

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1315**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

35        **SECTION 1.** The Legislature finds that pornography  
36 contributes to:

37               (a) The hyper sexualization of teens and prepubescent  
38 children and may lead to low self-esteem, body image disorders;

39               (b) An increase in problematic sexual activity at  
40 younger ages, and increased desire among adolescents to engage in  
41 risky sexual behavior;

42               (c) Difficulty in forming or maintaining positive,  
43 intimate relationships, as well as promoting problematic or  
44 harmful sexual behaviors and addiction; and



45 (d) A negative impact brain development and  
46 functioning, contribute to emotional and medical illnesses, shape  
47 deviant sexual arousal.

48 **SECTION 2.** As used in Sections 1 through 4 of this act, the  
49 following words shall have the meanings ascribed herein unless the  
50 context clearly indicates otherwise:

51 (a) "Commercial entity" includes corporations, limited  
52 liability companies, partnerships, limited partnerships, sole  
53 proprietorships, or other legally recognized entities.

54 (b) "Distribute" means to issue, sell, give, provide,  
55 deliver, transfer, transmute, circulate, or disseminate by any  
56 means.

57 (c) "Internet" means the international computer network  
58 of both federal and nonfederal interoperable packet switched data  
59 networks.

60 (d) "Material harmful to minors" is defined as all of  
61 the following:

62 (i) Any material that the average person, applying  
63 contemporary community standards would find, taking the material  
64 as a whole and with respect to minors, is designed to appeal to,  
65 or is designed to pander to, the prurient interest, including, but  
66 not limited to, child pornography or material that depicts or  
67 promotes child sexual exploitation or trafficking.

68 (ii) Any of the following material that exploits,  
69 is devoted to, or principally consists of descriptions of actual,



70 simulated, or animated display or depiction of any of the  
71 following, in a manner patently offensive with respect to minors:

72 1. Pubic hair, anus, vulva, genitals, or  
73 nipple of the female breast.

74 2. Touching, caressing, or fondling of  
75 nipples, breasts, buttocks, anuses, or genitals.

76 3. Sexual intercourse, masturbation, sodomy,  
77 bestiality, oral copulation, flagellation, excretory functions,  
78 exhibitions, or any other sexual act.

79 (iii) The material taken as a whole lacks serious  
80 literary, artistic, political, or scientific value for minors.

81 (iv) The material is sexually oriented, as defined  
82 in Section 97-5-27(2).

83 (e) "Minor" means any person under the age of eighteen  
84 (18) years.

85 (f) "News-gathering organization" means any of the  
86 following:

87 (i) An employee of a newspaper, news publication,  
88 or news source, printed or on an online or mobile platform, of  
89 current news and public interest, while operating as an employee  
90 as provided in this subparagraph, who can provide documentation of  
91 such employment with the newspaper, news publication, or news  
92 source.

93 (ii) An employee of a radio broadcast station,  
94 television broadcast station, cable television operator, or wire



95 service while operating as an employee as provided in this  
96 subparagraph, who can provide documentation of such employment.

97 (g) "Publish" means to communicate or make information  
98 available to another person or entity on a publicly available  
99 internet website.

100 (h) "Reasonable age verification methods" include  
101 verifying that the person seeking to access the material is  
102 eighteen (18) years of age or older by using any of the following  
103 methods:

104 (i) Provide a digitized identification card;

105 (ii) Require the person attempting to access the  
106 material to comply with a commercial age verification system that  
107 verifies in one or more of the following ways:

108 1. Government-issued identification; or

109 2. Any commercially reasonable method that  
110 relies on public or private transactional data to verify the age  
111 of the person attempting to access the information is at least  
112 eighteen (18) years of age or older.

113 (i) "Substantial portion" means more than thirty-three  
114 and one-third (33-1/3) percent of total material on a website,  
115 which meets the definition of "material harmful to minors" as  
116 defined by this section.

