

By: Representatives Byrd, Baker, Buck
(72nd), DeBar, Gipson, McLeod, Reynolds,
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Upshaw

To: Judiciary B

HOUSE BILL NO. 673
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-3-54, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE TITLE OF THE HUMAN TRAFFICKING ACT FOR CLARITY; TO
3 AMEND SECTION 97-3-54.1, MISSISSIPPI CODE OF 1972, TO REVISE
4 PENALTIES FOR HUMAN TRAFFICKING AND SPECIFY ADDITIONAL ELEMENTS OF
5 THE OFFENSE OF HUMAN TRAFFICKING; TO AMEND SECTION 97-3-54.3,
6 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 97-3-54.4,
7 MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS; TO CREATE NEW
8 SECTION 97-3-54.5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE USE OF
9 UNDERCOVER OPERATIVES TO INVESTIGATE SUSPECTED HUMAN TRAFFICKING;
10 TO CREATE NEW SECTION 97-3-54.6, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE FOR INJUNCTIVE AND OTHER RELIEF FOR VICTIMS AND TO REQUIRE
12 CONFIDENTIALITY; TO CREATE NEW SECTION 97-3-54.7, MISSISSIPPI CODE
13 OF 1972, TO PROVIDE FOR FORFEITURE OF ASSETS USED IN FURTHERANCE
14 OF TRAFFICKING AND TO PROVIDE FOR THE DISPOSITION OF PROCEEDS OF
15 FORFEITURE; TO CREATE NEW SECTION 97-3-54.8, MISSISSIPPI CODE OF
16 1972, TO CREATE THE "RELIEF FOR VICTIMS OF HUMAN TRAFFICKING
17 FUND"; TO CREATE NEW SECTION 97-3-54.9, MISSISSIPPI CODE OF 1972,
18 TO CREATE THE POSITION OF STATEWIDE HUMAN TRAFFICKING COORDINATOR;
19 TO AMEND SECTION 97-29-49, MISSISSIPPI CODE OF 1972, TO REVISE THE
20 ELEMENTS AND PUNISHMENT FOR THE OFFENSE OF PROSTITUTION; TO AMEND
21 SECTION 97-29-51, MISSISSIPPI CODE OF 1972, TO REVISE THE ELEMENTS
22 AND PUNISHMENT FOR THE OFFENSE OF SOLICITING PROSTITUTION; TO
23 REPEAL SECTION 97-29-53, MISSISSIPPI CODE OF 1972, WHICH SETS
24 FORTH THE PUNISHMENT FOR PROSTITUTION AND SOLICITATION; TO AMEND
25 SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS
26 IN THE RACKETEERING ACT; TO AMEND SECTIONS 97-5-5 AND 97-5-7,
27 MISSISSIPPI CODE OF 1972, TO CONFORM THE OFFENSES OF ENTICEMENT OF
28 A MINOR TO THE TENOR OF THIS ACT; TO AMEND SECTION 97-5-27,
29 MISSISSIPPI CODE OF 1972, TO CONFORM DISSEMINATION OF SEXUALLY
30 ORIENTED MATERIAL; TO AMEND SECTION 97-5-31, MISSISSIPPI CODE OF
31 1972, TO CONFORM THE OFFENSE OF COMPUTER-LURING; TO AMEND SECTION
32 99-1-5, MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO.
33 709, 2013 REGULAR SESSION, TO REVISE THE STATUTE OF LIMITATIONS



34 FOR THE PROSECUTION OF DOMESTIC VIOLENCE AND HUMAN TRAFFICKING
35 CASES; AND FOR RELATED PURPOSES.

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

37 **SECTION 1.** Section 97-3-54, Mississippi Code of 1972, is
38 amended as follows:

39 97-3-54. Sections 97-3-54 through * * * 97-3-54.9 may be
40 known and cited as the Mississippi * * * Human Trafficking Act.

41 **SECTION 2.** Section 97-3-54.1, Mississippi Code of 1972, is
42 amended as follows:

43 97-3-54.1. (1) (a) A person who recruits, entices,
44 harbors, transports, provides or obtains by any means, or attempts
45 to recruit, entice, harbor, transport, provide or obtain by any
46 means, another person, intending or knowing that the person will
47 be subjected to forced labor or services, or who benefits, whether
48 financially or by receiving anything of value from participating
49 in an enterprise that he knows or reasonably should have known has
50 engaged in such acts, shall be guilty of the crime of
51 human-trafficking.

52 (b) A person who knowingly purchases the forced labor
53 or services of a trafficked person or who otherwise knowingly
54 subjects, or attempts to subject, another person to forced labor
55 or services or who benefits, whether financially or by receiving
56 anything of value from participating in an enterprise that he
57 knows or reasonably should have known has engaged in such acts,
58 shall be guilty of the crime of procuring involuntary servitude.



59 (c) A person who knowingly subjects, or attempts to
60 subject, or who recruits, entices, harbors, transports, provides
61 or obtains by any means, or attempts to recruit, entice, harbor,
62 transport, provide or obtain by any means, a minor, knowing that
63 the minor will engage in commercial sexual activity, sexually
64 explicit performance, or the production of sexually oriented
65 material, or causes or attempts to cause a minor to engage in
66 commercial sexual activity, sexually explicit performance, or the
67 production of sexually oriented material, shall be guilty of
68 procuring sexual servitude of a minor and shall be punished by
69 commitment to the custody of the Department of Corrections for not
70 less than five (5) nor more than thirty (30) years, or by a fine
71 of not less than Fifty Thousand Dollars (\$50,000.00) nor more than
72 Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a
73 defense in a prosecution under this section that a minor consented
74 to engage in the commercial sexual activity, sexually explicit
75 performance, or the production of sexually oriented material, or
76 that the defendant reasonably believed that the minor was eighteen
77 (18) years of age or older.

78 (2) If the victim is not a minor, a person who is convicted
79 of an offense set forth in subsection (1)(a) or (b) of this
80 section * * * shall be committed to the custody of the Department
81 of Corrections for not less than two (2) years nor more than
82 twenty (20) years, or by a fine of not less than Ten Thousand
83 Dollars (\$10,000.00) nor more than One Hundred Thousand Dollars



84 (\$100,000.00), or both. If the victim of the offense is a minor,
85 a person who is convicted of an offense set forth in subsection
86 (1)(a) or (b) of this section shall be committed to the custody of
87 the Department of Corrections for not less than five (5) years nor
88 more than twenty (20) years, or by a fine of not less than Twenty
89 Thousand Dollars (\$20,000.00) nor more than One Hundred Thousand
90 Dollars (\$100,000.00), or both.

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

93 (a) An agent of the enterprise knowingly engages in
94 conduct that constitutes an offense under this chapter while
95 acting within the scope of employment and for the benefit of the
96 entity.

