person or another person would suffer  
161 serious harm or physical restraint.

162 (f) "Labor" means work of economic or financial value.

163 (g) "Maintain" means, in relation to labor or services,  
164 to secure continued performance thereof, regardless of any initial  
165 agreement on the part of the trafficked person to perform such  
166 labor or service.

167 (h) "Minor" means a person under the age of eighteen  
168 (18) years.

169 (i) "Obtain" means, in relation to labor or services,  
170 to secure performance thereof.

171 (j) "Services" means an ongoing relationship between a  
172 person and the actor in which the person performs activities under  
173 the supervision of or for the benefit of the actor or a third  
174 party. Commercial sexual activity and sexually-explicit

175 performances shall be considered services under Sections 2 through  
176 6 of this act.

177 (k) "Sexually-explicit performance" means a live or  
178 public act or show intended to arouse or satisfy the sexual  
179 desires or appeal to the prurient interests of patrons.

180 (l) "Trafficked person" means a person subjected to the  
181 practices prohibited by this act and is a term used  
182 interchangeably with the terms "victim of trafficking" and  
183 "trafficking victim."

184 (m) "Venture" means any group of two (2) or more  
185 individuals associated in fact, whether or not a legal entity.

186 (n) "Sexually oriented material" shall have the meaning  
187 ascribed in Section 97-5-27, Mississippi Code of 1972.

188 **SECTION 7.** Section 45-33-23, Mississippi Code of 1972, is  
189 amended as follows:

190 45-33-23. For the purposes of this chapter, the following  
191 words shall have the meanings ascribed herein unless the context  
192 clearly requires otherwise:

193 (a) "Conviction" shall mean that, regarding the  
194 person's offense, there has been a determination or judgment of  
195 guilt as a result of a trial or the entry of a plea of guilty or  
196 nolo contendere regardless of whether adjudication is withheld.  
197 "Conviction of similar offenses" includes, but is not limited to,  
198 a conviction by a federal or military tribunal, including a court  
199 martial conducted by the Armed Forces of the United States, a  
200 conviction for an offense committed on an Indian Reservation or  
201 other federal property, and a conviction in any state of the  
202 United States.

203 (b) "Jurisdiction" shall mean any state court, federal  
204 court, military court or Indian tribunal.

205 (c) "Permanent residence" is defined as a place where  
206 the person abides, lodges, or resides for a period of fourteen  
207 (14) or more consecutive days.

208           (d) "Registration" means providing information to the  
209 appropriate agency within the time frame specified as required by  
210 this chapter.

211           (e) "Registration duties" means obtaining the  
212 registration information required on the form specified by the  
213 department as well as the photograph, fingerprints, and biological  
214 sample of the registrant. Biological samples are to be forwarded  
215 to the State Crime Laboratory pursuant to Section 45-33-37; the  
216 photograph, fingerprints and other registration information are to  
217 be forwarded to the Department of Public Safety within three (3)  
218 days of registration.

219           (f) "Responsible agency" is defined as the person or  
220 government entity whose duty it is to obtain information from a  
221 criminal sex offender upon conviction and to transmit that  
222 information to the Mississippi Department of Public Safety.

223           (i) For a criminal sex offender being released  
224 from the custody of the Department of Corrections, the responsible  
225 agency is the Department of Corrections.

226           (ii) For a criminal sex offender being released  
227 from a county jail, the responsible agency is the sheriff of that  
228 county.

229           (iii) For a criminal sex offender being released  
230 from a municipal jail, the responsible agency is the police  
231 department of that municipality.

232           (iv) For a sex offender in the custody of youth  
233 court, the responsible agency is the youth court.

234           (v) For a criminal sex offender who is being  
235 placed on probation, including conditional discharge or  
236 unconditional discharge, without any sentence of incarceration,  
237 the responsible agency is the sentencing court.

238           (vi) For an offender who has been committed to a  
239 mental institution following an acquittal by reason of insanity,  
240 the responsible agency is the facility from which the offender is  
241 released. Specifically, the director of said facility shall

242 notify the Department of Public Safety prior to the offender's  
243 release.