117 (j) "Transactional data" means a sequence of  
118 information that documents an exchange, agreement, or transfer  
119 between an individual, commercial entity, or third party used for



120 the purpose of satisfying a request or event. Transactional data  
121 can include, but is not limited to, records from mortgage,  
122 education, and employment entities.

123 **SECTION 3.** (1) Any commercial entity that knowingly and  
124 intentionally publishes or distributes material harmful to minors  
125 on the internet from a website that contains a substantial portion  
126 of such material shall be held liable if the entity fails to  
127 perform reasonable age verification methods to verify the age of  
128 individuals attempting to access the material.

129 (2) Any commercial entity or third party that performs the  
130 required age verification shall not retain any identifying  
131 information of the individual after access has been granted to the  
132 material.

133 (3) (a) Any commercial entity that is found to have  
134 violated this section shall be liable to an individual for damages  
135 resulting from a minor's accessing the material, including court  
136 costs and reasonable attorney fees as ordered by the court.

137 (b) A commercial entity that is found to have knowingly  
138 retained identifying information of the individual after access  
139 has been granted to the individual shall be liable to the  
140 individual for damages resulting from retaining the identifying  
141 information, including court costs and reasonable attorney fees as  
142 ordered by the court.

143 (4) (a) A commercial entity or other person or vendor  
144 providing digital or online resources or databases to students in



145 a public school district, charter school, the Mississippi School  
146 of the Arts, the Mississippi School for Mathematics and Science,  
147 the Mississippi Virtual Public School, the Mississippi School for  
148 the Deaf and the Mississippi School for the Blind, or a minor in a  
149 public library, shall implement safety policies and technology  
150 protection measures that filter, block access to, or otherwise  
151 prohibit and prevent a minor from sending, receiving, viewing or  
152 downloading material harmful to minors.

153 (b) The provisions of this subsection take precedence  
154 over any contrary provision in a contract. Notwithstanding any  
155 contractual provision to the contrary in a contract between a  
156 public school district, upon a first occurrence of noncompliance  
157 with this subsection by a commercial entity or other person or  
158 vendor providing digital or online resources or databases, the  
159 state, or any of its agencies, or any public school district,  
160 local education agency, public school, public library or charter  
161 school is entitled to a reduction in the amount of ten percent  
162 (10%) of the agreed upon price in the contract to be paid to the  
163 provider. Upon a subsequent occurrence of noncompliance with this  
164 subsection by a commercial entity or other person or vendor  
165 providing digital or online resources or databases, the state or  
166 any of its agencies, or any public school district, local  
167 education agency, public school, public library or charter school  
168 is entitled to a complete refund of the agreed upon price of the  
169 contract to be paid to the provider.



170 (c) The State Auditor may audit a public school  
171 district, charter school, the Mississippi School of the Arts, the  
172 Mississippi School for Mathematics and Science, the Mississippi  
173 Virtual Public School, the Mississippi School for the Deaf and the  
174 Mississippi School for the Blind for compliance with this  
175 subsection and any violations shall be reported to the Auditor no  
176 later than thirty (30) days after the instance of noncompliance.

177 **SECTION 4.** (1) The provisions of this act shall not apply  
178 to any bona fide news or public interest broadcast, website video,  
179 report, or event and shall not be construed to affect the rights  
180 of any news-gathering organizations.

181 (2) No internet service provider, or its affiliates or  
182 subsidiaries, search engine, or cloud service provider shall be  
183 held to have violated the provisions of this act for providing  
184 access or connection to or from a website or other information or  
185 content on the internet or a facility, system, or network not  
186 under that provider's control, including transmission,  
187 downloading, storage, access software, or other to the extent such  
188 provider is not responsible for the creation of the content of the  
189 communication that constitutes material harmful to minors.

