

By: Representative McLean

To: Judiciary B

HOUSE BILL NO. 1536

1 AN ACT TO CREATE NEW SECTION 97-3-102, MISSISSIPPI CODE OF
2 1972, TO PROVIDE A CRIME FOR A THERAPIST WHO ENGAGES IN SEXUAL
3 CONTACT WITH A PATIENT; TO AMEND SECTION 97-3-95, MISSISSIPPI CODE
4 OF 1972, TO INCLUDE THE TERM "THERAPIST" IN THE PROVISION OF LAW
5 THAT REGULATES THE CRIME OF SEXUAL BATTERY; TO AMEND SECTION
6 73-54-29, MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN SEXUAL
7 CONTACT WITH A PATIENT TO THE GROUNDS FOR DISCIPLINARY ACTION OF
8 MARRIAGE AND FAMILY THERAPISTS; TO AMEND SECTION 73-53-17,
9 MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN SEXUAL CONTACT WITH A
10 PATIENT TO THE GROUNDS FOR DISCIPLINARY ACTION OF SOCIAL WORKERS;
11 TO AMEND SECTION 73-30-21, MISSISSIPPI CODE OF 1972, TO ADD
12 ENGAGING IN SEXUAL CONTACT WITH A PATIENT TO THE GROUNDS FOR
13 DISCIPLINARY ACTION OF LICENSED PROFESSIONAL COUNSELORS; TO AMEND
14 SECTION 73-31-21, MISSISSIPPI CODE OF 1972, TO ADD ENGAGING IN
15 SEXUAL CONTACT WITH A PATIENT TO THE GROUNDS FOR DISCIPLINARY
16 ACTION OF PSYCHOLOGISTS; TO AMEND SECTION 73-25-29, MISSISSIPPI
17 CODE OF 1972, TO ADD ENGAGING IN SEXUAL CONTACT WITH A PATIENT TO
18 THE GROUNDS FOR DISCIPLINARY ACTION OF PHYSICIANS; TO BRING
19 FORWARD SECTION 97-3-97, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
20 DEFINITIONS FOR THE CRIME OF SEXUAL BATTERY; TO BRING FORWARD
21 SECTION 97-3-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE
22 PENALTIES FOR THE CRIME OF SEXUAL BATTERY; TO PROVIDE ADDITIONAL
23 IMMUNITY FOR ANY PERSON WHO, IN GOOD FAITH, REPORTS ABUSE, NEGLECT
24 OR COMMERCIAL SEXUAL EXPLOITATION; TO REQUIRE ANY PERSON OR ENTITY
25 WHO LEARNS THAT AN ADULT WAS ABUSED AS A CHILD BY A PERSON WHO WAS
26 OR IS ASSOCIATED WITH THE PERSON OR ENTITY; TO PROVIDE IMMUNITY TO
27 SUCH PERSON FOR REPORTING; TO AMEND SECTIONS 43-21-353 AND
28 97-3-54.1, MISSISSIPPI CODE OF 1972, TO PROVIDE IMMUNITY FOR THE
29 REPORTER OF SEXUAL ABUSE WHICH MAY BE INCURRED AS A RESULT OF
30 REPORTING; TO BRING FORWARD SECTION 97-5-51, MISSISSIPPI CODE OF
31 1972, WHICH PROVIDES FOR MANDATORY REPORTING, FOR PURPOSES OF
32 AMENDMENT; AND FOR RELATED PURPOSES.

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



34 **SECTION 1.** The following shall be codified as Section
35 97-3-102, Mississippi Code of 1972:

36 97-3-102. (1) For purposes of this act, the following words
37 and phrases shall have the meanings ascribed herein unless the
38 context clearly requires otherwise:

39 (a) "Clergy" means a priest, rabbi, Christian Science
40 practitioner, imam, minister, pastor, leader of any religious sect
41 or any spiritual leader of any church, religious body or religious
42 society, or person who holds himself or herself out to be a
43 priest, rabbi, Christian Science practitioner, imam, minister,
44 pastor, leader of any religious denomination or any spiritual
45 leader of any church, religious body or religious society.

46 (b) "Former patient or client" means a patient who
47 received services from the therapist within twelve (12) months
48 after the end of a patient or client-therapist relationship.

49 (c) "Mental health services" means the treatment,
50 assessment, or counseling of another person for a cognitive,
51 spiritual, behavioral, emotional, mental, or social issue.

52 (d) "Patient" means a person who receives paid or
53 unpaid services from the therapist.

54 (e) "Sexual contact" means kissing, touching, including
55 oral touching, of another person's inner thigh, breast, groin,
56 buttock, anus, pubes or genitals, whether clothed or unclothed,
57 sexual penetration as defined in Section 97-3-97, or encouraging
58 the patient to kiss, touch, including oral touch, of the patient's



59 inner thigh, breast, groin, buttock, anus, pubes or genitals,
60 whether clothed or unclothed, or penetrate any opening of the
61 patient's body for the pleasure or gratification of the therapist.

62 (f) "Spiritual leader" means a person in a religious
63 sect whose primary purpose is to provide spiritual guidance,
64 enrichment and instruction for or on behalf of the religious
65 denomination.

66 (g) "Therapist" means a physician, psychologist, nurse,
67 counselor, substance abuse counselor, social worker, clergy,
68 marriage or family therapist, mental health service provider,
69 hypnotist, any associate thereof, or other person, regardless of
70 whether the person is licensed or certified by this state, who
71 provides or purports to provide mental health services.

72 (2) It shall be unlawful for any person who is a therapist
73 or who holds himself or herself out to be a therapist to have
74 sexual contact with a patient or former patient regardless of
75 whether the sexual contact occurs during any treatment,
76 consultation, counseling, interview or examination of the patient.
77 Any person convicted for a violation of this section shall be
78 guilty of a felony and punished by imprisonment for not more than
79 five (5) years in the custody of the Department of Corrections,
80 fined not more than Ten Thousand Dollars (\$10,000.00), or both.

81 (3) Consent of the patient shall not be a defense to the
82 prohibition described in this section.



83 (4) The provisions of this section shall not be construed to
84 replace any other applicable provisions of law. The penalties
85 described in this section may be used in addition to any other
86 penalties authorized by law for the described conduct.

87 (5) It is not a violation of this section if the therapist
88 and the patient engaged in sexual contact before the existence of
89 the therapist-patient relationship.

90 **SECTION 2.** Section 97-3-95, Mississippi Code of 1972, is
91 amended as follows:

92 97-3-95. (1) A person is guilty of sexual battery if he or
93 she engages in sexual penetration with:

94 (a) Another person without his or her consent;

95 (b) A mentally defective, mentally incapacitated or
96 physically helpless person;

97 (c) A child at least fourteen (14) but under sixteen
98 (16) years of age, if the person is thirty-six (36) or more months
99 older than the child; or

100 (d) A child under the age of fourteen (14) years of
101 age, if the person is twenty-four (24) or more months older than
102 the child.

