

By: Representative Eubanks

To: Judiciary A

HOUSE BILL NO. 1258

1 AN ACT TO CREATE THE BIRTH GENDER PRIVACY ACT; TO BRING
2 FORWARD SECTIONS 97-29-31, 97-29-61, 97-29-45 AND 97-29-63,
3 MISSISSIPPI CODE OF 1972, WHICH DESCRIBE CERTAIN CRIMES AGAINST
4 PUBLIC MORALS AND DECENCY, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** (1) Except as otherwise provided in this section,
8 it shall be unlawful for a person to knowingly and intentionally
9 enter into restroom facilities or other bath facilities that were
10 designed for use by the gender opposite the person's gender at
11 birth.

12 (2) No public or private business entity, school or jail
13 shall be required to construct gender neutral restrooms or bath
14 facilities. However, nothing in this section shall prevent a
15 public or private business entity, school or jail from
16 constructing gender neutral restrooms or bath facilities.

17 (3) Any person who has been consuming, for a period of not
18 less than twelve (12) months, hormone pills or supplements
19 prescribed by a licensed medical doctor for the purpose of



20 transitioning to a gender other than the gender he or she was
21 assigned at birth may use the restroom or bath facilities of the
22 gender he or she is transitioning to provided that he or she can
23 provide written proof from his or her doctor regarding the hormone
24 pill or supplement transition plan.

25 (4) Anyone found to be in violation of the provisions of
26 this section shall be prosecuted under the provisions stated in
27 Sections 97-29-31, 97-29-61, 97-29-45 or 97-29-63.

28 (5) The provisions of this section shall not apply to the
29 following:

30 (a) A minor child who accompanies his or her parent
31 into restroom facilities or other bath facilities that were
32 designed for use by the gender opposite that person's gender at
33 birth;

34 (b) The parent accompanying the minor child described
35 in paragraph (a) of this subsection (5); and

36 (c) Restroom or bath facilities that can only
37 accommodate one (1) person at a time.

38 **SECTION 2.** Section 97-29-31, Mississippi Code of 1972,
39 is brought forward as follows:

40 97-29-31. A person who willfully and lewdly exposes his
41 person, or private parts thereof, in any public place, or in any
42 place where others are present, or procures another to so expose
43 himself, is guilty of a misdemeanor and, on conviction for a first
44 offense, shall be punished by a fine not exceeding Five Hundred



45 Dollars (\$500.00) or be imprisoned not exceeding six (6) months,
46 or both. Upon conviction for a second offense within five (5)
47 years, such person shall be guilty of a misdemeanor and shall be
48 punished by a fine of not more than One Thousand Dollars
49 (\$1,000.00) or shall be imprisoned not exceeding one (1) year, or
50 both. Upon conviction of a third or subsequent offense within
51 five (5) years, such person shall be guilty of a felony and shall
52 be punished by a fine of not more than Five Thousand Dollars
53 (\$5,000.00) or shall be imprisoned for not more than five (5)
54 years in the State Penitentiary, or both. It is not a violation
55 of this statute for a woman to breast-feed.

56 **SECTION 3.** Section 97-29-61, Mississippi Code of 1972, is
57 brought forward as follows:

58 97-29-61. (1) (a) Any person who enters upon real
59 property, whether the original entry is legal or not, and
60 thereafter pries or peeps through a window or other opening in a
61 dwelling or other building structure for the lewd, licentious and
62 indecent purpose of spying upon the occupants thereof, shall be
63 guilty of a felonious trespass.

64 (b) Any person who looks through a window, hole or
65 opening, or otherwise views by means of any instrumentality,
66 including, but not limited to, a periscope, telescope, binoculars,
67 drones, camera, motion-picture camera, camcorder or mobile phone,
68 into the interior of a bedroom, bathroom, changing room, fitting
69 room, dressing room, spa, massage room or therapy room or tanning



70 booth, or the interior of any other area in which the occupant has
71 a reasonable expectation of privacy, with the intent to invade the
72 privacy of a person or persons inside and without the consent or
73 knowledge of every person present, for the lewd, licentious and
74 indecent purpose of spying upon the occupant or occupants thereof,
75 shall be guilty of a felony.

76 (2) (a) Except as provided in paragraph (b) of this
77 subsection, a person who was over the age of twenty-one (21) at
78 the time of the offense who is convicted of a violation of
79 subsection (1) of this section shall be imprisoned in the custody
80 of the Department of Corrections not more than five (5) years.

81 (b) When one or more occupants spied upon is a child
82 under sixteen (16) years of age, a person who was over the age of
83 twenty-one (21) at the time of the offense who is convicted of a
84 violation of subsection (1) of this section shall be imprisoned in
85 the custody of the Department of Corrections not more than ten
86 (10) years.