97 (b) An employee of the enterprise engages in conduct
98 that constitutes an offense under this chapter and the commission
99 of the offense was part of a pattern of illegal activity for the
100 benefit of the enterprise, which an agent of the enterprise either
101 knew was occurring or recklessly disregarded, and the agent failed
102 to take effective action to stop the illegal activity.

103 (c) It is an affirmative defense to a prosecution of an
104 enterprise that the enterprise had in place adequate procedures,
105 including an effective complaint procedure, designed to prevent
106 persons associated with the enterprise from engaging in the
107 unlawful conduct and to promptly correct any violations of this
108 chapter.



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

115 (4) In addition to the mandatory reporting provisions
116 contained in Section 97-5-51, any person who has reasonable cause
117 to suspect a minor under the age of eighteen (18) is a trafficked
118 person shall immediately make a report of the suspected child
119 abuse or neglect to the Department of Human Services and to the
120 Statewide Human Trafficking Coordinator. The Department of Human
121 Services shall then immediately notify the law enforcement agency
122 in the jurisdiction where the suspected child abuse or neglect
123 occurred as required in Section 43-21-353, and the department
124 shall also commence an initial investigation into the suspected
125 abuse or neglect as required in Section 43-21-353. A minor who
126 has been identified as a victim of trafficking shall not be liable
127 for criminal activity in violation of this section.

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

130 (a) Is a victim; and

131 (b) Committed the offense under a reasonable
132 apprehension created by a person that, if the defendant did not
133 commit the act, the person would inflict serious harm on the



134 defendant, a member of the defendant's family, or a close
135 associate.

136 **SECTION 3.** Section 97-3-54.3, Mississippi Code of 1972, is
137 amended as follows:

138 97-3-54.3. A person who knowingly aids, abets or conspires
139 with one or more persons to violate * * * the Mississippi Human
140 Trafficking Act shall be considered a principal in the offense and
141 shall be indicted and punished as such whether the principal has
142 been previously convicted or not.

143 **SECTION 4.** Section 97-3-54.4, Mississippi Code of 1972, is
144 amended as follows:

145 97-3-54.4. For the purposes of * * * the Mississippi Human
146 Trafficking Act the following words and phrases shall have the
147 meanings ascribed herein unless the context clearly requires
148 otherwise:

149 (a) "Act" or "this act" means the Mississippi Human
150 Trafficking Act.

151 (* * * b) "Actor" means a person who violates any of
152 the provisions of Sections 97-3-54 through 97-3-54.4.

153 (* * * c) "Blackmail" means obtaining property or
154 things of value of another by threatening to (i) inflict bodily
155 injury on anyone; (ii) commit any other criminal offense; or (iii)
156 expose any secret tending to subject any person to hatred,
157 contempt or ridicule.



158 (* * *d) "Commercial sexual activity" means any sex
159 act on account of which anything of value is given to, promised
160 to, or received by any person.

161 (e) "Enterprise" means any individual, sole
162 proprietorship, partnership, corporation, union or other legal
163 entity, or any association or group of individuals associated in
164 fact regardless of whether a legal entity has been formed pursuant
165 to any state, federal or territorial law. It includes illicit as
166 well as licit enterprises and governmental as well as other
167 entities.

168 (* * *f) "Financial harm" includes, but is not limited
169 to, extortion as defined by Section 97-3-82, Mississippi Code of
170 1972, or violation of the usury law as defined by Title 75,
171 Chapter 17, Mississippi Code of 1972.

172 (* * *g) "Forced labor or services" means labor or
173 services that are performed or provided by another person and are
174 obtained or maintained through an actor:

175 (i) Causing or threatening to cause serious harm
176 to any person;

177 (ii) Physically restraining or threatening to
178 physically restrain any person;

179 (iii) Abusing or threatening to abuse the law or
180 legal process;

181 (iv) Knowingly destroying, concealing, removing,
182 confiscating or possessing any actual or purported passport or



183 other immigration document, or any other actual or purported
184 government identification document, of another person;

185 (v) Using blackmail;

186 (vi) Causing or threatening to cause financial
187 harm to any person; * * *

188 (vii) Abusing a position of power;

189 (viii) Using an individual's personal services as
190 payment or satisfaction of a real or purported debt when: 1. the
191 reasonable value of the services is not applied toward the
192 liquidation of the debt; 2. the length of the services is not
193 limited and the nature of the services is not defined; 3. the
194 principal amount of the debt does not reasonably reflect the value
195 of the items or services for which the debt is incurred; or 4. the
196 individual is prevented from acquiring accurate and timely
197 information about the disposition of the debt;

198 (* * *ix) Using any scheme, plan or pattern of
199 conduct intended to cause any person to believe that, if the
200 person did not perform such labor or services, that person or
201 another person would suffer serious harm or physical restraint.

202 (* * *h) "Labor" means work of economic or financial
203 value.

204 (* * *i) "Maintain" means, in relation to labor or
205 services, to secure continued performance thereof, regardless of
206 any initial agreement on the part of the trafficked person to
207 perform such labor or service.



208 (* * *j) "Minor" means a person under the age of
209 eighteen (18) years.

210 (* * *k) "Obtain" means, in relation to labor or
211 services, to secure performance thereof.

212 (1) "Pecuniary damages" means any of the following:

213 (i) The greater of the gross income or value to
214 the defendant of the victim's labor or services, including sexual
215 services, not reduced by the expense the defendant incurred as a
216 result of maintaining the victim, or the value of the victim's
217 labor or services calculated under the minimum wage and overtime
218 provisions of the Fair Labor Standards Act, 29 USCS Section 201 et
219 seq., whichever is higher;

220 (ii) If it is not possible or in the best interest
221 of the victim to compute a value under paragraph (k) (i), the
222 equivalent of the value of the victim's labor or services if the
223 victim had provided labor or services that were subject to the
224 minimum wage and overtime provisions of the Fair Labor Standards
225 Act, 29 USCS 201 et seq.;

226 (iii) Costs and expenses incurred by the victim as
227 a result of the offense for:

- 228 1. Medical services;
229 2. Therapy or psychological counseling;
230 3. Temporary housing;
231 4. Transportation;
232 5. Childcare;



233 6. Physical and occupational therapy or
234 rehabilitation;

235 7. Funeral, interment, and burial services;
236 reasonable attorney's fees and other legal costs; and

237 8. Other expenses incurred by the victim.

238 (m) "Serious harm" means harm, whether physical or
239 nonphysical, including psychological, economic or reputational, to
240 an individual that would compel a reasonable person in similar
241 circumstances as the individual to perform or continue to perform
242 labor or services to avoid incurring the harm.

243 (* * * n) "Services" means an ongoing relationship
244 between a person and the actor in which the person performs
245 activities under the supervision of or for the benefit of the
246 actor or a third party and includes, without limitation,
247 commercial sexual activity * * *, sexually explicit
248 performances * * *, or the production of sexually explicit
249 materials.

250 (* * * o) "Sexually explicit performance" means a live
251 or public act or show intended to arouse or satisfy the sexual
252 desires or appeal to the prurient interests of patrons.