103 (2) A person is guilty of sexual battery if he or she
104 engages in sexual penetration with a child under the age of
105 eighteen (18) years if the person is in a position of trust or
106 authority over the child including, without limitation, the
107 child's teacher, counselor, physician, psychiatrist, psychologist,



108 minister, priest, physical therapist, chiropractor, legal
109 guardian, parent, stepparent, aunt, uncle, scout leader * * *,
110 coach or therapist as defined in Section 1 of this act.

111 **SECTION 3.** Section 73-54-29, Mississippi Code of 1972, is
112 amended as follows:

113 73-54-29. Licensees subject to this chapter shall conduct
114 their activities, services and practice in accordance with this
115 chapter and any rules promulgated under this chapter. Licensees
116 may be subject to the exercise of the disciplinary sanctions
117 enumerated in Section 73-53-23 if the board finds that a licensee
118 is guilty of any of the actions listed in Section 73-53-17(1) or
119 is guilty of any of the following:

120 (a) Violation of any provision of this chapter or any
121 rules or regulations of the board adopted under the provisions of
122 this chapter.

123 (b) Other just and sufficient cause which renders a
124 person unfit to practice marriage and family therapy as determined
125 by the board, but not limited to:

126 (i) Habitual use of alcohol or drugs to an extent
127 that affects professional competence;

128 (ii) Adjudication as being mentally incompetent by
129 a court of competent jurisdiction;

130 (iii) Practicing in a manner detrimental to the
131 public health and welfare;



132 (iv) Revocation of a license or certification by a
133 licensing agency or by a certifying professional organization;

134 (v) Any other violation of this chapter or the
135 code of ethical standards of the American Association for Marriage
136 and Family Therapy or other ethical standards adopted by the board
137 under the provisions of this chapter; * * *

138 (vi) Continued practice although the individual
139 failed to renew and has a lapsed license * * *; or

140 (c) Violation of Section 1 of this act.

141 **SECTION 4.** Section 73-53-17, Mississippi Code of 1972, is
142 amended as follows:

143 73-53-17. (1) Individuals licensed by the board shall
144 conduct their activities, services and practice in accordance with
145 the laws governing their professional practice and any rules
146 promulgated by the board. Licensees and applicants may be subject
147 to the exercise of the sanctions enumerated in Section 73-53-23 if
148 the board finds that a licensee or applicant has committed any of
149 the following:

150 (a) Negligence in the practice or performance of
151 professional services or activities;

152 (b) Engaging in dishonorable, unethical or
153 unprofessional conduct of a character likely to deceive, defraud
154 or harm the public in the course of professional services or
155 activities;



156 (c) Perpetrating or cooperating in fraud or material
157 deception in obtaining or renewing a license or attempting the
158 same;

159 (d) Violating the rules and regulations established by
160 the board;

161 (e) Violating the National Association of Social
162 Workers Code of Ethics or the American Association for Marriage
163 and Family Therapy Code of Ethics;

164 (f) Being convicted of any crime which has a
165 substantial relationship to the licensee's activities and services
166 or an essential element of which is misstatement, fraud or
167 dishonesty;

168 (g) Being convicted of any crime which is a felony
169 under the laws of this state or of the United States of America;

170 (h) Engaging in or permitting the performance of
171 unacceptable services personally due to the licensee's deliberate
172 or grossly negligent act or acts or failure to act, regardless of
173 whether actual damage or damages to the public is established, or
174 assuming responsibility for another's work by signing documents
175 without personal knowledge of the work as established by board
176 rule;

177 (i) Continued practice although the licensee has become
178 unfit to practice social work due to: (i) failure to keep abreast
179 of current professional theory or practice; or (ii) physical or
180 mental disability; the entry of an order or judgment by a court of



181 competent jurisdiction that a licensee is in need of mental
182 treatment or is incompetent shall constitute mental disability; or
183 (iii) addiction or severe dependency upon alcohol or other drugs
184 which may endanger the public by impairing the licensee's ability
185 to practice;

186 (j) Continued practice although the individual failed
187 to renew and has a lapsed license;

188 (k) Having disciplinary action taken against the
189 licensee's license in another state;

190 (l) Making differential, detrimental treatment against
191 any person because of race, color, creed, sex, religion or
192 national origin;

193 (m) Engaging in lewd conduct in connection with
194 professional services or activities;

195 (n) Engaging in false or misleading advertising;

196 (o) Contracting, assisting or permitting unlicensed
197 persons to perform services for which a license is required under
198 this chapter;

199 (p) Violation of any probation requirements placed on a
200 licensee by the board;

201 (q) Revealing confidential information except as may be
202 required by law;

203 (r) Failing to inform clients of the fact that the
204 client no longer needs the services or professional assistance of
205 the licensee;



206 (s) Charging excessive or unreasonable fees or engaging
207 in unreasonable collection practices * * *; or
208 (t) Violating Section 1 of this act.

209 (2) The board may order a licensee to submit to a reasonable
210 physical or mental examination if the licensee's physical or
211 mental capacity to practice safely is at issue in a disciplinary
212 proceeding.

213 (3) Failure to comply with a board order to submit to a
214 physical or mental examination shall render a licensee subject to
215 the summary suspension procedures described in Section 73-53-23.

216 (4) In addition to the reasons specified in subsection (1)
217 of this section, the board shall be authorized to suspend the
218 license of any licensee for being out of compliance with an order
219 for support, as defined in Section 93-11-153. The procedure for
220 suspension of a license for being out of compliance with an order
221 for support, and the procedure for the reissuance or reinstatement
222 of a license suspended for that purpose, and the payment of any
223 fees for the reissuance or reinstatement of a license suspended
224 for that purpose, shall be governed by Section 93-11-157 or
225 93-11-163, as the case may be. If there is any conflict between
226 any provision of Section 93-11-157 or 93-11-163 and any provision
227 of this chapter, the provisions of Section 93-11-157 or 93-11-163,
228 as the case may be, shall control.

229 **SECTION 5.** Section 73-30-21, Mississippi Code of 1972, is
230 amended as follows:



231 73-30-21. (1) The board may, after notice and opportunity
232 for a hearing, suspend, revoke or refuse to issue or renew a
233 license or the privilege to practice or may reprimand the license
234 holder or holder of the privilege to practice, upon a
235 determination by the board that such license holder or holder of
236 the privilege to practice or applicant for licensure or the
237 privilege to practice has:

238 (a) Been adjudged by any court to be mentally
239 incompetent or have had a guardian of person appointed;

240 (b) Been convicted of a felony;

241 (c) Sworn falsely under oath or affirmation;

242 (d) Obtained a license or certificate or the privilege
243 to practice by fraud, deceit or other misrepresentation;

244 (e) Engaged in the conduct of professional counseling
245 in a grossly negligent or incompetent manner;

246 (f) Intentionally violated any provision of this
247 article;

248 (g) Violated any rules or regulations of the
249 board; * * *

250 (h) Aided or assisted another in falsely obtaining a
251 license or the privilege to practice under this article * * *; or

252 (i) Violated Section 1 of this act.

253 With regard to a refusal to issue a privilege to practice,
254 such refusal by the board shall be in accordance with the terms of



255 the Professional Counseling Compact instead of this subsection
256 (1).

257 (2) Appeals from disciplinary action are to be brought in
258 the circuit court in the county of residence of the practitioner.
259 In the event the practitioner resides out of state the appeal
260 should be brought in Hinds County Circuit Court.

