

By: Senator(s) Doty

To: Judiciary, Division A

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2907

1 AN ACT TO PROHIBIT UNLAWFUL DISCLOSURE OR PROMOTION OF  
2 INTIMATE VISUAL MATERIAL; TO CREATE NEW SECTION 95-17-1,  
3 MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS; TO CREATE NEW  
4 SECTION 95-17-3, MISSISSIPPI CODE OF 1972, TO PROVIDE LIABILITY  
5 FOR UNLAWFUL DISCLOSURE OR PROMOTION OF CERTAIN VISUAL MATERIAL;  
6 TO CREATE NEW SECTION 95-17-5, MISSISSIPPI CODE OF 1972, TO  
7 PROVIDE FOR DAMAGES; TO CREATE NEW SECTION 95-17-7, MISSISSIPPI  
8 CODE OF 1972, TO PROVIDE FOR INJUNCTIVE RELIEF; TO CREATE NEW  
9 SECTION 95-17-9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A CAUSE  
10 OF ACTION UNDER THIS ACT IS CUMULATIVE; TO CREATE NEW SECTION  
11 95-17-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR JURISDICTION;  
12 TO CREATE NEW SECTION 95-17-13, MISSISSIPPI CODE OF 1972, TO  
13 PROVIDE EXCEPTIONS; TO CREATE NEW SECTION 97-29-67, MISSISSIPPI  
14 CODE OF 1972, TO CREATE THE CRIME OF UNLAWFUL DISCLOSURE OR  
15 PROMOTION OF INTIMATE VISUAL MATERIAL, AND TO ENACT DEFINITIONS  
16 AND PENALTIES; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** The following shall be codified as Section  
19 95-17-1, Mississippi Code of 1972:

20 95-17-1. In this chapter:

21 (a) "Intimate parts," "promote," "sexual conduct," and  
22 "visual material" have the meanings given in Section 8 of this  
23 act.

24 (b) "Intimate visual material" means visual material that  
25 depicts a person:



- 26 (i) With the person's intimate parts exposed; or
- 27 (ii) Engaged in sexual conduct.

28 **SECTION 2.** The following shall be codified as Section  
29 95-17-3, Mississippi Code of 1972:

30 95-17-3. (1) A defendant is liable, to a person depicted in  
31 intimate visual material for damages arising from the disclosure  
32 of the material if:

33 (a) The defendant discloses the intimate visual  
34 material without the effective consent of the depicted person;

35 (b) The intimate visual material was obtained by the  
36 defendant or created under circumstances in which the depicted  
37 person had a reasonable expectation that the material would remain  
38 private;

39 (c) The disclosure of the intimate visual material  
40 causes harm to the depicted person; and

41 (d) The disclosure of the intimate visual material  
42 reveals the identity of the depicted person in any manner,  
43 including through:

44 (i) Any accompanying or subsequent information or  
45 material related to the intimate visual material; or

46 (ii) Information or material provided by a third  
47 party in response to the disclosure of the intimate visual  
48 material.

49 (2) A defendant is liable, to a person depicted in intimate  
50 visual material for damages arising from the promotion of the



51 material if, knowing the character and content of the material,  
52 the defendant promotes intimate visual material described by  
53 subsection (1) on an Internet website or other forum for  
54 publication that is owned or operated by the defendant.

55 **SECTION 3.** The following shall be codified as Section  
56 95-17-5, Mississippi Code of 1972:

57 95-17-5. (1) A claimant who prevails in a suit under this  
58 chapter shall be awarded:

59 (a) Actual damages, including damages for mental  
60 anguish;

61 (b) Court costs; and

62 (c) Reasonable attorney's fees.

63 (2) In addition to an award under subsection (1), a claimant  
64 who prevails in a suit under this chapter may recover exemplary  
65 damages.

66 **SECTION 4.** The following shall be codified as Section  
67 95-17-7, Mississippi Code of 1972:

68 95-17-7. (1) A court in which a suit is brought under this  
69 chapter, on the motion of a party, may issue a temporary  
70 restraining order or a temporary or permanent injunction to  
71 restrain and prevent the disclosure or promotion of intimate  
72 visual material with respect to the person depicted in the  
73 material.



74 (2) A court that issues a temporary restraining order or a  
75 temporary or permanent injunction under subsection (1) may award  
76 to the party who brought the motion damages in the amount of:

77 (a) One Thousand Dollars (\$1,000.00) for each violation  
78 of the court's order or injunction, if the disclosure or promotion  
79 of intimate visual material is willful or intentional; or

80 (b) Five Hundred Dollars (\$500.00) for each violation  
81 of the court's order or injunction, if the disclosure or promotion  
82 of intimate visual material is not willful or intentional.

83 **SECTION 5.** The following shall be codified as Section  
84 95-17-9, Mississippi Code of 1972:

85 95-17-9. The cause of action created by this chapter is  
86 cumulative and in addition to any other remedy available at common  
87 law or by statute.

