

By: Representative McLean

To: Judiciary B

HOUSE BILL NO. 1541

1 AN ACT TO CREATE NEW SECTION 97-3-102, MISSISSIPPI CODE OF  
2 1972, TO CREATE THE CRIME OF A THERAPIST ENGAGING 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 section, the following  
37 words and phrases have the meanings ascribed in this subsection  
38 unless the 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 or touching,  
55 including oral touching, another person's inner thigh, breast,  
56 groin, buttock, anus, pubes or genitals, whether clothed or  
57 unclothed; sexual penetration, as defined in Section 97-3-97; or  
58 encouraging the patient to kiss or touch, including oral touch,



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

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

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

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

82 (3) Consent of the patient is not a defense to the  
83 prohibition described in this section.



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

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

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

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

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

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

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

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

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



109 minister, priest, physical therapist, chiropractor, legal  
110 guardian, parent, stepparent, aunt, uncle, scout leader \* \* \*,  
111 coach or therapist, as defined in Section 97-3-102.

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

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

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

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

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

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

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



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

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

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

141 (c) Violation of Section 97-3-102.

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

196 (n) Engaging in false or misleading advertising;

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

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

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

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





207 (s) Charging excessive or unreasonable fees or engaging  
208 in unreasonable collection practices \* \* \*; or

209 (t) Violating Section 97-3-102.

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

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

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

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



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

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

241           (b) Been convicted of a felony;

242           (c) Sworn falsely under oath or affirmation;

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

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

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

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

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

253           (i) Violated Section 97-3-102.

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



256 the Professional Counseling Compact instead of this subsection  
257 (1).

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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

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

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



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

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

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

335 (k) Has violated Section 97-3-102.

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



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

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



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

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

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

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





401 for support, as defined in Section 93-11-153. The procedure for  
402 suspension of a license for being out of compliance with an order  
403 for support, and the procedure for the reissuance or reinstatement  
404 of a license suspended for that purpose, and the payment of any  
405 fees for the reissuance or reinstatement of a license suspended  
406 for that purpose, shall be governed by Section 93-11-157. Actions  
407 taken by the board in suspending a license when required by  
408 Section 93-11-157 or 93-11-163 are not actions from which an  
409 appeal may be taken under this section. Any appeal of a license  
410 suspension that is required by Section 93-11-157 or 93-11-163  
411 shall be taken in accordance with the appeal procedure specified  
412 in Section 93-11-157 or 93-11-163, as the case may be, rather than  
413 the procedure specified in this section. If there is any conflict  
414 between any provision of Section 93-11-157 or 93-11-163 and any  
415 provision of this chapter, the provisions of Section 93-11-157 or  
416 93-11-163, as the case may be, shall control.

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



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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

481 (h) Violating Section 97-3-102.

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

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

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



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

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

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

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

517 (15) Performing or inducing an abortion on a woman in  
518 violation of any provision of Sections 41-41-131 through  
519 41-41-145.

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



524 (17) Violation(s) of any provision of Title 41, Chapter  
525 141, Mississippi Code of 1972.

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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





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

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

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



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

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

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

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

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

647 43-21-353. (1) Any attorney, physician, dentist, intern,  
648 resident, nurse, psychologist, social worker, family protection



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

670       Upon receiving a report that a child has been sexually  
671 abused, is a victim of commercial sexual exploitation or human  
672 trafficking or has been burned, tortured, mutilated or otherwise  
673 physically abused in such a manner as to cause serious bodily



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

697 (2) Any report shall contain the names and addresses of the  
698 child and his parents or other persons responsible for his care,



699 if known, the child's age, the nature and extent of the child's  
700 injuries, including any evidence of previous injuries, any other  
701 information that might be helpful in establishing the cause of the  
702 injury, and the identity of the perpetrator.

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

713 (4) Reports of abuse, neglect and commercial sexual  
714 exploitation or human trafficking made under this chapter and the  
715 identity of the reporter are confidential except when the court in  
716 which the investigation report is filed, in its discretion,  
717 determines the testimony of the person reporting to be material to  
718 a judicial proceeding or when the identity of the reporter is  
719 released to law enforcement agencies and the appropriate  
720 prosecutor pursuant to subsection (1). Reports made under this  
721 section to any law enforcement agency or prosecutorial officer are  
722 for the purpose of criminal investigation and prosecution only and  
723 no information from these reports may be released to the public