261 (3) The board may assess and levy upon any licensee,
262 practitioner or applicant for licensure or the privilege to
263 practice the costs incurred or expended by the board in the
264 investigation and prosecution of any licensure, privilege to
265 practice or disciplinary action, including, but not limited to,
266 the costs of process service, court reporters, expert witnesses,
267 investigators and attorney's fees.

268 (4) No revoked license or privilege to practice may be
269 reinstated within twelve (12) months after such revocation.
270 Reinstatement thereafter shall be upon such conditions as the
271 board may prescribe, which may include, without being limited to,
272 successful passing of the examination required by this article.

273 (5) A license or privilege to practice certificate issued by
274 the board is the property of the board and must be surrendered on
275 demand.

276 (6) The chancery court is hereby vested with the
277 jurisdiction and power to enjoin the unlawful practice of
278 counseling and/or the false representation as a licensed counselor



279 in a proceeding brought by the board or any members thereof or by
280 any citizen of this state.

281 (7) In addition to the reasons specified in subsection (1)
282 of this section, the board shall be authorized to suspend the
283 license of any licensee for being out of compliance with an order
284 for support, as defined in Section 93-11-153. The procedure for
285 suspension of a license for being out of compliance with an order
286 for support, and the procedure for the reissuance or reinstatement
287 of a license suspended for that purpose, and the payment of any
288 fees for the reissuance or reinstatement of a license suspended
289 for that purpose, shall be governed by Section 93-11-157 or
290 93-11-163, as the case may be. If there is any conflict between
291 any provision of Section 93-11-157 or 93-11-163 and any provision
292 of this article, the provisions of Section 93-11-157 or 93-11-163,
293 as the case may be, shall control.

294 **SECTION 6.** Section 73-31-21, Mississippi Code of 1972, is
295 amended as follows:

296 73-31-21. (1) The board, by an affirmative vote of at least
297 four (4) of its seven (7) members, shall withhold, deny, revoke or
298 suspend any license issued or applied for in accordance with the
299 provisions of this chapter, or otherwise discipline a licensed
300 psychologist, upon proof that the applicant or licensed
301 psychologist:



302 (a) Has violated the current code of ethics of the
303 American Psychological Association or other codes of ethical
304 standards adopted by the board; or

305 (b) Has been convicted of a felony or any offense
306 involving moral turpitude, the record of conviction being
307 conclusive evidence thereof; or

308 (c) Is using any substance or any alcoholic beverage to
309 an extent or in a manner dangerous to any other person or the
310 public, or to an extent that the use impairs his or her ability to
311 perform the work of a professional psychologist with safety to the
312 public; or

313 (d) Has impersonated another person holding a
314 psychologist license or allowed another person to use his or her
315 license; or

316 (e) Has used fraud or deception in applying for a
317 license or in taking an examination provided for in this chapter;
318 or

319 (f) Has accepted commissions or rebates or other forms
320 of remuneration for referring clients to other professional
321 persons; or

322 (g) Has performed psychological services outside of the
323 area of his or her training, experience or competence; or

324 (h) Has allowed his or her name or license issued under
325 this chapter to be used in connection with any person or persons



326 who perform psychological services outside of the area of their
327 training, experience or competence; or

328 (i) Is legally adjudicated mentally incompetent, the
329 record of that adjudication being conclusive evidence thereof; or

330 (j) Has willfully or negligently violated any of the
331 provisions of this chapter. The board may recover from any person
332 disciplined under this chapter, the costs of investigation,
333 prosecution, and adjudication of the disciplinary action * * *; or

334 (k) Has violated Section 1 of this act.

335 (2) Notice shall be effected by registered mail or personal
336 service setting forth the particular reasons for the proposed
337 action and fixing a date not less than thirty (30) days nor more
338 than sixty (60) days from the date of the mailing or that service,
339 at which time the applicant or licensee shall be given an
340 opportunity for a prompt and fair hearing. For the purpose of the
341 hearing, the board, acting by and through its executive secretary,
342 may subpoena persons and papers on its own behalf and on behalf of
343 the applicant or licensee, may administer oaths and may take
344 testimony. That testimony, when properly transcribed, together
345 with the papers and exhibits, shall be admissible in evidence for
346 or against the applicant or licensee. At the hearing, the
347 applicant or licensee may appear by counsel and personally in his
348 or her own behalf. Any person sworn and examined by a witness in
349 the hearing shall not be held to answer criminally, nor shall any
350 papers or documents produced by the witness be competent evidence



351 in any criminal proceedings against the witness other than for
352 perjury in delivering his or her evidence. On the basis of any
353 such hearing, or upon default of applicant or licensee, the board
354 shall make a determination specifying its findings of fact and
355 conclusions of law. A copy of that determination shall be sent by
356 registered mail or served personally upon the applicant or
357 licensee. The decision of the board denying, revoking or
358 suspending the license shall become final thirty (30) days after
359 so mailed or served, unless within that period the applicant or
360 licensee appeals the decision to the chancery court, under the
361 provisions hereof, and the proceedings in chancery shall be
362 conducted as other matters coming before the court. All
363 proceedings and evidence, together with exhibits, presented at the
364 hearing before the board shall be admissible in evidence in court
365 in the appeal.

366 (3) The board may subpoena persons and papers on its own
367 behalf and on behalf of the respondent, may administer oaths and
368 may compel the testimony of witnesses. It may issue commissions
369 to take testimony, and testimony so taken and sworn to shall be
370 admissible in evidence for and against the respondent. The board
371 shall be entitled to the assistance of the chancery court or the
372 chancellor in vacation, which, on petition by the board, shall
373 issue ancillary subpoenas and petitions and may punish as for
374 contempt of court in the event of noncompliance therewith.



375 (4) Every order and judgment of the board shall take effect
376 immediately on its promulgation unless the board in the order or
377 judgment fixes a probationary period for the applicant or
378 licensee. The order and judgment shall continue in effect unless
379 upon appeal the court by proper order or decree terminates it
380 earlier. The board may make public its order and judgments in
381 any manner and form as it deems proper. It shall, in event of the
382 suspension or revocation of a license, direct the clerk of the
383 circuit court of the county in which that license was recorded to
384 cancel that record.

385 (5) Nothing in this section shall be construed as limiting
386 or revoking the authority of any court or of any licensing or
387 registering officer or board, other than the Mississippi Board of
388 Psychology, to suspend, revoke and reinstate licenses and to
389 cancel registrations under the provisions of Section 41-29-311.

390 (6) Suspension by the board of the license of a psychologist
391 shall be for a period not exceeding one (1) year. At the end of
392 this period the board shall reevaluate the suspension, and shall
393 either reinstate or revoke the license. A person whose license
394 has been revoked under the provisions of this section may reapply
395 for a license after more than two (2) years have elapsed from the
396 date that the denial or revocation is legally effective.