190 **SECTION 5.** Section 97-29-107, Mississippi Code of 1972, is  
191 amended as follows:

192 97-29-107. (1) Sections 97-29-101 through 97-29-109 shall  
193 not apply when the distribution or wholesale distribution of the  
194 material, performance or device was made by:



195           (a) A person, corporation, company, partnership, firm,  
196 association, business, establishment or other legal entity to a  
197 person associated with an institution of higher learning, either  
198 as a member of the faculty or as a matriculated student, teaching  
199 or pursuing a course of study related to such material,  
200 performance or device;

201           (b) A licensed physician or a licensed psychologist to  
202 a person whose receipt of such material or device was authorized  
203 in writing by such physician or psychologist in the course of  
204 medical or psychological treatment or care;

205           (c) A person who while acting in his capacity as an  
206 employee is employed on a full-time or part-time basis by (i) any  
207 recognized historical society or museum accorded charitable status  
208 by the federal government; (ii) any state, county or municipal  
209 public library; or (iii) any library of any \* \* \* college or  
210 university in this state; or

211           (d) A community television antenna services system or a  
212 cable television system operating pursuant to a written agreement  
213 not in conflict with this paragraph granted by a county,  
214 municipality or other political subdivision of this state, or by  
215 an employee of such system while acting within the scope of his  
216 employment, when the signal transmitting the material or  
217 performance originates outside of the State of Mississippi.

218           (2) Any exemption from prosecution claimed under the  
219 provisions of this section may be raised at a pretrial hearing by





220 motion, and the court shall determine whether sufficient evidence  
221 exists to constitute an exemption from prosecution under the  
222 provisions of Sections 97-29-101 through 97-29-109. If the motion  
223 is sustained, the case shall be dismissed; provided, however, if  
224 the motion is not sustained then the defendant may offer into  
225 evidence at trial as an affirmative defense to conviction under  
226 Sections 97-29-101 through 97-29-109 any matter which could have  
227 been raised by the defendant in the motion to dismiss.

228         **SECTION 6.** Section 97-29-109, Mississippi Code of 1972, is  
229 brought forward as follows:

230         97-29-109. Any person, except one who wholesale distributes,  
231 who violates Section 97-29-101 or Section 97-29-105 shall be  
232 guilty of a misdemeanor and, upon conviction, shall, in the case  
233 of the first offense, be fined not more than Five Thousand Dollars  
234 (\$5,000.00) or imprisoned in the county jail for a term not to  
235 exceed six (6) months, or both. If the person has been previously  
236 convicted of a violation of Section 97-29-101 or Section 97-29-105  
237 or of Section 97-5-27 or 97-5-29, Mississippi Code of 1972, then  
238 the person shall be fined not less than Two Thousand Five Hundred  
239 Dollars (\$2,500.00) nor more than Ten Thousand Dollars  
240 (\$10,000.00) or imprisoned for a term not to exceed one (1) year,  
241 or both.

242         Any person who wholesale distributes in violation of Section  
243 97-29-101 or Section 97-29-105 shall, upon conviction, be fined  
244 not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for



245 a term not to exceed one (1) year, or both. If the person has  
246 been previously convicted of a violation of Section 97-29-101 or  
247 Section 97-29-105 or of Section 97-5-27 or 97-5-29, Mississippi  
248 Code of 1972, then the person shall, upon conviction, be fined not  
249 less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more  
250 than Fifty Thousand Dollars (\$50,000.00) or imprisoned for a term  
251 not to exceed one (1) year, or both.

252 A corporation, company, partnership, firm, association,  
253 business, establishment, organization or other legal entity other  
254 than an individual convicted of distributing obscenity or unlawful  
255 sexual devices or wholesale distribution of obscenity or unlawful  
256 sexual devices shall be fined not less than One Thousand Dollars  
257 (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). If  
258 such legal entity has been previously convicted of distributing  
259 obscenity or unlawful sexual devices or wholesale distribution of  
260 obscenity or unlawful sexual devices or of a violation of Section  
261 97-5-27 or Section 97-5-29, Mississippi Code of 1972, then such  
262 legal entity shall be fined not less than Five Thousand Dollars  
263 (\$5,000.00) nor more than Fifty Thousand Dollars (\$50,000.00).