88 **SECTION 6.** The following shall be codified as Section  
89 95-17-11, Mississippi Code of 1972:

90 95-17-11. A court has personal jurisdiction over a defendant  
91 in a suit brought under this chapter if:

92 (1) The defendant resides in this state;

93 (2) The claimant who is depicted in the intimate visual  
94 material resides in this state;

95 (3) The intimate visual material is stored on a server  
96 that is located in this state; or

97 (4) The intimate visual material is available for view  
98 in this state.



99           **SECTION 7.** The following shall be codified as Section  
100 95-17-13, Mississippi Code of 1972:

101           95-17-13. (1) This chapter shall be liberally construed and  
102 applied to promote its underlying purpose to protect persons from,  
103 and provide adequate remedies to victims of, the disclosure or  
104 promotion of intimate visual material.

105           (2) This chapter does not apply to a claim brought against  
106 an interactive computer service, as defined by 47 USC Section 230,  
107 for a disclosure or promotion consisting of intimate visual  
108 material provided by another person.

109           **SECTION 8.** The following shall be codified as Section  
110 97-29-67, Mississippi Code of 1972:

111           97-29-67. (1) In this section:

112           (a) "Intimate parts" means the female nipple or the  
113 naked genitals, pubic area, anus or buttocks.

114           (b) "Promote" means to do, or offer or agree to do, any  
115 of the following: procure, manufacture, issue, sell, give,  
116 provide, lend, mail, deliver, transfer, transmit, publish,  
117 distribute, circulate, disseminate, present, exhibit or advertise.

118           (c) "Sexual conduct" means sexual contact, actual or  
119 simulated sexual intercourse, deviate sexual intercourse, sexual  
120 bestiality, masturbation or sadomasochistic abuse.

121           (d) "Simulated" means the explicit depiction of sexual  
122 conduct that creates the appearance of actual sexual conduct and



123 during which a person engaging in the conduct exhibits any  
124 uncovered portion of the breasts, genitals, or buttocks.

125 (e) "Visual material" means:

126 (i) Any film, photograph, videotape, negative, or  
127 slide or any photographic reproduction that contains or  
128 incorporates in any manner any film, photograph, videotape,  
129 negative or slide; or

130 (ii) Any physical medium that allows an image to  
131 be displayed on a computer or other video screen and any image  
132 transmitted to a computer or other video screen by telephone line,  
133 cable, satellite transmission or other method.

134 (2) A person commits an offense if:

135 (a) Without the effective consent of the depicted  
136 person, the person intentionally discloses visual material  
137 depicting another person with the person's intimate parts exposed  
138 or engaged in sexual conduct;

139 (b) The visual material was obtained by the person or  
140 created under circumstances in which the depicted person had a  
141 reasonable expectation that the visual material would remain  
142 private;

143 (c) The disclosure of the visual material causes harm  
144 to the depicted person; and

145 (4) The disclosure of the visual material reveals the  
146 identity of the depicted person in any manner, including through:



147 (i) Any accompanying or subsequent information or  
148 material related to the visual material; or

149 (ii) Information or material provided by a third  
150 party in response to the disclosure of the visual material.

151 (3) A person commits an offense if the person intentionally  
152 threatens to disclose, without the consent of the depicted person,  
153 visual material depicting another person with the person's  
154 intimate parts exposed or engaged in sexual conduct and the person  
155 makes the threat to obtain a benefit:

156 (a) In return for not making the disclosure; or

157 (b) In connection with the threatened disclosure.

158 (4) A person commits an offense if, knowing the character  
159 and content of the visual material, the person promotes visual  
160 material described by subsection (2) on an Internet website or  
161 other forum for publication that is owned or operated by the  
162 person.

163 (5) It is not a defense to prosecution under this section  
164 that the depicted person:

165 (a) Created or consented to the creation of the visual  
166 material; or

167 (b) Voluntarily transmitted the visual material to the  
168 defendant.

169 (6) It is an affirmative defense to prosecution under  
170 subsection (1) or (2) that:



171 (a) The disclosure or promotion is made in the course  
172 of:

173 (i) Lawful and common practices of law enforcement  
174 or medical treatment;

175 (ii) Reporting unlawful activity; or

176 (iii) A legal proceeding, if the disclosure or  
177 promotion is permitted or required by law;

178 (b) The disclosure or promotion consists of visual  
179 material depicting in a public or commercial setting only a  
180 person's voluntary exposure of:

181 (i) The person's intimate parts; or

182 (ii) The person engaging in sexual conduct; or

183 (iii) The actor is an interactive computer  
184 service, as defined by 47 USC Section 230, and the disclosure or  
185 promotion consists of visual material provided by another person.

186 (7) A person found guilty of a violation of this section  
187 shall be punished by a fine not to exceed Four Thousand Dollars  
188 (\$4,000.00), confinement in jail for a term not to exceed one (1)  
189 year, or both.

190 (8) If conduct that constitutes an offense under this  
191 section also constitutes an offense under another law, the actor  
192 may be prosecuted under this section, the other law, or both.

193 **SECTION 9.** This act shall take effect and be in force from  
194 and after July 1, 2017.