724 except as provided by Section 43-21-261. Disclosure of any  
725 information by the prosecutor shall be according to the  
726 Mississippi Uniform Rules of Circuit and County Court Procedure.  
727 The identity of the reporting party shall not be disclosed to  
728 anyone other than law enforcement officers or prosecutors without  
729 an order from the appropriate youth court. Any person disclosing  
730 any reports made under this section in a manner not expressly  
731 provided for in this section or Section 43-21-261 shall be guilty  
732 of a misdemeanor and subject to the penalties prescribed by  
733 Section 43-21-267. Notwithstanding the confidentiality of the  
734 reporter's identity under this section, the Department of Child  
735 Protection Services may disclose a reporter's identity to the  
736 appropriate law enforcement agency or prosecutor if the department  
737 has reason to suspect the reporter has made a fraudulent report,  
738 and the Department of Child Protection Services must provide to  
739 the subject of the alleged fraudulent report written notification  
740 of the disclosure.

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



749 district attorney's office shall include the following, if known  
750 to the department:

- 751 (a) The name and address of the child;
- 752 (b) The names and addresses of the parents;
- 753 (c) The name and address of the suspected perpetrator;
- 754 (d) The names and addresses of all witnesses, including  
755 the reporting party if a material witness to the abuse;
- 756 (e) A brief statement of the facts indicating that the  
757 child has been abused, including whether the child experienced  
758 commercial sexual exploitation or human trafficking, and any other  
759 information from the agency files or known to the family  
760 protection worker or family protection specialist making the  
761 investigation, including medical records or other records, which  
762 may assist law enforcement or the district attorney in  
763 investigating and/or prosecuting the case; and
- 764 (f) What, if any, action is being taken by the  
765 Department of Child Protection Services.

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



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

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





798 made by the Department of Child Protection Services to the  
799 licensing agency. The licensing agency shall investigate the  
800 report and shall provide the department, the law enforcement  
801 agency and the district attorney's office with their written  
802 findings from such investigation as well as that licensing  
803 agency's recommendations and actions taken.

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

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

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

818 97-3-54.1. (1) (a) A person who coerces, recruits,  
819 entices, harbors, transports, provides or obtains by any means, or  
820 attempts to coerce, recruit, entice, harbor, transport, provide or  
821 obtain by any means, another person, intending or knowing that the  
822 person will be subjected to forced labor or services, or who



823 benefits, whether financially or by receiving anything of value  
824 from participating in an enterprise that he knows or reasonably  
825 should have known has engaged in such acts, shall be guilty of the  
826 crime of human trafficking.

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

834 (c) A person who knowingly subjects, or attempts to  
835 subject, or who recruits, entices, harbors, transports, provides  
836 or obtains by any means, or attempts to recruit, entice, harbor,  
837 transport, provide or obtain by any means, a minor, knowing that  
838 the minor will engage in commercial sexual activity, sexually  
839 explicit performance, or the production of sexually oriented  
840 material, or causes or attempts to cause a minor to engage in  
841 commercial sexual activity, sexually explicit performance, or the  
842 production of sexually oriented material, shall be guilty of  
843 procuring sexual servitude of a minor and shall be punished by  
844 commitment to the custody of the Department of Corrections for not  
845 less than twenty (20) years nor more than life in prison, or by a  
846 fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more  
847 than Five Hundred Thousand Dollars (\$500,000.00), or both. It is



848 not a defense in a prosecution under this section that a minor  
849 consented to engage in the commercial sexual activity, sexually  
850 explicit performance, or the production of sexually oriented  
851 material, or that the defendant reasonably believed that the minor  
852 was eighteen (18) years of age or older.

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

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

868 (a) An agent of the enterprise knowingly engages in  
869 conduct that constitutes an offense under this chapter while  
870 acting within the scope of employment and for the benefit of the  
871 entity.



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

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

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

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



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

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

920 (a) Is a victim; and



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

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

928           97-5-51. (1) **Definitions.** For the purposes of this  
929 section:

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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





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

1007 (d) Any mandatory reporter who makes a required report  
1008 under this section or participates in a judicial proceeding  
1009 resulting from a mandatory report shall be presumed to be acting  
1010 in good faith. Any person or institution reporting in good faith  
1011 shall be immune from any liability, civil or criminal, that might  
1012 otherwise be incurred or imposed.

1013 (3) (a) **Mandatory reporting procedure.** A report required  
1014 under subsection (2) must be made immediately to the law  
1015 enforcement agency in whose jurisdiction the reporter believes the  
1016 sex crime against the minor occurred. Except as otherwise  
1017 provided in this subsection (3), a mandatory reporter may not



1018 delegate to any other person the responsibility to report, but  
1019 shall make the report personally.