397 (7) In addition to the reasons specified in subsection (1)
398 of this section, the board shall be authorized to suspend the
399 license of any licensee for being out of compliance with an order



400 for support, as defined in Section 93-11-153. The procedure for
401 suspension of a license for being out of compliance with an order
402 for support, and the procedure for the reissuance or reinstatement
403 of a license suspended for that purpose, and the payment of any
404 fees for the reissuance or reinstatement of a license suspended
405 for that purpose, shall be governed by Section 93-11-157. Actions
406 taken by the board in suspending a license when required by
407 Section 93-11-157 or 93-11-163 are not actions from which an
408 appeal may be taken under this section. Any appeal of a license
409 suspension that is required by Section 93-11-157 or 93-11-163
410 shall be taken in accordance with the appeal procedure specified
411 in Section 93-11-157 or 93-11-163, as the case may be, rather than
412 the procedure specified in this section. If there is any conflict
413 between any provision of Section 93-11-157 or 93-11-163 and any
414 provision of this chapter, the provisions of Section 93-11-157 or
415 93-11-163, as the case may be, shall control.

416 (8) The board may issue a nondisciplinary, educational
417 letter to licensees as provided in Section 73-31-7(2)(g). The
418 board may also direct a psychologist to obtain a formal assessment
419 of ability to practice safely if there is reason to believe there
420 may be impairment due to substance abuse or mental incapacity.
421 Licensees who may be impaired, but who are able to practice
422 safely, may be required by the board to seek appropriate treatment
423 and/or supervision. That action by the board in itself will not
424 be considered disciplinary.



425 **SECTION 7.** Section 73-25-29, Mississippi Code of 1972, is
426 amended as follows:

427 73-25-29. The grounds for the nonissuance, suspension,
428 revocation or restriction of a license or the denial of
429 reinstatement or renewal of a license are:

430 (1) Habitual personal use of narcotic drugs, or any
431 other drug having addiction-forming or addiction-sustaining
432 liability.

433 (2) Habitual use of intoxicating liquors, or any
434 beverage, to an extent which affects professional competency.

435 (3) Administering, dispensing or prescribing any
436 narcotic drug, or any other drug having addiction-forming or
437 addiction-sustaining liability otherwise than in the course of
438 legitimate professional practice.

439 (4) Conviction of violation of any federal or state law
440 regulating the possession, distribution or use of any narcotic
441 drug or any drug considered a controlled substance under state or
442 federal law, a certified copy of the conviction order or judgment
443 rendered by the trial court being prima facie evidence thereof,
444 notwithstanding the pendency of any appeal.

445 (5) Procuring, or attempting to procure, or aiding in,
446 an abortion that is not medically indicated.

447 (6) Conviction of a felony or misdemeanor involving
448 moral turpitude, a certified copy of the conviction order or



449 judgment rendered by the trial court being prima facie evidence
450 thereof, notwithstanding the pendency of any appeal.

451 (7) Obtaining or attempting to obtain a license by
452 fraud or deception.

453 (8) Unprofessional conduct, which includes, but is not
454 limited to:

455 (a) Practicing medicine under a false or assumed
456 name or impersonating another practitioner, living or dead.

457 (b) Knowingly performing any act which in any way
458 assists an unlicensed person to practice medicine.

459 (c) Making or willfully causing to be made any
460 flamboyant claims concerning the licensee's professional
461 excellence.

462 (d) Being guilty of any dishonorable or unethical
463 conduct likely to deceive, defraud or harm the public.

464 (e) Obtaining a fee as personal compensation or
465 gain from a person on fraudulent representation of a disease or
466 injury condition generally considered incurable by competent
467 medical authority in the light of current scientific knowledge and
468 practice can be cured or offering, undertaking, attempting or
469 agreeing to cure or treat the same by a secret method, which he
470 refuses to divulge to the board upon request.

471 (f) Use of any false, fraudulent or forged
472 statement or document, or the use of any fraudulent, deceitful,
473 dishonest or immoral practice in connection with any of the



474 licensing requirements, including the signing in his professional
475 capacity any certificate that is known to be false at the time he
476 makes or signs such certificate.

477 (g) Failing to identify a physician's school of
478 practice in all professional uses of his name by use of his earned
479 degree or a description of his school of practice.

480 (h) Violating Section 1 of this act.

481 (9) The refusal of a licensing authority of another
482 state or jurisdiction to issue or renew a license, permit or
483 certificate to practice medicine in that jurisdiction or the
484 revocation, suspension or other restriction imposed on a license,
485 permit or certificate issued by such licensing authority which
486 prevents or restricts practice in that jurisdiction, a certified
487 copy of the disciplinary order or action taken by the other state
488 or jurisdiction being prima facie evidence thereof,
489 notwithstanding the pendency of any appeal.

490 (10) Surrender of a license or authorization to
491 practice medicine in another state or jurisdiction or surrender of
492 membership on any medical staff or in any medical or professional
493 association or society while under disciplinary investigation by
494 any of those authorities or bodies for acts or conduct similar to
495 acts or conduct which would constitute grounds for action as
496 defined in this section.

497 (11) Final sanctions imposed by the United States
498 Department of Health and Human Services, Office of Inspector



499 General or any successor federal agency or office, based upon a
500 finding of incompetency, gross misconduct or failure to meet
501 professionally recognized standards of health care; a certified
502 copy of the notice of final sanction being prima facie evidence
503 thereof. As used in this paragraph, the term "final sanction"
504 means the written notice to a physician from the United States
505 Department of Health and Human Services, Officer of Inspector
506 General or any successor federal agency or office, which
507 implements the exclusion.

508 (12) Failure to furnish the board, its investigators or
509 representatives information legally requested by the board.

510 (13) Violation of any provision(s) of the Medical
511 Practice Act or the rules and regulations of the board or of any
512 order, stipulation or agreement with the board.

513 (14) Violation(s) of the provisions of Sections
514 41-121-1 through 41-121-9 relating to deceptive advertisement by
515 health care practitioners.

516 (15) Performing or inducing an abortion on a woman in
517 violation of any provision of Sections 41-41-131 through
518 41-41-145.

519 (16) Performing an abortion on a pregnant woman after
520 determining that the unborn human individual that the pregnant
521 woman is carrying has a detectable fetal heartbeat as provided in
522 Section 41-41-34.1.



523 (17) Violation(s) of any provision of Title 41, Chapter
524 141, Mississippi Code of 1972.

525 In addition to the grounds specified above, the board shall
526 be authorized to suspend the license of any licensee for being out
527 of compliance with an order for support, as defined in Section
528 93-11-153. The procedure for suspension of a license for being
529 out of compliance with an order for support, and the procedure for
530 the reissuance or reinstatement of a license suspended for that
531 purpose, and the payment of any fees for the reissuance or
532 reinstatement of a license suspended for that purpose, shall be
533 governed by Section 93-11-157 or 93-11-163, as the case may be.
534 If there is any conflict between any provision of Section
535 93-11-157 or 93-11-163 and any provision of this chapter, the
536 provisions of Section 93-11-157 or 93-11-163, as the case may be,
537 shall control.

538 A physician who provides a written certification as
539 authorized under the Mississippi Medical Cannabis Act and in
540 compliance with rules and regulations adopted thereunder shall not
541 be subject to any disciplinary action under this section solely
542 due to providing the written certification.