253 (* * * p) "Trafficked person" means a person subjected
254 to the practices prohibited by * * * this act regardless of
255 whether a perpetrator is identified, apprehended, prosecuted or
256 convicted, and is a term used interchangeably with the terms
257 "victim," "victim of trafficking" and "trafficking victim."



258 (* * *g) "Venture" means any group of two (2) or more
259 individuals associated in fact, whether or not a legal entity.

260 (* * *r) "Sexually oriented material" shall have the
261 meaning ascribed in Section 97-5-27, Mississippi Code of 1972.

262 **SECTION 5.** The following shall be codified as Section
263 97-3-54.5, Mississippi Code of 1972:

264 97-3-54.5 **Use of undercover operative in detection of**
265 **offense permitted.** The fact that an undercover operative or law
266 enforcement officer was involved in any manner in the detection
267 and investigation of an offense under this act shall not
268 constitute a defense to a prosecution under this act.

269 **SECTION 6.** The following shall be codified as Section
270 97-3-54.6, Mississippi Code of 1972:

271 97-3-54.6. **Injunctive and other relief for victims of**
272 **trafficking; confidentiality.** (1) Any circuit court may, after
273 making due provision for the rights of trafficked persons, enjoin
274 violations of the provisions of this act by issuing appropriate
275 orders and judgments, including, but not limited to:

276 (a) Ordering any defendant to divest himself of any
277 interest in any enterprise, including real property.

278 (b) Imposing reasonable restrictions upon the future
279 activities or investments of any defendant, including, but not
280 limited to, prohibiting any defendant from engaging in the same
281 type of endeavor as the enterprise in which he was engaged in
282 violation of the provisions of this act.



283 (c) Ordering the dissolution or reorganization of any
284 enterprise.

285 (d) Ordering the suspension or revocation of a license
286 or permit granted to any enterprise by any agency of the state.

287 (e) Ordering the forfeiture of the charter of a
288 corporation organized under the laws of the state, or the
289 revocation of a certificate authorizing a foreign corporation to
290 conduct business within the state, upon finding that the board of
291 directors or a managerial agent acting on behalf of the
292 corporation in conducting the affairs of the corporation, has
293 authorized or engaged in conduct in violation of this chapter and
294 that, for the prevention of future criminal activity, the public
295 interest requires the charter of the corporation forfeited and the
296 corporation dissolved or the certificate revoked.

297 (2) Notwithstanding any provisions to the contrary in
298 Section 99-37-1 et seq., the court shall order restitution to the
299 victim for any offense under this chapter. The order of
300 restitution under this section shall direct the defendant to pay
301 the victim, through the appropriate court mechanism, the full
302 amount of the victim's pecuniary damages. For the purposes of
303 determining restitution, the term "victim" means the individual
304 harmed as a result of a crime under this chapter, including, in
305 the case of a victim who is under eighteen (18) years of age,
306 incompetent, incapacitated, or deceased, the legal guardian of the
307 victim or a representative of the victim's estate, or another



308 family member, or any other person appointed as suitable by the
309 court, but in no event shall the defendant be named as such a
310 representative or guardian. The court may order restitution even
311 if the victim is absent from the jurisdiction or unavailable.

312 (3) Any person who is injured by reason of any violation of
313 the provisions of this chapter shall have a cause of action
314 against any person or enterprise convicted of engaging in activity
315 in violation of this chapter for threefold the actual damages
316 sustained and, when appropriate, punitive damages. The person
317 shall also recover attorney's fees in the trial and appellate
318 courts and reasonable costs of investigation and litigation.

319 (4) The application of one (1) civil remedy under any
320 provision of this act shall not preclude the application of any
321 other remedy, civil or criminal, under this act or any other
322 provision of law. Civil remedies under this act are supplemental.

323 (5) At any time after a conviction under this act, the court
324 in which the conviction was entered may, upon appropriate motion,
325 vacate the conviction if the court finds the defendant's
326 participation in the offense was the result of being a victim.
327 Official documentation from a federal, state or local government
328 agency as to the defendant's status as a victim at the time of the
329 offense creates a presumption that the defendant's participation
330 in the offense was a result of being a victim, but official
331 documentation is not required to grant a motion under this
332 subsection.



333 (6) In a prosecution or civil action for damages for an
334 offense under this act in which there is evidence that the alleged
335 victim was subjected to sexual servitude, reputation or opinion
336 evidence of past sexual behavior of the alleged victim is not
337 admissible, unless admitted in accordance with the Mississippi
338 Rules of Evidence.

339 (7) In any investigation or prosecution for an offense under
340 this act, the responsible law enforcement agency or prosecutor's
341 office are required to take all reasonable efforts to keep the
342 identity of the victim and the victim's family confidential by
343 ensuring that the names and identifying information of those
344 individuals are not disclosed to the public.

345 **SECTION 7.** The following shall be codified as Section
346 97-3-54.7, Mississippi Code of 1972:

347 97-3-54.7. **Forfeiture of assets and disposition of proceeds.**

348 (1) In addition to any other civil or criminal penalties provided
349 by law, any property used in the commission of a violation of this
350 act shall be forfeited as provided herein.

351 (a) The following property shall be subject to
352 forfeiture if used or intended for use as an instrumentality in or
353 used in furtherance of a violation of this act:

354 (i) Conveyances, including aircraft, vehicles or
355 vessels;

356 (ii) Books, records, telecommunication equipment,
357 or computers;



358 (iii) Money or weapons;

359 (iv) Everything of value furnished, or intended to
360 be furnished, in exchange for an act in violation and all proceeds
361 traceable to the exchange;

362 (v) Negotiable instruments and securities;

363 (vi) Any property, real or personal, directly or
364 indirectly acquired or received in a violation or as an inducement
365 to violate;

366 (vii) Any property traceable to proceeds from a
367 violation; and

368 (viii) Any real property, including any right,
369 title and interest in the whole of or any part of any lot or tract
370 of land used in furtherance of a violation of this act.

371 (b) (i) No property used by any person as a common
372 carrier in the transaction of business as a common carrier is
373 subject to forfeiture under this section unless it appears that
374 the owner or other person in charge of the property is a
375 consenting party or privy to a violation of this act;

376 (ii) No property is subject to forfeiture under
377 this section by reason of any act or omission proved by the owner
378 thereof to have been committed or omitted without his knowledge or
379 consent; if the confiscating authority has reason to believe that
380 the property is a leased or rented property, then the confiscating
381 authority shall notify the owner of the property within five (5)



382 days of the confiscation or within five (5) days of forming reason
383 to believe that the property is a leased or rented property;

384 (iii) Forfeiture of a property encumbered by a
385 bona fide security interest is subject to the interest of the
386 secured party if he neither had knowledge of nor consented to the
387 act or omission.

388 (2) No property shall be forfeited under the provisions of
389 this section, to the extent of the interest of an owner, by reason
390 of any act or omission established by him to have been committed
391 or omitted without his knowledge or consent.