264 **SECTION 7.** This act shall take effect and be in force from  
265 and after July 1, 2023, and shall stand repealed on June 30, 2023.

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

1 AN ACT TO REGULATE PORNOGRAPHIC MEDIA EXPOSURE TO CHILDREN;  
2 TO PROVIDE THE LEGISLATIVE INTENT; TO PROVIDE DEFINITIONS; TO



3 REQUIRE COMMERCIAL ENTITIES THAT PROVIDE SUCH CONTENT TO HAVE AGE  
4 VERIFICATION SYSTEMS; TO PROVIDE LIABILITY FOR THOSE COMMERCIAL  
5 ENTITIES THAT DO NOT PROVIDE AN AGE VERIFICATION; TO REQUIRE A  
6 COMMERCIAL ENTITY OR OTHER PERSON OR VENDOR PROVIDING DIGITAL OR  
7 ONLINE RESOURCES OR DATABASES TO STUDENTS IN A PUBLIC SCHOOL  
8 DISTRICT, CHARTER SCHOOL, THE MISSISSIPPI SCHOOL OF THE ARTS, THE  
9 MISSISSIPPI SCHOOL FOR MATHEMATICS AND SCIENCE, THE MISSISSIPPI  
10 VIRTUAL PUBLIC SCHOOL, THE MISSISSIPPI SCHOOL FOR THE DEAF AND THE  
11 MISSISSIPPI SCHOOL FOR THE BLIND, OR A MINOR IN A PUBLIC LIBRARY,  
12 TO IMPLEMENT SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES  
13 THAT FILTER, BLOCK ACCESS TO, OR OTHERWISE PROHIBIT AND PREVENT A  
14 MINOR FROM SENDING, RECEIVING, VIEWING OR DOWNLOADING MATERIAL  
15 HARMFUL TO MINORS; TO PROVIDE THAT THE REQUIREMENT TO IMPLEMENT  
16 SAFETY POLICIES AND TECHNOLOGY PROTECTION MEASURES TAKE PRECEDENCE  
17 OVER ANY CONTRARY PROVISION IN A CONTRACT; TO PROVIDE FOR CERTAIN  
18 PENALTIES UPON NONCOMPLIANCE BY A COMMERCIAL ENTITY OR OTHER  
19 PERSON OR VENDOR; TO AUTHORIZE THE STATE AUDITOR TO AUDIT A PUBLIC  
20 SCHOOL DISTRICT, CHARTER SCHOOL, THE MISSISSIPPI SCHOOL OF THE  
21 ARTS, THE MISSISSIPPI SCHOOL FOR MATHEMATICS AND SCIENCE, THE  
22 MISSISSIPPI VIRTUAL PUBLIC SCHOOL, THE MISSISSIPPI SCHOOL FOR THE  
23 DEAF AND THE MISSISSIPPI SCHOOL FOR THE BLIND FOR COMPLIANCE WITH  
24 THE REQUIREMENT THAT A COMMERCIAL ENTITY OR OTHER PERSON OR VENDOR  
25 PROVIDING DIGITAL OR ONLINE RESOURCES OR DATABASES TO STUDENTS IN  
26 THE SCHOOLS IMPLEMENT CERTAIN SAFETY POLICIES AND TECHNOLOGY  
27 PROTECTION MEASURES; TO AMEND SECTION 97-29-107, MISSISSIPPI CODE  
28 OF 1972, TO DELETE THE EXEMPTION FOR ANY PUBLIC OR PRIVATE SCHOOL  
29 LIBRARY IN THIS STATE FROM THE CRIME OF DISTRIBUTING OBSCENE  
30 MATERIALS; TO BRING FORWARD SECTION 97-29-109, MISSISSIPPI CODE OF  
31 1972, WHICH PROVIDES THE EXEMPTIONS AND PENALTIES FOR DISTRIBUTION  
32 OF OBSCENE MATERIALS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED  
33 PURPOSES.