543 **SECTION 8.** Section 97-3-97, Mississippi Code of 1972, is
544 brought forward as follows:

545 97-3-97. For purposes of Sections 97-3-95 through 97-3-103
546 the following words shall have the meaning ascribed herein unless
547 the context otherwise requires:



548 (a) "Sexual penetration" includes cunnilingus,
549 fellatio, buggery or pederasty, any penetration of the genital or
550 anal openings of another person's body by any part of a person's
551 body, and insertion of any object into the genital or anal
552 openings of another person's body.

553 (b) A "mentally defective person" is one who suffers
554 from a mental disease, defect or condition which renders that
555 person temporarily or permanently incapable of knowing the nature
556 and quality of his or her conduct.

557 (c) A "mentally incapacitated person" is one rendered
558 incapable of knowing or controlling his or her conduct, or
559 incapable of resisting an act due to the influence of any drug,
560 narcotic, anesthetic, or other substance administered to that
561 person without his or her consent.

562 (d) A "physically helpless person" is one who is
563 unconscious or one who for any other reason is physically
564 incapable of communicating an unwillingness to engage in an act.

565 **SECTION 9.** Section 97-3-101, Mississippi Code of 1972, is
566 brought forward as follows:

567 97-3-101. (1) Every person who shall be convicted of sexual
568 battery under Section 97-3-95(1)(a), (b) or (2) shall be
569 imprisoned in the State Penitentiary for a period of not more than
570 thirty (30) years, and for a second or subsequent such offense
571 shall be imprisoned in the Penitentiary for not more than forty
572 (40) years.



573 (2) (a) Every person who shall be convicted of sexual
574 battery under Section 97-3-95(1)(c) who is at least eighteen (18)
575 but under twenty-one (21) years of age shall be imprisoned for not
576 more than five (5) years in the State Penitentiary or fined not
577 more than Five Thousand Dollars (\$5,000.00), or both;

578 (b) Every person who shall be convicted of sexual
579 battery under Section 97-3-95(1)(c) who is twenty-one (21) years
580 of age or older shall be imprisoned not more than thirty (30)
581 years in the State Penitentiary or fined not more than Ten
582 Thousand Dollars (\$10,000.00), or both, for the first offense, and
583 not more than forty (40) years in the State Penitentiary for each
584 subsequent offense.

585 (3) Every person who shall be convicted of sexual battery
586 under Section 97-3-95(1)(d) who is eighteen (18) years of age or
587 older shall be imprisoned for life in the State Penitentiary or
588 such lesser term of imprisonment as the court may determine, but
589 not less than twenty (20) years.

590 (4) Every person who shall be convicted of sexual battery
591 who is thirteen (13) years of age or older but under eighteen (18)
592 years of age shall be sentenced to such imprisonment, fine or
593 other sentence as the court, in its discretion, may determine.

594 (5) (a) Upon conviction under this section, the court may
595 issue a criminal sexual assault protection order prohibiting the
596 offender from any contact with the victim, without regard to the
597 relationship between the victim and offender. The court may



598 include in a criminal sexual assault protection order any relief
599 available under Section 93-21-15. The term of a criminal sexual
600 assault protection order shall be for a time period determined by
601 the court, but all orders shall, at a minimum, remain in effect
602 for a period of two (2) years following the expiration of any
603 sentence of imprisonment and subsequent period of community
604 supervision, conditional release, probation, or parole. Upon
605 issuance of a criminal sexual assault protection order, the clerk
606 of the issuing court shall enter the order in the Mississippi
607 Protection Order Registry within twenty-four (24) hours of
608 issuance with no exceptions for weekends or holidays as provided
609 in Section 93-21-25, and a copy must be provided to both the
610 victim and offender.

611 (b) Criminal sexual assault protection orders shall be
612 issued on the standardized form developed by the Office of the
613 Attorney General.

614 (c) It is a misdemeanor to knowingly violate any
615 condition of a criminal sexual assault protection order. Upon
616 conviction for a violation, the defendant shall be punished by a
617 fine of not more than Five Hundred Dollars (\$500.00) or by
618 imprisonment in the county jail for not more than six (6) months,
619 or both. Any sentence imposed for the violation of a criminal
620 sexual assault protection order shall run consecutively to any
621 other sentences imposed on the offender. The court may extend the
622 criminal sexual assault protection order for a period of one (1)



623 year for each violation. The incarceration of a person at the
624 time of the violation is not a bar to prosecution under this
625 section. Nothing in this subsection shall be construed to
626 prohibit the imposition of any other penalties or disciplinary
627 action otherwise allowed by law or policy.

628 **SECTION 10.** In addition to any other immunity provided by
629 law, any person or entity who reports abuse, neglect and/or
630 commercial sexual exploitation or human trafficking or any other
631 form of sexual battery or rape regardless of when the incident
632 occurred or the age of the victim when the person or entity learns
633 of such, shall be presumed to be acting in good faith; and be
634 immune from civil and criminal liability arising from the act of
635 reporting that might otherwise be incurred for such reporting.

636 **SECTION 11.** (1) Any person who is listed as a mandatory
637 reporter or any other person or entity that learns in their
638 professional capacity that an adult was sexually, emotionally or
639 physically abused as a child by a person who is associated with
640 the mandatory reporter, the person or the entity shall report the
641 abuse.

642 (2) Any person who reports abuse as required by subsection
643 (1) of this section shall be immune from liability which may be
644 incurred by the act of reporting or disclosing confidential
645 information.

646 **SECTION 12.** Section 43-21-353, Mississippi Code of 1972, is
647 amended as follows:



648 43-21-353. (1) Any attorney, physician, dentist, intern,
649 resident, nurse, psychologist, social worker, family protection
650 worker, family protection specialist, child caregiver, minister,
651 law enforcement officer, public or private school employee or any
652 other person having reasonable cause to suspect that a child is a
653 neglected child, an abused child, or a victim of commercial sexual
654 exploitation or human trafficking shall cause an oral report to be
655 made immediately by telephone or otherwise and followed as soon
656 thereafter as possible by a report in writing to the Department of
657 Child Protection Services, and immediately a referral shall be
658 made by the Department of Child Protection Services to the youth
659 court intake unit, which unit shall promptly comply with Section
660 43-21-357. In the course of an investigation, at the initial time
661 of contact with the individual(s) about whom a report has been
662 made under this Youth Court Act or with the individual(s)
663 responsible for the health or welfare of a child about whom a
664 report has been made under this chapter, the Department of Child
665 Protection Services shall inform the individual of the specific
666 complaints or allegations made against the individual. Consistent
667 with subsection (4), the identity of the person who reported his
668 or her suspicion shall not be disclosed at that point. Where
669 appropriate, the Department of Child Protection Services shall
670 additionally make a referral to the youth court prosecutor.