1020 (i) The reporting requirement under this  
1021 subsection (3) is satisfied if a mandatory reporter in good faith  
1022 reports a suspected sex crime against a minor to the Department of  
1023 Child Protection Services under Section 43-21-353.

1024 (ii) The reporting requirement under this  
1025 subsection (3) is satisfied if a mandatory reporter reports a  
1026 suspected sex crime against a minor by following a reporting  
1027 procedure that is imposed:

1028 1. By state agency rule as part of licensure  
1029 of any person or entity holding a state license to provide  
1030 services that include the treatment or education of abused or  
1031 neglected children; or

1032 2. By statute.

1033 (b) **Contents of the report.** The report shall identify,  
1034 to the extent known to the reporter, the following:

1035 (i) The name and address of the minor victim;

1036 (ii) The name and address of the minor's  
1037 caretaker;

1038 (iii) Any other pertinent information known to the  
1039 reporter.

1040 (4) A law enforcement officer who receives a mandated report  
1041 under this section shall file an affidavit against the offender on  
1042 behalf of the State of Mississippi if there is probable cause to



1043 believe that the offender has committed a sex crime against a  
1044 minor.

1045           (5) **Collection of forensic samples.** (a) (i) When an  
1046 abortion is performed on a minor who is less than fourteen (14)  
1047 years of age at the time of the abortion procedure, fetal tissue  
1048 extracted during the abortion shall be collected in accordance  
1049 with rules and regulations adopted pursuant to this section if it  
1050 would be reasonable to suspect that the pregnancy being terminated  
1051 is the result of a sex crime against a minor.

1052                       (ii) When a minor who is under sixteen (16) years  
1053 of age gives birth to an infant, umbilical cord blood shall be  
1054 collected, if possible, in accordance with rules and regulations  
1055 adopted pursuant to this section if it would be reasonable to  
1056 suspect that the minor's pregnancy resulted from a sex crime  
1057 against a minor.

1058                       (iii) It shall be reasonable to suspect that a sex  
1059 crime against a minor has occurred if the mother of an infant was  
1060 less than sixteen (16) years of age at the time of conception and  
1061 at least one (1) of the following conditions also applies:

1062                               1. The mother of the infant will not identify  
1063 the father of the infant;

1064                               2. The mother of the infant lists the father  
1065 of the infant as unknown;

1066                               3. The person the mother identifies as the  
1067 father of the infant disputes his fatherhood;



1068                   4. The person the mother identifies as the  
1069 father of the infant is twenty-one (21) years of age or older; or

1070                   5. The person the mother identifies as the  
1071 father is deceased.

1072                   (b) The State Medical Examiner shall adopt rules and  
1073 regulations consistent with Section 99-49-1 that prescribe:

1074                   (i) The amount and type of fetal tissue or  
1075 umbilical cord blood to be collected pursuant to this section;

1076                   (ii) Procedures for the proper preservation of the  
1077 tissue or blood for the purpose of DNA testing and examination;

1078                   (iii) Procedures for documenting the chain of  
1079 custody of such tissue or blood for use as evidence;

1080                   (iv) Procedures for proper disposal of fetal  
1081 tissue or umbilical cord blood collected pursuant to this section;

1082                   (v) A uniform reporting instrument mandated to be  
1083 utilized, which shall include the complete residence address and  
1084 name of the parent or legal guardian of the minor who is the  
1085 subject of the report required under this subsection (5); and

1086                   (vi) Procedures for communication with law  
1087 enforcement agencies regarding evidence and information obtained  
1088 pursuant to this section.

1089                   (6) **Penalties.** (a) A person who is convicted of a first  
1090 offense under this section shall be guilty of a misdemeanor and  
1091 fined not more than Five Hundred Dollars (\$500.00).



1092 (b) A person who is convicted of a second offense under  
1093 this section shall be guilty of a misdemeanor and fined not more  
1094 than One Thousand Dollars (\$1,000.00), or imprisoned for not more  
1095 than thirty (30) days, or both.

1096 (c) A person who is convicted of a third or subsequent  
1097 offense under this section shall be guilty of a misdemeanor and  
1098 fined not more than Five Thousand Dollars (\$5,000.00), or  
1099 imprisoned for not more than one (1) year, or both.

1100 (7) A health care practitioner or health care facility shall  
1101 be immune from any penalty, civil or criminal, for good-faith  
1102 compliance with any rules and regulations adopted pursuant to this  
1103 section.

1104 **SECTION 15.** This act shall take effect and be in force from  
1105 and after July 1, 2024.