87 **SECTION 4.** Section 97-29-45, Mississippi Code of 1972, is
88 brought forward as follows:

89 97-29-45. (1) It shall be unlawful for any person or
90 persons:

91 (a) To make any comment, request, suggestion or
92 proposal by means of telecommunication or electronic communication
93 which is obscene, lewd or lascivious with intent to abuse,



94 threaten or harass any party to a telephone conversation,
95 telecommunication or electronic communication;

96 (b) To make a telecommunication or electronic
97 communication with intent to terrify, intimidate or harass, and
98 threaten to inflict injury or physical harm to any person or to
99 his property;

100 (c) To make a telephone call, whether or not
101 conversation ensues, without disclosing his identity and with
102 intent to annoy, abuse, threaten or harass any person at the
103 called number;

104 (d) To make or cause the telephone of another
105 repeatedly or continuously to ring, with intent to harass any
106 person at the called number;

107 (e) To make repeated telephone calls, during which
108 conversation ensues, solely to harass any person at the called
109 number; or

110 (f) Knowingly to permit a computer or a telephone of
111 any type under his control to be used for any purpose prohibited
112 by this section.

113 (2) Upon conviction of any person for the first offense of
114 violating subsection (1) of this section, such person shall be
115 fined not more than Five Hundred Dollars (\$500.00) or imprisoned
116 in the county jail for not more than six (6) months, or both.

117 (3) Upon conviction of any person for the second offense of
118 violating subsection (1) of this section, the offenses being



119 committed within a period of five (5) years, such person shall be
120 fined not more than One Thousand Dollars (\$1,000.00) or imprisoned
121 in the county jail for not more than one (1) year, or both.

122 (4) For any third or subsequent conviction of any person
123 violating subsection (1) of this section, the offenses being
124 committed within a period of five (5) years, such person shall be
125 guilty of a felony and fined not more than Two Thousand Dollars
126 (\$2,000.00) and/or imprisoned in the State Penitentiary for not
127 more than two (2) years, or both.

128 (5) The provisions of this section do not apply to a person
129 or persons who make a telephone call that would be covered by the
130 provisions of the federal Fair Debt Collection Practices Act, 15
131 USCS Section 1692 et seq.

132 (6) Any person violating this section may be prosecuted in
133 the county where the telephone call, conversation or language
134 originates in case such call, conversation or language originates
135 in the State of Mississippi. In case the call, conversation or
136 language originates outside of the State of Mississippi then such
137 person shall be prosecuted in the county to which it is
138 transmitted.

139 (7) For the purposes of this section, "telecommunication"
140 and "electronic communication" mean and include any type of
141 telephonic, electronic or radio communications, or transmission of
142 signs, signals, data, writings, images and sounds or intelligence
143 of any nature by telephone, including cellular telephones, wire,



144 cable, radio, electromagnetic, photoelectronic or photo-optical
145 system or the creation, display, management, storage, processing,
146 transmission or distribution of images, text, voice, video or data
147 by wire, cable or wireless means, including the Internet.

148 (8) No person shall be held to have violated this section
149 solely for providing access or connection to telecommunications or
150 electronic communications services where the services do not
151 include the creation of the content of the communication.
152 Companies organized to do business as commercial broadcast radio
153 stations, television stations, telecommunications service
154 providers, Internet service providers, cable service providers or
155 news organizations shall not be criminally liable under this
156 section.

157 **SECTION 5.** Section 97-29-63, Mississippi Code of 1972, is
158 brought forward as follows:

159 97-29-63. (1) (a) It is a felony for any person with lewd,
160 licentious or indecent intent to photograph, film, videotape,
161 record or otherwise reproduces the image of another person without
162 the permission of the other person when the other person is
163 located in a place where a person would intend to be in a state of
164 undress and have a reasonable expectation of privacy, including,
165 but not limited to, private dwellings or any facility, public or
166 private, used as a restroom, bathroom, shower room, tanning booth,
167 locker room, fitting room, dressing room or bedroom shall be
168 guilty of a felony.



169 (b) It is a felony for any person to invade the privacy
170 of another person and with lewd, licentious or indecent intent to
171 photograph, film, videotape, record or otherwise reproduce the
172 image of another, identifiable person under or through the
173 clothing being worn by that other person for the purpose of
174 viewing the body of, or the undergarments worn by, the other
175 person without the consent or knowledge of the other person and
176 under circumstances in which the other person has a reasonable
177 expectation that the other person's body or undergarments would
178 not be viewed or would not be the subject of a reproduced image.

179 (2) (a) Except as provided in paragraph (b) of this
180 subsection, a person who was over the age of twenty-one (21) at
181 the time of the offense who is convicted of a violation of
182 subsection (1) of this section shall be punished by a fine of Five
183 Thousand Dollars (\$5,000.00) or by imprisonment of not more than
184 five (5) years in the custody of the Department of Corrections, or
185 both.

186 (b) Where the person who is secretly photographed,
187 filmed, videotaped or otherwise reproduced is a child under
188 sixteen (16) years of age, a person who was over the age of
189 twenty-one (21) at the time of the offense who is convicted of a
190 violation of subsection (1) of this section shall be punished by a
191 fine of Five Thousand Dollars (\$5,000.00) or by imprisonment of
192 not more than ten (10) years in the custody of the Department of
193 Corrections, or both.



194 **SECTION 6.** This act shall take effect and be in force from
195 and after July 1, 2016.