671 Upon receiving a report that a child has been sexually
672 abused, is a victim of commercial sexual exploitation or human



673 trafficking or has been burned, tortured, mutilated or otherwise
674 physically abused in such a manner as to cause serious bodily
675 harm, or upon receiving any report of abuse that would be a felony
676 under state or federal law, the Department of Child Protection
677 Services shall immediately notify the law enforcement agency in
678 whose jurisdiction the abuse occurred. Within forty-eight (48)
679 hours, the department must notify the appropriate prosecutor and
680 the Statewide Human Trafficking Coordinator. The department shall
681 have the duty to provide the law enforcement agency all the names
682 and facts known at the time of the report; this duty shall be of a
683 continuing nature. The law enforcement agency and the department
684 shall investigate the reported abuse immediately and shall file a
685 preliminary report with the appropriate prosecutor's office within
686 twenty-four (24) hours and shall make additional reports as new or
687 additional information or evidence becomes available. The
688 department shall advise the clerk of the youth court and the youth
689 court prosecutor of all cases of abuse reported to the department
690 within seventy-two (72) hours and shall update such report as
691 information becomes available. In addition, if the Department of
692 Child Protection Services determines that a parent or other person
693 responsible for the care or welfare of an abused or neglected
694 child maintains active duty status within the military, the
695 department shall notify the applicable military installation
696 family advocacy program that there is an allegation of abuse or
697 neglect that relates to that child.



698 (2) Any report shall contain the names and addresses of the
699 child and his parents or other persons responsible for his care,
700 if known, the child's age, the nature and extent of the child's
701 injuries, including any evidence of previous injuries, any other
702 information that might be helpful in establishing the cause of the
703 injury, and the identity of the perpetrator.

704 (3) The Department of Child Protection Services shall
705 maintain a statewide incoming wide-area telephone service or
706 similar service for the purpose of receiving reports of suspected
707 cases of child abuse, commercial sexual exploitation or human
708 trafficking; provided that any attorney, physician, dentist,
709 intern, resident, nurse, psychologist, social worker, family
710 protection worker, family protection specialist, child caregiver,
711 minister, law enforcement officer or public or private school
712 employee who is required to report under subsection (1) of this
713 section shall report in the manner required in subsection (1).

714 (4) Reports of abuse, neglect and commercial sexual
715 exploitation or human trafficking made under this chapter and the
716 identity of the reporter are confidential except when the court in
717 which the investigation report is filed, in its discretion,
718 determines the testimony of the person reporting to be material to
719 a judicial proceeding or when the identity of the reporter is
720 released to law enforcement agencies and the appropriate
721 prosecutor pursuant to subsection (1). Reports made under this
722 section to any law enforcement agency or prosecutorial officer are



723 for the purpose of criminal investigation and prosecution only and
724 no information from these reports may be released to the public
725 except as provided by Section 43-21-261. Disclosure of any
726 information by the prosecutor shall be according to the
727 Mississippi Uniform Rules of Circuit and County Court Procedure.
728 The identity of the reporting party shall not be disclosed to
729 anyone other than law enforcement officers or prosecutors without
730 an order from the appropriate youth court. Any person disclosing
731 any reports made under this section in a manner not expressly
732 provided for in this section or Section 43-21-261 shall be guilty
733 of a misdemeanor and subject to the penalties prescribed by
734 Section 43-21-267. Notwithstanding the confidentiality of the
735 reporter's identity under this section, the Department of Child
736 Protection Services may disclose a reporter's identity to the
737 appropriate law enforcement agency or prosecutor if the department
738 has reason to suspect the reporter has made a fraudulent report,
739 and the Department of Child Protection Services must provide to
740 the subject of the alleged fraudulent report written notification
741 of the disclosure.

742 (5) All final dispositions of law enforcement investigations
743 described in subsection (1) of this section shall be determined
744 only by the appropriate prosecutor or court. All final
745 dispositions of investigations by the Department of Child
746 Protection Services as described in subsection (1) of this section
747 shall be determined only by the youth court. Reports made under



748 subsection (1) of this section by the Department of Child
749 Protection Services to the law enforcement agency and to the
750 district attorney's office shall include the following, if known
751 to the department:

752 (a) The name and address of the child;

753 (b) The names and addresses of the parents;

754 (c) The name and address of the suspected perpetrator;

755 (d) The names and addresses of all witnesses, including
756 the reporting party if a material witness to the abuse;

757 (e) A brief statement of the facts indicating that the
758 child has been abused, including whether the child experienced
759 commercial sexual exploitation or human trafficking, and any other
760 information from the agency files or known to the family
761 protection worker or family protection specialist making the
762 investigation, including medical records or other records, which
763 may assist law enforcement or the district attorney in
764 investigating and/or prosecuting the case; and

765 (f) What, if any, action is being taken by the
766 Department of Child Protection Services.

767 (6) In any investigation of a report made under this chapter
768 of the abuse or neglect of a child as defined in Section
769 43-21-105(1) or (m), the Department of Child Protection Services
770 may request the appropriate law enforcement officer with
771 jurisdiction to accompany the department in its investigation, and



772 in such cases the law enforcement officer shall comply with such
773 request.

774 (7) Anyone who willfully violates any provision of this
775 section shall be, upon being found guilty, punished by a fine not
776 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
777 jail not to exceed one (1) year, or both.

778 (8) If a report is made directly to the Department of Child
779 Protection Services that a child has been abused or neglected or
780 experienced commercial sexual exploitation or human trafficking in
781 an out-of-home setting, a referral shall be made immediately to
782 the law enforcement agency in whose jurisdiction the abuse
783 occurred and the department shall notify the district attorney's
784 office and the Statewide Human Trafficking Coordinator within
785 forty-eight (48) hours of such report. The Department of Child
786 Protection Services shall investigate the out-of-home setting
787 report of abuse or neglect to determine whether the child who is
788 the subject of the report, or other children in the same
789 environment, comes within the jurisdiction of the youth court and
790 shall report to the youth court the department's findings and
791 recommendation as to whether the child who is the subject of the
792 report or other children in the same environment require the
793 protection of the youth court. The law enforcement agency shall
794 investigate the reported abuse immediately and shall file a
795 preliminary report with the district attorney's office within
796 forty-eight (48) hours and shall make additional reports as new



797 information or evidence becomes available. If the out-of-home
798 setting is a licensed facility, an additional referral shall be
799 made by the Department of Child Protection Services to the
800 licensing agency. The licensing agency shall investigate the
801 report and shall provide the department, the law enforcement
802 agency and the district attorney's office with their written
803 findings from such investigation as well as that licensing
804 agency's recommendations and actions taken.

805 (9) If a child protective investigation does not result in
806 an out-of-home placement, a child protective investigator must
807 provide information to the parent or guardians about community
808 service programs that provide respite care, counseling and support
809 for children who have experienced commercial sexual exploitation
810 or human trafficking, voluntary guardianship or other support
811 services for families in crisis.

812 (10) Any person or entity who reports abuse, neglect and/or
813 commercial sexual exploitation or human trafficking under this
814 chapter is presumed to be acting in good faith. Any person or
815 institution reporting in good faith shall be immune from civil and
816 criminal liability that might otherwise be incurred.

817 **SECTION 13.** Section 97-3-54.1, Mississippi Code of 1972, is
818 amended as follows:

819 97-3-54.1. (1) (a) A person who coerces, recruits,
820 entices, harbors, transports, provides or obtains by any means, or
821 attempts to coerce, recruit, entice, harbor, transport, provide or



822 obtain by any means, another person, intending or knowing that the
823 person will be subjected to forced labor or services, or who
824 benefits, whether financially or by receiving anything of value
825 from participating in an enterprise that he knows or reasonably
826 should have known has engaged in such acts, shall be guilty of the
827 crime of human trafficking.