392 (3) Seizure without process may be made if the seizure is
393 incident to an arrest or a search under a search warrant or an
394 inspection under an administrative inspection warrant.

395 (4) (a) When any property is seized under this section,
396 proceedings shall be instituted within a reasonable period of time
397 from the date of seizure or the subject property shall be
398 immediately returned to the party from whom seized.

399 (b) A petition for forfeiture shall be filed by the
400 Attorney General or a district attorney in the name of the State
401 of Mississippi, the county, or the municipality, and may be filed
402 in the county in which the seizure is made, the county in which
403 the criminal prosecution is brought, or the county in which the
404 owner of the seized property is found. Forfeiture proceedings may
405 be brought in the circuit court or the county court if a county
406 court exists in the county and the value of the seized property is



407 within the jurisdictional limits of the county court as set forth
408 in Section 9-9-21. A copy of the petition shall be served upon
409 the following persons by service of process in the same manner as
410 in civil cases:

411 (i) The owner of the property, if address is
412 known;

413 (ii) Any secured party who has registered his lien
414 or filed a financing statement as provided by law, if the identity
415 of the secured party can be ascertained by the entity filing the
416 petition by making a good faith effort to ascertain the identity
417 of the secured party;

418 (iii) Any other bona fide lienholder or secured
419 party or other person holding an interest in the property in the
420 nature of a security interest of whom the seizing law enforcement
421 agency has actual knowledge; and

422 (iv) Any person in possession of property subject
423 to forfeiture at the time that it was seized.

424 (5) If the property is a motor vehicle susceptible of
425 titling under the Mississippi Motor Vehicle Title Law and if there
426 is any reasonable cause to believe that the vehicle has been
427 titled, inquiry of the Department of Revenue shall be made as to
428 what the records of the Department of Revenue show as to who is
429 the record owner of the vehicle and who, if anyone, holds any lien
430 or security interest that affects the vehicle.



431 (6) If the property is a motor vehicle and is not titled in
432 the State of Mississippi, then an attempt shall be made to
433 ascertain the name and address of the person in whose name the
434 vehicle is licensed, and if the vehicle is licensed in a state
435 which has in effect a certificate of title law, inquiry of the
436 appropriate agency of that state shall be made as to what the
437 records of the agency show as to who is the record owner of the
438 vehicle and who, if anyone, holds any lien, security interest or
439 other instrument in the nature of a security device that affects
440 the vehicle.

441 (7) If the property is of a nature that a financing
442 statement is required by the laws of this state to be filed to
443 perfect a security interest affecting the property and if there is
444 any reasonable cause to believe that a financing statement
445 covering the security interest has been filed under the laws of
446 this state, inquiry of the appropriate office designated in
447 Section 75-9-501, shall be made as to what the records show as to
448 who is the record owner of the property and who, if anyone, has
449 filed a financing statement affecting the property.

450 (8) If the property is an aircraft or part thereof and if
451 there is any reasonable cause to believe that an instrument in the
452 nature of a security device affects the property, inquiry of the
453 Mississippi Department of Transportation shall be made as to what
454 the records of the Federal Aviation Administration show as to who
455 is the record owner of the property and who, if anyone, holds an



456 instrument in the nature of a security device which affects the
457 property.

458 (9) If the answer to an inquiry states that the record owner
459 of the property is any person other than the person who was in
460 possession of it when it was seized, or states that any person
461 holds any lien, encumbrance, security interest, other interest in
462 the nature of a security interest, mortgage or deed of trust that
463 affects the property, the record owner and also any lienholder,
464 secured party, other person who holds an interest in the property
465 in the nature of a security interest, or holder of an encumbrance,
466 mortgage or deed of trust that affects the property is to be named
467 in the petition of forfeiture and is to be served with process in
468 the same manner as in civil cases.

469 (10) If the owner of the property cannot be found and served
470 with a copy of the petition of forfeiture, or if no person was in
471 possession of the property subject to forfeiture at the time that
472 it was seized and the owner of the property is unknown, there
473 shall be filed with the clerk of the court in which the proceeding
474 is pending an affidavit to such effect, whereupon the clerk of the
475 court shall publish notice of the hearing addressed to "the
476 Unknown Owner of _____," filling in the blank space with
477 a reasonably detailed description of the property subject to
478 forfeiture. Service by publication shall contain the other
479 requisites prescribed in Section 11-33-41, and shall be served as



480 provided in Section 11-33-37, for publication of notice for
481 attachments at law.

482 (11) No proceedings instituted pursuant to the provisions of
483 this section shall proceed to hearing unless the judge conducting
484 the hearing is satisfied that this section has been complied with.
485 Any answer received from an inquiry required by this section shall
486 be introduced into evidence at the hearing.

487 (12) (a) An owner of a property that has been seized shall
488 file an answer within thirty (30) days after the completion of
489 service of process. If an answer is not filed, the court shall
490 hear evidence that the property is subject to forfeiture and
491 forfeit the property to the seizing law enforcement agency. If an
492 answer is filed, a time for hearing on forfeiture shall be set
493 within thirty (30) days of filing the answer or at the succeeding
494 term of court if court would not be in session within thirty (30)
495 days after filing the answer. The court may postpone the
496 forfeiture hearing to a date past the time any criminal action is
497 pending against the owner upon request of any party.

498 (b) If the owner of the property has filed an answer
499 denying that the property is subject to forfeiture, then the
500 burden is on the petitioner to prove that the property is subject
501 to forfeiture. However, if an answer has not been filed by the
502 owner of the property, the petition for forfeiture may be
503 introduced into evidence and is prima facie evidence that the
504 property is subject to forfeiture. The burden of proof placed



505 upon the petitioner in regard to property forfeited under the
506 provisions of this chapter shall be by a preponderance of the
507 evidence.

508 (c) At the hearing any claimant of any right, title or
509 interest in the property may prove his lien, encumbrance, security
510 interest, other interest in the nature of a security interest,
511 mortgage or deed of trust to be bona fide and created without
512 knowledge or consent that the property was to be used so as to
513 cause the property to be subject to forfeiture.

514 (d) If it is found that the property is subject to
515 forfeiture, then the judge shall forfeit the property. However,
516 if proof at the hearing discloses that the interest of any bona
517 fide lienholder, secured party, other person holding an interest
518 in the property in the nature of a security interest, or any
519 holder of a bona fide encumbrance, mortgage or deed of trust is
520 greater than or equal to the present value of the property, the
521 court shall order the property released to him. If the interest
522 is less than the present value of the property and if the proof
523 shows that the property is subject to forfeiture, the court shall
524 order the property forfeited.