244 (vii) For a criminal sex offender who is being  
245 released from a jurisdiction outside this state or who has a prior  
246 conviction in another state and who is to reside in this state,  
247 the responsible agency is the Department of Public Safety.

248 (g) "Sex offense" means any of the following offenses:

249 (i) Section 97-3-53 relating to kidnapping, if the  
250 victim was below the age of eighteen (18);

251 (ii) Section 97-3-65 relating to rape; however,  
252 conviction or adjudication under Section 97-3-65(1)(a) on or after  
253 July 1, 1998, when the offender was eighteen (18) years of age or  
254 younger at the time of the alleged offense, shall not be a  
255 registrable sex offense;

256 (iii) Section 97-3-71 relating to rape and assault  
257 with intent to ravish;

258 (iv) Section 97-3-95 relating to sexual battery;  
259 however, conviction or adjudication under Section 97-3-95(1)(c) on  
260 or after July 1, 1998, when the offender was eighteen (18) years  
261 of age or younger at the time of the alleged offense, shall not be  
262 a registrable sex offense;

263 (v) Section 97-5-5 relating to enticing child for  
264 concealment, prostitution or marriage;

265 (vi) Section 97-5-23 relating to the touching of a  
266 child for lustful purposes;

267 (vii) Section 97-5-27 relating to the  
268 dissemination of sexually oriented material to children;

269 (viii) Section 97-5-33 relating to the  
270 exploitation of children;

271 (ix) Section 97-5-41 relating to the carnal  
272 knowledge of a stepchild, adopted child or child of a cohabiting  
273 partner;

274 (x) Section 97-29-59 relating to unnatural  
275 intercourse;



276 (xi) Section 97-1-7 relating to attempt to commit  
277 any of the above-referenced offenses;

278 (xii) Section 97-29-3 relating to adultery or  
279 fornication between teacher and pupil;

280 (xiii) Section 3(1)(c) of House Bill 381, 2006  
281 Regular Session, relating to procuring sexual servitude of a  
282 minor;

283 (xiv) Any other offense resulting in a conviction  
284 in another jurisdiction, whether state, federal or military,  
285 which, if committed in this state, would be deemed to be such a  
286 crime without regard to its designation elsewhere;

287 (xv) Any offense resulting in a conviction in  
288 another jurisdiction, whether state, federal or military, for  
289 which registration is required in the jurisdiction where the  
290 conviction was had.

291 (h) "Temporary residence" is defined as a place where  
292 the person abides, lodges, or resides for a period of fourteen  
293 (14) or more days in the aggregate during any calendar year and  
294 which is not the person's permanent address; for a person whose  
295 permanent residence is not in this state, the place where the  
296 person is employed, practices a vocation, or is enrolled as a  
297 student for any period of time in the state; or a place where a  
298 person routinely abides, lodges or resides for a period of four  
299 (4) or more consecutive or nonconsecutive days in any month and  
300 which is not the person's permanent residence.

301 (i) "Department" unless otherwise specified is defined  
302 as the Mississippi Department of Public Safety.

303 **SECTION 8.** Section 1 of this act shall take effect and be in  
304 force from and after its passage, and the remainder of this act  
305 shall take effect and be in force from and after July 1, 2006.

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

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; TO CREATE THE ANTI-HUMAN TRAFFICKING  
4 ACT; TO ENACT DEFINITIONS; TO PROHIBIT TRAFFICKING OF PERSONS FOR

5 FORCED LABOR OR SERVICES, INVOLUNTARY SERVITUDE, SEXUAL SERVITUDE  
6 OF A MINOR, AND TO PROVIDE FOR LIABILITY OF AN ACCOMPLICE IN THOSE  
7 ACTS; TO AMEND SECTION 45-33-23, MISSISSIPPI CODE OF 1972, TO  
8 CONFORM; AND FOR RELATED PURPOSES.

SS26\HB381PS.J

John O. Gilbert  
Secretary of the Senate