828 (b) A person who knowingly purchases the forced labor
829 or services of a trafficked person or who otherwise knowingly
830 subjects, or attempts to subject, another person to forced labor
831 or services or who benefits, whether financially or by receiving
832 anything of value from participating in an enterprise that he
833 knows or reasonably should have known has engaged in such acts,
834 shall be guilty of the crime of procuring involuntary servitude.

835 (c) A person who knowingly subjects, or attempts to
836 subject, or who recruits, entices, harbors, transports, provides
837 or obtains by any means, or attempts to recruit, entice, harbor,
838 transport, provide or obtain by any means, a minor, knowing that
839 the minor will engage in commercial sexual activity, sexually
840 explicit performance, or the production of sexually oriented
841 material, or causes or attempts to cause a minor to engage in
842 commercial sexual activity, sexually explicit performance, or the
843 production of sexually oriented material, shall be guilty of
844 procuring sexual servitude of a minor and shall be punished by
845 commitment to the custody of the Department of Corrections for not
846 less than twenty (20) years nor more than life in prison, or by a



847 fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more
848 than Five Hundred Thousand Dollars (\$500,000.00), or both. It is
849 not a defense in a prosecution under this section that a minor
850 consented to engage in the commercial sexual activity, sexually
851 explicit performance, or the production of sexually oriented
852 material, or that the defendant reasonably believed that the minor
853 was eighteen (18) years of age or older.

854 (2) If the victim is not a minor, a person who is convicted
855 of an offense set forth in subsection (1)(a) or (b) of this
856 section shall be committed to the custody of the Department of
857 Corrections for not less than two (2) years nor more than twenty
858 (20) years, or by a fine of not less than Ten Thousand Dollars
859 (\$10,000.00) nor more than One Hundred Thousand Dollars
860 (\$100,000.00), or both. If the victim of the offense is a minor,
861 a person who is convicted of an offense set forth in subsection
862 (1)(a) or (b) of this section shall be committed to the custody of
863 the Department of Corrections for not less than twenty (20) years
864 nor more than life in prison, or by a fine of not less than Twenty
865 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand
866 Dollars (\$100,000.00), or both.

867 (3) An enterprise may be prosecuted for an offense under
868 this chapter if:

869 (a) An agent of the enterprise knowingly engages in
870 conduct that constitutes an offense under this chapter while



871 acting within the scope of employment and for the benefit of the
872 entity.

873 (b) An employee of the enterprise engages in conduct
874 that constitutes an offense under this chapter and the commission
875 of the offense was part of a pattern of illegal activity for the
876 benefit of the enterprise, which an agent of the enterprise either
877 knew was occurring or recklessly disregarded, and the agent failed
878 to take effective action to stop the illegal activity.

879 (c) It is an affirmative defense to a prosecution of an
880 enterprise that the enterprise had in place adequate procedures,
881 including an effective complaint procedure, designed to prevent
882 persons associated with the enterprise from engaging in the
883 unlawful conduct and to promptly correct any violations of this
884 chapter.

885 (d) The court may consider the severity of the
886 enterprise's offense and order penalties, including: (i) a fine
887 of not more than One Million Dollars (\$1,000,000.00); (ii)
888 disgorgement of profit; and (iii) debarment from government
889 contracts. Additionally, the court may order any of the relief
890 provided in Section 97-3-54.7.

891 (4) In addition to the mandatory reporting provisions
892 contained in Sections 43-21-353 and 97-5-51, any person who has
893 reasonable cause to suspect that a minor under the age of eighteen
894 (18) is a trafficked person shall immediately make a report of the
895 suspected child abuse or neglect to the Department of Child



896 Protection Services and to the Statewide Human Trafficking
897 Coordinator. The Department of Child Protection Services or the
898 Statewide Human Trafficking Coordinator, whichever is applicable,
899 shall then immediately notify the law enforcement agency in the
900 jurisdiction where the suspected child abuse, neglect or
901 trafficking occurred as required in Section 43-21-353, and the
902 department that received the report shall also commence an initial
903 investigation into the suspected abuse or neglect as required in
904 Section 43-21-353. The department that received such report shall
905 provide an annual report to the Speaker of the Mississippi House
906 of Representatives, the Lieutenant Governor, the Chairpersons of
907 the House and Senate Judiciary Committees that includes the number
908 of reports received, the number of cases screened in or out, the
909 number of cases in which care and services were provided as a
910 result of the report, and the type of care and services that were
911 provided. A minor who has been identified as a victim of
912 trafficking shall not be liable for criminal activity in violation
913 of this section. Any person or entity who reports abuse, neglect
914 and/or commercial sexual exploitation or human trafficking under
915 this chapter is presumed to be acting in good faith. Any person
916 or institution reporting in good faith shall be immune from civil
917 and criminal liability that might otherwise be incurred from such
918 reporting.

919 (5) It is an affirmative defense in a prosecution under this
920 act that the defendant:



921 (a) Is a victim; and
922 (b) Committed the offense under a reasonable
923 apprehension created by a person that, if the defendant did not
924 commit the act, the person would inflict serious harm on the
925 defendant, a member of the defendant's family, or a close
926 associate.

927 **SECTION 14.** Section 97-5-51, Mississippi Code of 1972, is
928 brought forward as follows:

929 97-5-51. (1) **Definitions.** For the purposes of this
930 section:

931 (a) "Sex crime against a minor" means any offense under
932 at least one (1) of the following statutes when committed by an
933 adult against a minor who is under the age of sixteen (16):

934 (i) Section 97-3-65 relating to rape;

935 (ii) Section 97-3-71 relating to rape and assault
936 with intent to ravish;

937 (iii) Section 97-3-95 relating to sexual battery;

938 (iv) Section 97-5-23 relating to the touching of a
939 child, mentally defective or incapacitated person or physically
940 helpless person for lustful purposes;

941 (v) Section 97-5-41 relating to the carnal
942 knowledge of a stepchild, adopted child or child of a cohabiting
943 partner;

944 (vi) Section 97-5-33 relating to exploitation of
945 children;



946 (vii) Section 97-3-54.1(1)(c) relating to
947 procuring sexual servitude of a minor;
948 (viii) Section 43-47-18 relating to sexual abuse
949 of a vulnerable person;
950 (ix) Section 97-1-7 relating to the attempt to
951 commit any of the offenses listed in this subsection;
952 (x) Section 97-29-51 relating to procuring sexual
953 services of a minor; and
954 (xi) Section 43-47-18 and Section 43-47-19
955 relating to sexual battery abuse of a vulnerable person who is a
956 minor.

957 (b) "Mandatory reporter" means any of the following
958 individuals performing their occupational duties: health care
959 practitioner, clergy member, teaching or child care provider, law
960 enforcement officer, or commercial image processor.

961 (c) "Health care practitioner" means any individual who
962 provides health care services, including a physician, surgeon,
963 physical therapist, psychiatrist, psychologist, medical resident,
964 medical intern, hospital staff member, licensed nurse, midwife and
965 emergency medical technician or paramedic.