525 (13) Unless otherwise provided herein, all personal property
526 which is forfeited under this section shall be liquidated and,
527 after deduction of court costs and the expense of liquidation, the
528 proceeds shall be divided as follows:



529 (a) If only one (1) law enforcement agency participates
530 in the underlying criminal case out of which the forfeiture
531 arises, fifty percent (50%) of the proceeds shall be forwarded to
532 the State Treasurer and deposited in the Relief for Victims of
533 Human Trafficking Fund, and fifty percent (50%) shall be deposited
534 and credited to the budget of the participating law enforcement
535 agency.

536 (b) If more than one (1) law enforcement agency
537 participates in the underlying criminal case out of which the
538 forfeiture arises, fifty percent (50%) of the proceeds shall be
539 forwarded to the State Treasurer and deposited in the Relief for
540 Victims of Human Trafficking Fund, twenty-five percent (25%) of
541 the proceeds shall be deposited and credited to the budget of the
542 law enforcement agency whose officers initiated the criminal case
543 and twenty-five percent (25%) shall be divided equitably between
544 or among the other participating law enforcement agencies, and
545 shall be deposited and credited to the budgets of the
546 participating law enforcement agencies. In the event that the
547 other participating law enforcement agencies cannot agree on the
548 division of their twenty-five percent (25%), a petition shall be
549 filed by any one of them in the court in which the civil
550 forfeiture case is brought and the court shall make an equitable
551 division.



552 (14) All money forfeited under this section shall be
553 divided, deposited and credited in the same manner as provided in
554 subsection (13).

555 (15) All real estate forfeited under the provisions of this
556 section shall be sold to the highest and best bidder at a public
557 auction for cash, the auction to be conducted by the chief law
558 enforcement officer of the initiating law enforcement agency, or
559 his designee, at such place, on such notice and in accordance with
560 the same procedure, as far as practicable, as is required in the
561 case of sales of land under execution at law. The proceeds of the
562 sale shall first be applied to the cost and expense in
563 administering and conducting the sale, then to the satisfaction of
564 all mortgages, deeds of trust, liens and encumbrances of record on
565 the property. The remaining proceeds shall be divided, forwarded
566 and deposited in the same manner as provided in subsection (13).

567 (16) (a) Any county or municipal law enforcement agency may
568 maintain, repair, use and operate for official purposes all
569 property described in subsection (1)(a)(i) of this section that
570 has been forfeited to the agency if it is free from any interest
571 of a bona fide lienholder, secured party or other party who holds
572 an interest in the property in the nature of a security interest.
573 The county or municipal law enforcement agency may purchase the
574 interest of a bona fide lienholder, secured party or other party
575 who holds an interest so that the property can be released for its
576 use. If the property is a motor vehicle susceptible of titling



577 under the Mississippi Motor Vehicle Title Law, the law enforcement
578 agency shall be deemed to be the purchaser, and the certificate of
579 title shall be issued to it as required by subsection (9) of this
580 section.

581 (b) (i) If a vehicle is forfeited to or transferred to
582 a sheriff's department, then the sheriff may transfer the vehicle
583 to the county for official or governmental use as the board of
584 supervisors may direct.

585 (ii) If a vehicle is forfeited to or transferred
586 to a police department, then the police chief may transfer the
587 vehicle to the municipality for official or governmental use as
588 the governing authority of the municipality may direct.

589 (c) If a motor vehicle forfeited to a county or
590 municipal law enforcement agency becomes obsolete or is no longer
591 needed for official or governmental purposes, it may be disposed
592 of in accordance with Section 19-7-5 or in the manner provided by
593 law for disposing of municipal property.

594 (17) The forfeiture procedure set forth in this section is
595 the sole remedy of any claimant, and no court shall have
596 jurisdiction to interfere therewith by replevin, injunction,
597 supersedeas or in any other manner.

598 **SECTION 8.** The following shall be codified as Section
599 97-3-54.8, Mississippi Code of 1972:

600 97-3-54.8. **Relief for Victims of Human Trafficking Fund.**

601 (1) There is hereby created in the State Treasury a special fund



602 to be known as the "Relief for Victims of Human Trafficking Fund."
603 The fund shall be a continuing fund, not subject to fiscal year
604 limitations, and shall consist of:

- 605 (a) Monies appropriated by the Legislature;
- 606 (b) The interest accruing to the fund;
- 607 (c) Donations or grant funds received; and
- 608 (d) Monies received from such other sources as may be
609 provided by law.

610 (2) The monies in the Relief for Victims of Human
611 Trafficking Fund shall be used by the Mississippi Attorney
612 General's office solely for the administration of programs
613 designed to assist victims of human trafficking, to conduct
614 training on human trafficking to law enforcement, court personnel,
615 attorneys, and nongovernmental service providers, and to support
616 the duties of the statewide human trafficking coordinator as set
617 forth in this act.

618 **SECTION 9.** The following shall be codified as Section
619 97-3-54.9, Mississippi Code of 1972:

620 97-3-54.9. **Statewide Human Trafficking Coordinator; duties.**

621 (1) There is created the position of statewide human trafficking
622 coordinator within the Attorney General's office. The duties of
623 the coordinator shall be as follows:

- 624 (a) Coordinate the implementation of this act;
- 625 (b) Evaluate state efforts to combat human trafficking;



626 (c) Collect data on human trafficking activity within
627 the state on an ongoing basis, including types of activities
628 reported, efforts to combat human trafficking, and impact on
629 victims and on the state;

630 (d) Exclude from publicly released portions of the data
631 collected under subsection (1)(c) the identity of any victim and
632 the victim's family;

633 (e) Promote public awareness about human trafficking,
634 remedies and services for victims, and national hotline
635 information;

636 (f) Create and maintain a website to publicize the
637 coordinator's work;

638 (g) Submit to the Legislature an annual report of its
639 evaluation under subsection (1)(b), including any recommendations,
640 and summary of data collected under subsection (1)(c);

641 (h) Develop and implement rules and regulations
642 pertaining to the use of the Relief for Victims of Human
643 Trafficking Fund to support services for victims of human
644 trafficking in Mississippi;

645 (i) Assist in the creation and operations of local
646 human trafficking task forces or working groups around the state,
647 including serving on a task force; and

648 (j) Conduct other activities, including, but not
649 limited to, applying for grants to enhance investigation and
650 prosecution of trafficking offenses or to improve victim services



651 to combat human trafficking within this state which are
652 appropriate.

653 (2) The coordinator shall be authorized to seek input and
654 assistance from state agencies, nongovernmental agencies, service
655 providers and other individuals in the performance of the
656 foregoing duties.

657 (3) Each state agency, board and commission shall be
658 required to fully cooperate with the coordinator in the
659 performance of the duties of that position.

660 (4) Every investigation of an offense under this chapter
661 shall be reported to the coordinator by the initiating law
662 enforcement agency pursuant to guidelines established by the
663 coordinator.

664 (5) Notwithstanding the provisions of Section 43-21-261,
665 disclosure by any state agency, nongovernmental agency, service
666 provider or local or state law enforcement agency of
667 nonidentifying information regarding a minor victim to the
668 coordinator for the purposes of evaluating and collecting data
669 regarding trafficking offenses in the state is specifically
670 authorized.