966 (d) "Clergy member" means any priest, rabbi or duly
967 ordained deacon or minister.

968 (e) "Teaching or child care provider" means anyone who
969 provides training or supervision of a minor under the age of
970 sixteen (16), including a teacher, teacher's aide, principal or



971 staff member of a public or private school, social worker,
972 probation officer, foster home parent, group home or other child
973 care institutional staff member, personnel of residential home
974 facilities, a licensed or unlicensed day care provider.

975 (f) "Commercial image processor" means any person who,
976 for compensation: (i) develops exposed photographic film into
977 negatives, slides or prints; (ii) makes prints from negatives or
978 slides; or (iii) processes or stores digital media or images from
979 any digital process, including, but not limited to, website
980 applications, photography, live streaming of video, posting,
981 creation of power points or any other means of intellectual
982 property communication or media including conversion or
983 manipulation of still shots or video into a digital show stored on
984 a photography site or a media storage site.

985 (g) "Caretaker" means any person legally obligated to
986 provide or secure adequate care for a minor under the age of
987 sixteen (16), including a parent, guardian, tutor, legal custodian
988 or foster home parent.

989 (2) (a) **Mandatory reporter requirement.** A mandatory
990 reporter shall make a report if it would be reasonable for the
991 mandatory reporter to suspect that a sex crime against a minor has
992 occurred.

993 (b) Failure to file a mandatory report shall be
994 punished as provided in this section.



995 (c) Reports made under this section and the identity of
996 the mandatory reporter are confidential except when the court
997 determines the testimony of the person reporting to be material to
998 a judicial proceeding or when the identity of the reporter is
999 released to law enforcement agencies and the appropriate
1000 prosecutor. The identity of the reporting party shall not be
1001 disclosed to anyone other than law enforcement or prosecutors
1002 except under court order; violation of this requirement is a
1003 misdemeanor. Reports made under this section are for the purpose
1004 of criminal investigation and prosecution only and information
1005 from these reports is not a public record. Disclosure of any
1006 information by the prosecutor shall conform to the Mississippi
1007 Uniform Rules of Circuit and County Court Procedure.

1008 (d) Any mandatory reporter who makes a required report
1009 under this section or participates in a judicial proceeding
1010 resulting from a mandatory report shall be presumed to be acting
1011 in good faith. Any person or institution reporting in good faith
1012 shall be immune from any liability, civil or criminal, that might
1013 otherwise be incurred or imposed.

1014 (3) (a) **Mandatory reporting procedure.** A report required
1015 under subsection (2) must be made immediately to the law
1016 enforcement agency in whose jurisdiction the reporter believes the
1017 sex crime against the minor occurred. Except as otherwise
1018 provided in this subsection (3), a mandatory reporter may not



1019 delegate to any other person the responsibility to report, but
1020 shall make the report personally.

1021 (i) The reporting requirement under this
1022 subsection (3) is satisfied if a mandatory reporter in good faith
1023 reports a suspected sex crime against a minor to the Department of
1024 Child Protection Services under Section 43-21-353.

1025 (ii) The reporting requirement under this
1026 subsection (3) is satisfied if a mandatory reporter reports a
1027 suspected sex crime against a minor by following a reporting
1028 procedure that is imposed:

1029 1. By state agency rule as part of licensure
1030 of any person or entity holding a state license to provide
1031 services that include the treatment or education of abused or
1032 neglected children; or

1033 2. By statute.

1034 (b) **Contents of the report.** The report shall identify,
1035 to the extent known to the reporter, the following:

1036 (i) The name and address of the minor victim;

1037 (ii) The name and address of the minor's
1038 caretaker;

1039 (iii) Any other pertinent information known to the
1040 reporter.

1041 (4) A law enforcement officer who receives a mandated report
1042 under this section shall file an affidavit against the offender on
1043 behalf of the State of Mississippi if there is probable cause to



1044 believe that the offender has committed a sex crime against a
1045 minor.

1046 (5) **Collection of forensic samples.** (a) (i) When an
1047 abortion is performed on a minor who is less than fourteen (14)
1048 years of age at the time of the abortion procedure, fetal tissue
1049 extracted during the abortion shall be collected in accordance
1050 with rules and regulations adopted pursuant to this section if it
1051 would be reasonable to suspect that the pregnancy being terminated
1052 is the result of a sex crime against a minor.

1053 (ii) When a minor who is under sixteen (16) years
1054 of age gives birth to an infant, umbilical cord blood shall be
1055 collected, if possible, in accordance with rules and regulations
1056 adopted pursuant to this section if it would be reasonable to
1057 suspect that the minor's pregnancy resulted from a sex crime
1058 against a minor.

1059 (iii) It shall be reasonable to suspect that a sex
1060 crime against a minor has occurred if the mother of an infant was
1061 less than sixteen (16) years of age at the time of conception and
1062 at least one (1) of the following conditions also applies:

1063 1. The mother of the infant will not identify
1064 the father of the infant;

1065 2. The mother of the infant lists the father
1066 of the infant as unknown;

1067 3. The person the mother identifies as the
1068 father of the infant disputes his fatherhood;



1069 4. The person the mother identifies as the
1070 father of the infant is twenty-one (21) years of age or older; or

1071 5. The person the mother identifies as the
1072 father is deceased.

1073 (b) The State Medical Examiner shall adopt rules and
1074 regulations consistent with Section 99-49-1 that prescribe:

1075 (i) The amount and type of fetal tissue or
1076 umbilical cord blood to be collected pursuant to this section;

1077 (ii) Procedures for the proper preservation of the
1078 tissue or blood for the purpose of DNA testing and examination;

1079 (iii) Procedures for documenting the chain of
1080 custody of such tissue or blood for use as evidence;

1081 (iv) Procedures for proper disposal of fetal
1082 tissue or umbilical cord blood collected pursuant to this section;

1083 (v) A uniform reporting instrument mandated to be
1084 utilized, which shall include the complete residence address and
1085 name of the parent or legal guardian of the minor who is the
1086 subject of the report required under this subsection (5); and

1087 (vi) Procedures for communication with law
1088 enforcement agencies regarding evidence and information obtained
1089 pursuant to this section.

1090 (6) **Penalties.** (a) A person who is convicted of a first
1091 offense under this section shall be guilty of a misdemeanor and
1092 fined not more than Five Hundred Dollars (\$500.00).



1093 (b) A person who is convicted of a second offense under
1094 this section shall be guilty of a misdemeanor and fined not more
1095 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
1096 than thirty (30) days, or both.

1097 (c) A person who is convicted of a third or subsequent
1098 offense under this section shall be guilty of a misdemeanor and
1099 fined not more than Five Thousand Dollars (\$5,000.00), or
1100 imprisoned for not more than one (1) year, or both.

1101 (7) A health care practitioner or health care facility shall
1102 be immune from any penalty, civil or criminal, for good-faith
1103 compliance with any rules and regulations adopted pursuant to this
1104 section.

1105 **SECTION 15.** This act shall take effect and be in force from
1106 and after July 1, 2024.