671 **SECTION 10.** Section 97-29-49, Mississippi Code of 1972, is
672 amended as follows:

673 97-29-49. * * * (1) A person commits the misdemeanor of
674 prostitution if the person knowingly or intentionally performs, or
675 offers or agrees to perform, sexual intercourse or sexual conduct



676 for money or other property. "Sexual conduct" includes
677 cunnilingus, fellatio, masturbation of another, anal intercourse
678 or the causing of penetration to any extent and with any object or
679 body part of the genital or anal opening of another.

680 (2) Any person violating the provisions of this section
681 shall, upon conviction, be punished by a fine not exceeding Two
682 Hundred Dollars (\$200.00) or by confinement in the county jail for
683 not more than six (6) months, or both.

684 (3) In addition to the mandatory reporting provisions
685 contained in Section 97-5-51, any law enforcement officer who
686 takes a minor under eighteen (18) years of age into custody for
687 suspected prostitution shall immediately make a report to the
688 Department of Human Services as required in Section 43-21-353 for
689 suspected child sexual abuse or neglect, and the department shall
690 commence an initial investigation into suspected child sexual
691 abuse or neglect as required in Section 43-21-353.

692 (4) If it is determined that a person suspected of or
693 charged with engaging in prostitution is engaging in those acts as
694 a direct result of being a trafficked person, as defined by
695 Section 97-3-54.4, that person shall be immune from prosecution
696 for prostitution as a juvenile or adult and, if a minor, the
697 provisions of Section 97-3-54.1(4) shall be applicable.

698 **SECTION 11.** Section 97-29-51, Mississippi Code of 1972, is
699 amended as follows:



700 97-29-51. * * * (1) (a) A person commits the misdemeanor
701 of procuring the services of a prostitute if the person knowingly
702 or intentionally pays, or offers or agrees to pay, money or other
703 property to another person for having engaged in, or on the
704 understanding that the other person will engage in, sexual
705 intercourse or sexual conduct with the person or with any other
706 person. "Sexual conduct" includes cunnilingus, fellatio,
707 masturbation of another, anal intercourse or the causing of
708 penetration to any extent and with any object or body part of the
709 genital or anal opening of another.

710 (b) Upon conviction under this subsection, a person
711 shall be punished by a fine not exceeding Two Hundred Dollars
712 (\$200.00) or by confinement in the county jail for not more than
713 six (6) months, or both. A second or subsequent violation of this
714 section shall be a felony, punishable by a fine not exceeding One
715 Thousand Dollars (\$1,000.00), or by imprisonment in the custody of
716 the Department of Corrections for not more than two (2) years, or
717 both.

718 (c) However, in all cases, if the person whose services
719 are procured in violation of this subsection (1) is a minor under
720 eighteen (18) years of age, the person convicted shall be guilty
721 of a felony and shall, upon conviction, be punished by
722 imprisonment for not less than five (5) years, nor more than
723 thirty (30) years, or by a fine of not less than Fifty Thousand



724 Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars
725 (\$500,000.00), or both.

726 (d) Consent of a minor is not a defense to prosecution
727 under this subsection (1).

728 (2) (a) A person commits the felony of promoting
729 prostitution if the person:

730 (i) Knowingly or intentionally entices, compels,
731 causes, induces, persuades, or encourages by promise, threat,
732 violence, or by scheme or device, another person to become a
733 prostitute;

734 (ii) Knowingly or intentionally solicits or offers
735 or agrees to solicit, or receives or gives, or agrees to receive
736 or give any money or thing of value for soliciting, or attempting
737 to solicit, another person for the purpose of prostitution;

738 (iii) Knowingly induces, persuades, or encourages
739 a person to come into or leave this state for the purpose of
740 prostitution;

741 (iv) Having control over the use of a place or
742 vehicle, knowingly or intentionally permits another person to use
743 the place or vehicle for prostitution;

744 (v) Accepts, receives, levies or appropriates
745 money or other property of value from a prostitute, without lawful
746 consideration, with knowledge or reasonable cause to know it was
747 earned, in whole or in part, from prostitution; or



748 (vi) Conducts, directs, takes, or transports, or
749 offers or agrees to take or transport, or aids or assists in
750 transporting, any person to any vehicle, conveyance, place,
751 structure, or building, or to any other person with knowledge or
752 reasonable cause to know that the purpose of such directing,
753 taking or transporting is prostitution.

754 (b) Upon conviction, a person shall be punished by a
755 fine not exceeding Five Thousand Dollars (\$5,000.00) or by
756 imprisonment in the custody of the Department of Corrections for
757 not more than ten (10) years, or both. A second or subsequent
758 violation shall be punished by a fine not exceeding Twenty
759 Thousand Dollars (\$20,000.00) or by imprisonment in the custody of
760 the Department of Corrections for up to twenty (20) years, or
761 both.

762 (c) However, in all cases, if the person whose services
763 are promoted in violation of this subsection (2) is a minor under
764 eighteen (18) years of age, the person convicted shall be guilty
765 of a felony and shall, upon conviction, be punished by
766 imprisonment for not less than five (5) years, nor more than
767 thirty (30) years, or by a fine of not less than Fifty Thousand
768 Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars
769 (\$500,000.00), or both. There is no requirement that the
770 defendant have actual knowledge of the age of the person and
771 consent of a minor is not a defense to prosecution under this
772 section.



773 (3) If it is determined that a person suspected of or
774 charged with promoting prostitution is a trafficked person, as
775 defined by Section 97-3-54.4, that fact shall be considered a
776 mitigating factor in any prosecution of that person for
777 prostitution, and the person shall be referred to appropriate
778 resources for assistance. If it is determined that a person
779 suspected of or charged with promoting prostitution is a minor
780 under eighteen (18) years of age who meets the definition of a
781 trafficked person as defined in Section 97-3-54.4, the minor is
782 immune from prosecution for promoting prostitution as a juvenile
783 or adult and provisions of Section 97-3-54.1(4) shall be
784 applicable.

785 (4) Any partnership, association, corporation or other
786 entity violating any provision of subsection (2) against the
787 promotion of prostitution shall, upon conviction, be punished by a
788 fine not exceeding Fifty Thousand Dollars (\$50,000.00). If the
789 person whose services are promoted is under eighteen (18) years of
790 age, the partnership, association, corporation or other legal
791 entity convicted shall be punished by a fine not exceeding One
792 Million Dollars (\$1,000,000.00). There is no requirement that the
793 defendant have knowledge of the age of the person. Consent of a
794 minor is not a defense to prosecution under this section.

795 (5) Investigation and prosecution of a person, partnership,
796 association, corporation or other entity under this section shall
797 not preclude investigation or prosecution against that person,



798 partnership, association, corporation or other entity for a
799 violation of other applicable criminal laws, including, but not
800 limited to, the Mississippi Protection from Human Trafficking Act,
801 Sections 97-3-54 et seq.

802 **SECTION 12.** Section 97-29-53, Mississippi Code of 1972,
803 which sets the penalty for prostitution and solicitation, is
804 repealed.

805 **SECTION 13.** Section 97-43-3, Mississippi Code of 1972, is
806 amended as follows:

807 97-43-3. The following terms shall have the meanings
808 ascribed to them herein unless the context requires otherwise:

809 (a) "Racketeering activity" means to commit, to attempt
810 to commit, to conspire to commit, or to solicit, coerce or
811 intimidate another person to commit any crime which is chargeable
812 under the following provisions of the Mississippi Code of 1972:

813 (1) Section 97-19-71, which relates to fraud in
814 connection with any state or federally funded assistance programs.

815 (2) Section 75-71-735, which relates to violations
816 of the Mississippi Securities Act.

817 (3) Sections 45-13-105, 45-13-109, 97-37-23 and
818 97-37-25, which relate to unlawful possession, use and
819 transportation of explosives.

820 (4) Sections 97-3-19 and 97-3-21, which relate to
821 murder.



- 822 (5) Section 97-3-7(2), which relates to aggravated
823 assaults.
- 824 (6) Section 97-3-53, which relates to kidnapping.
- 825 (7) Sections 97-3-73 through 97-3-83, which relate
826 to robbery.
- 827 (8) Sections 97-17-19 through 97-17-37, which
828 relate to burglary.
- 829 (9) Sections 97-17-1 through 97-17-13, which
830 relate to arson.
- 831 (10) Sections 97-29-49 * * * and 97-29-51 * * *,
832 which relate to prostitution.
- 833 (11) Sections 97-5-5 and 97-5-31 through 97-5-37,
834 which relate to the exploitation of children and enticing children
835 for concealment, prostitution or marriage.
- 836 (12) Section 41-29-139, which relates to
837 violations of the Uniform Controlled Substances Law; provided,
838 however, that in order to be classified as "racketeering
839 activity," such offense must be punishable by imprisonment for
840 more than one (1) year.
- 841 (13) Sections 97-21-1 through 97-21-63, which
842 relate to forgery and counterfeiting.
- 843 (14) Sections 97-9-1 through 97-9-77, which relate
844 to offenses affecting administration of justice.
- 845 (15) Sections 97-33-1 through 97-33-49, which
846 relate to gambling and lotteries.



847 (16) Sections 97-3-54 et seq., which relate to
848 human trafficking.

849 (b) "Unlawful debt" means money or any other thing of
850 value constituting principal or interest of a debt which is
851 legally unenforceable, in whole or in part, because the debt was
852 incurred or contracted in gambling activity in violation of state
853 law or in the business of lending money at a rate usurious under
854 state law, where the usurious rate is at least twice the
855 enforceable rate.

856 (c) "Enterprise" means any individual, sole
857 proprietorship, partnership, corporation, union or other legal
858 entity, or any association or group of individuals associated in
859 fact although not a legal entity. It includes illicit as well as
860 licit enterprises and governmental, as well as other, entities.

861 (d) "Pattern of racketeering activity" means engaging
862 in at least two (2) incidents of racketeering conduct that have
863 the same or similar intents, results, accomplices, victims, or
864 methods of commission or otherwise are interrelated by
865 distinguishing characteristics and are not isolated incidents,
866 provided at least one (1) of such incidents occurred after the
867 effective date of this chapter and that the last of such incidents
868 occurred within five (5) years after a prior incident of
869 racketeering conduct.

870 **SECTION 14.** Section 97-5-5, Mississippi Code of 1972, is
871 amended as follows:



872 97-5-5. Every person who shall maliciously, willfully, or
873 fraudulently lead, take, carry away, decoy or entice away, any
874 child under the age of fourteen (14) years, with intent to detain
875 or conceal such child from its parents, guardian, or other person
876 having lawful charge of such child, or for the purpose of
877 prostitution, concubinage, or marriage, shall, on conviction, be
878 imprisoned in the * * * custody of the Department of Corrections
879 for not * * * less than two (2) years nor more than ten (10)
880 years, * * * or fined not more than * * * Ten Thousand Dollars
881 (\$10,000.00), or both. Investigation and prosecution of a
882 defendant under this section does not preclude prosecution of the
883 defendant for a violation of other applicable criminal laws,
884 including, but not limited to, the Mississippi Human Trafficking
885 Act, Sections 97-3-54 et seq.

886 **SECTION 15.** Section 97-5-7, Mississippi Code of 1972, is
887 amended as follows:

888 97-5-7. Any person who shall persuade, entice or decoy away
889 from its father or mother with whom it resides any child under the
890 age of eighteen (18) years, being unmarried, for the purpose of
891 employing such child without the consent of its parents, or one of
892 them, shall upon conviction be punished by a fine of not more
893 than * * * One Thousand Dollars (\$1,000.00) or imprisoned in the
894 county jail not more than * * * one (1) year, or both.
895 Investigation and prosecution of a defendant under this section
896 does not preclude prosecution of the defendant for a violation of



897 other applicable criminal laws, including, but not limited to, the
898 Mississippi Human Trafficking Act, Sections 97-3-54 et seq.

899 **SECTION 16.** Section 97-5-27, Mississippi Code of 1972, is
900 amended as follows:

901 97-5-27. (1) Any person who intentionally and knowingly
902 disseminates sexually oriented material to any person under
903 eighteen (18) years of age shall be guilty of a misdemeanor and,
904 upon conviction, shall be fined for each offense not less than
905 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
906 (\$5,000.00) or be imprisoned for not more than one (1) year in the
907 county jail, or be punished by both such fine and imprisonment. A
908 person disseminates sexually oriented material within the meaning
909 of this section if he:

910 (a) Sells, delivers or provides, or offers or agrees to
911 sell, deliver or provide, any sexually oriented writing, picture,
912 record or other representation or embodiment that is sexually
913 oriented; or

914 (b) Presents or directs a sexually oriented play, dance
915 or other performance or participates directly in that portion
916 thereof which makes it sexually oriented; or

917 (c) Exhibits, presents, rents, sells, delivers or
918 provides, or offers or agrees to exhibit, present, rent or to
919 provide any sexually oriented still or motion picture, film,
920 filmstrip or projection slide, or sound recording, sound tape or
921 sound track or any matter or material of whatever form which is a



922 representation, embodiment, performance or publication that is
923 sexually oriented.

924 (2) For purposes of this section, any material is sexually
925 oriented if the material contains representations or descriptions,
926 actual or simulated, of masturbation, sodomy, excretory functions,
927 lewd exhibition of the genitals or female breasts, sadomasochistic
928 abuse (for the purpose of sexual stimulation or gratification),
929 homosexuality, lesbianism, bestiality, sexual intercourse, or
930 physical contact with a person's clothed or unclothed genitals,
931 pubic area, buttocks, or the breast or breasts of a female for the
932 purpose of sexual stimulation, gratification or perversion.

933 (3) (a) A person is guilty of computer luring when:

934 (i) Knowing the character and content of any
935 communication of sexually oriented material, he intentionally uses
936 any computer communication system allowing the input, output,
937 examination or transfer of computer data or computer programs from
938 one (1) computer to another, to initiate or engage in such

939 communication with a person under the age of eighteen (18); and

940 (ii) By means of such communication he importunes,
941 invites or induces a person under the age of eighteen (18) years
942 to engage in sexual intercourse, deviant sexual intercourse or
943 sexual contact with him, or to engage in a sexual performance,
944 obscene sexual performance or sexual conduct for his benefit.



945 (b) A person who engages in the conduct proscribed by
946 this subsection (3) is presumed to do so with knowledge of the
947 character and content of the material.

948 (c) In any prosecution for computer luring, it shall be
949 a defense that:

950 (i) The defendant made a reasonable effort to
951 ascertain the true age of the minor and was unable to do so as a
952 result of actions taken by the minor; or

953 (ii) The defendant has taken, in good faith,
954 reasonable, effective and appropriate actions under the
955 circumstances to restrict or prevent access by minors to the
956 materials prohibited, which may involve any appropriate measures
957 to restrict minors from access to such communications, including
958 any method which is feasible under available technology; or

959 (iii) The defendant has restricted access to such
960 materials by requiring use of a verified credit card, debit
961 account, adult access code or adult personal identification
962 number; or

963 (iv) The defendant has in good faith established a
964 mechanism such that the labeling, segregation or other mechanism
965 enables such material to be automatically blocked or screened by
966 software or other capabilities reasonably available to responsible
967 adults wishing to effect such blocking or screening and the
968 defendant has not otherwise solicited minors not subject to such



969 screening or blocking capabilities to access that material or to
970 circumvent any such screening or blocking.

971 (d) In any prosecution for computer luring:

972 (i) No person shall be held to have violated this
973 subsection (3) solely for providing access or connection to or
974 from a facility, system, or network not under that person's
975 control, including transmission, downloading, intermediate
976 storage, access software or other related capabilities that are
977 incidental to providing such access or connection that do not
978 include the creation of the content of the communication.

979 (ii) No employer shall be held liable for the
980 actions of an employee or agent unless the employee's or agent's
981 conduct is within the scope of his employment or agency or the
982 employer, having knowledge of such conduct, authorizes or ratifies
983 such conduct, or recklessly disregards such conduct.

984 (iii) The limitations provided by this paragraph
985 (d) shall not be applicable to a person who is a conspirator with
986 an entity actively involved in the creation or knowing
987 distribution of communications that violate such provisions, or
988 who knowingly advertises the availability of such communications,
989 nor to a person who provides access or connection to a facility,
990 system or network engaged in the violation of such provisions that
991 is owned or controlled by such person.

992 (e) Computer luring is a felony, and any person
993 convicted thereof shall be punished by commitment to the custody



994 of the Department of Corrections for a term not to exceed three
995 (3) years and by a fine not to exceed Ten Thousand Dollars
996 (\$10,000.00).

997 (4) Investigation and prosecution of a defendant under this
998 section does not preclude prosecution of the defendant for a
999 violation of other applicable criminal laws, including, but not
1000 limited to, the Mississippi Human Trafficking Act, Section 97-3-54
1001 et seq.

1002 **SECTION 17.** Section 97-5-31, Mississippi Code of 1972, is
1003 amended as follows:

1004 97-5-31. As used in Sections 97-5-33 through 97-5-37, the
1005 following words and phrases shall have the meanings given to them
1006 in this section:

1007 (a) "Child" means any individual who has not attained
1008 the age of eighteen (18) years.

1009 (b) "Sexually explicit conduct" means actual or
1010 simulated:

1011 (i) Oral genital contact, oral anal contact, or
1012 sexual intercourse * * * as defined in Section 97-3-65, whether
1013 between persons of the same or opposite sex;

1014 (ii) Bestiality;

1015 (iii) Masturbation;

1016 (iv) Sadistic or masochistic abuse;

1017 (v) Lascivious exhibition of the genitals or pubic
1018 area of any person; or



1019 (vi) Fondling or other erotic touching of the
1020 genitals, pubic area, buttocks, anus or breast.

1021 (c) "Producing" means producing, directing,
1022 manufacturing, issuing, publishing or advertising.

1023 (d) "Visual depiction" includes, without limitation,
1024 developed or undeveloped film and video tape or other visual
1025 unaltered reproductions by computer.

1026 (e) "Computer" has the meaning given in Title 18,
1027 United States Code, Section 1030.

1028 (f) "Simulated" means any depicting of the genitals or
1029 rectal areas that gives the appearance of sexual conduct or
1030 incipient sexual conduct.

1031 **SECTION 18.** Section 99-1-5, Mississippi Code of 1972, as
1032 amended by House Bill No. 709, 2013 Regular Session, is amended as
1033 follows:

1034 99-1-5. The passage of time shall never bar prosecution
1035 against any person for the offenses of murder, manslaughter,
1036 aggravated assault, aggravated domestic violence, kidnapping,
1037 arson, burglary, forgery, counterfeiting, robbery, larceny, rape,
1038 embezzlement, obtaining money or property under false pretenses or
1039 by fraud, felonious abuse or battery of a child as described in
1040 Section 97-5-39, touching or handling a child for lustful purposes
1041 as described in Section 97-5-23, sexual battery of a child as
1042 described in Section 97-3-95(1)(c), (d) or (2), * * * exploitation
1043 of children as described in Section 97-5-33, promoting



1044 prostitution under Section 97-29-51(2) when the person involved is
1045 a minor, or any human trafficking offense as described in Section
1046 97-3-54.1(1)(a), (1)(b) or (1)(c), 97-3-54.2 or 97-3-54.3. A
1047 person shall not be prosecuted for conspiracy, as described in
1048 Section 97-1-1, for felonious assistance-program fraud, as
1049 described in Section 97-19-71, or for felonious abuse of
1050 vulnerable persons, as described in Sections 43-47-18 and
1051 43-47-19, unless the prosecution for the offense is commenced
1052 within five (5) years next after the commission thereof. A person
1053 shall not be prosecuted for larceny of timber as described in
1054 Section 97-17-59, unless the prosecution for the offense is
1055 commenced within six (6) years next after the commission thereof.
1056 A person shall not be prosecuted for any other offense not listed
1057 in this section unless the prosecution for the offense is
1058 commenced within two (2) years next after the commission thereof.
1059 Nothing contained in this section shall bar any prosecution
1060 against any person who shall abscond or flee from justice, or
1061 shall absent himself from this state or out of the jurisdiction of
1062 the court, or so conduct himself that he cannot be found by the
1063 officers of the law, or that process cannot be served upon him.

1064 **SECTION 19.** This act shall take effect and be in force from
1065 and after July 1, 2013.

