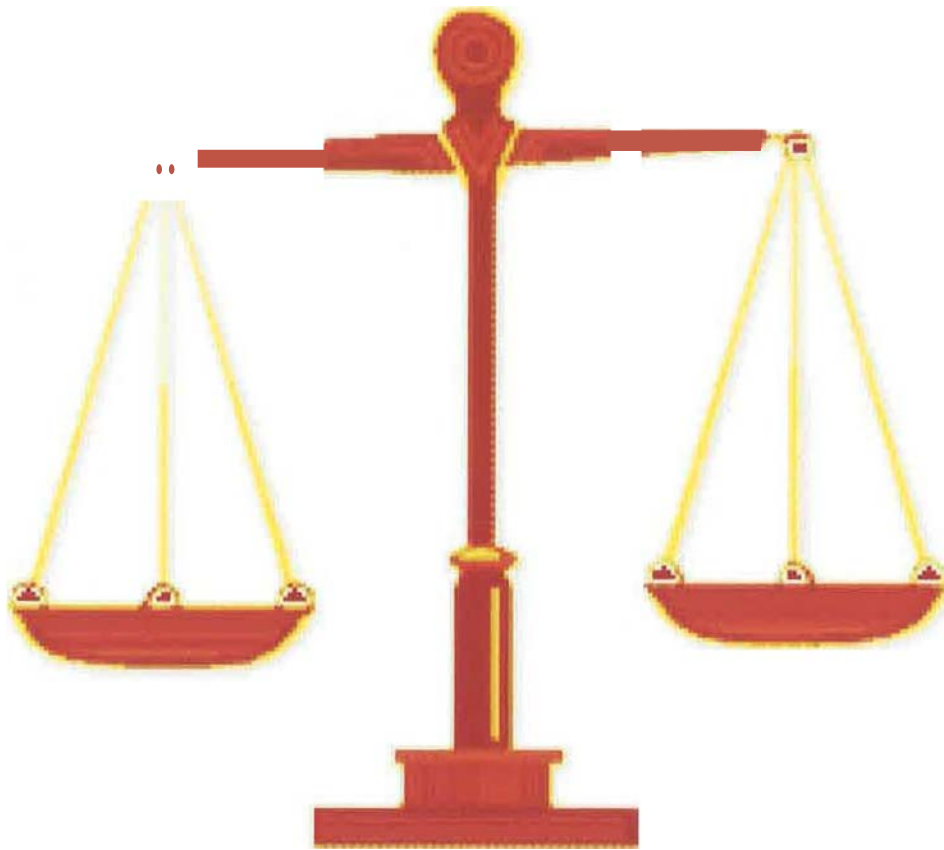


# MISSISSIPPI DEPARTMENT OF EDUCATION

## Quick Reference to School Related Statutes

### Mississippi Code of 1972 Annotated



Office of Safe and Orderly Schools

School Safety Division

March 2021



## EDUCATION LAW

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## Introduction

This document includes many of the criminal, educational and juvenile statutes of the Mississippi Code of 1972, Annotated. The information contained herein is meant to provide quick reference to the many used statutes by school safety personnel, however it is not all inclusive of all Mississippi Statutes related to our schools. Any official legal opinion regarding any statute must come from your Local Board Attorney or the Mississippi Attorney General's Office.

The purpose of this document is to serve as an easy referral document for the administrator(s), school staff, School Resource Officer(s), and School Safety Officer(s) when confronted with routine issues that occur in daily operations within our school districts.

## Education Law

### Miss. Code Ann. § 37-3-51

#### § 37-3-51. Felony or sex offense conviction; elementary or secondary school employees

- (1) Upon the conviction of any licensed personnel, as defined in Section 37-9-1, employed by a public school district or any person employed by a charter or private elementary or secondary school in a position that requires licensure in the public school districts, of any felony, or of a sex offense as defined in subsection (2) of this section, the district attorney or other prosecuting attorney shall identify those defendants for the circuit clerk. Each circuit clerk shall provide the State Department of Education with notice of the conviction of any such personnel of a felony or a sex offense. In addition, if the convicted person is an employee of a charter school, the circuit clerk must provide the same notice to the Mississippi Charter School Authorizer Board.
- (2) "Sex offense" shall mean any of the following offenses:
  - (a) Miss. Code Ann. § 97-3-65, relating to the carnal knowledge of a child under fourteen (14) years of age;
  - (b) Miss. Code Ann. § 97-3-95, relating to sexual battery;
  - (c) Miss. Code Ann. § 97-5-21, relating to seduction of a child under age eighteen (18);
  - (d) Miss. Code Ann. § 97-5-23, relating to the touching of a child for lustful purposes;
  - (e) Miss. Code Ann. § 97-5-27, relating to the dissemination of sexually oriented material to children;
  - (f) Section 97-5-33, Mississippi Code of 1972, relating to the exploitation of children;
  - (g) Miss. Code Ann. § 97-5-41, relating to the carnal knowledge of a stepchild, adopted child, or child of a cohabitating partner;
  - (h) Miss. Code Ann. § § 97-29-59, relating to unnatural intercourse; or
  - (i) Any other offense committed in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere.
- (3) In addition, the State Department of Education is considered to be the employer of such personnel for purposes of requesting criminal record background checks.



Miss. Code Ann. § 37-3-81

§ 37-3-81. School Safety Center

The Department of Education, using only existing staff and resources, shall establish and maintain a School Safety Center, which shall operate a statewide information clearinghouse that: (a) provides assistance to school districts and communities during school crises; and (b) provides technical assistance, training and current resources to public school officials and parents who need assistance in researching, developing and implementing school safety plans and in maintaining a safe school environment. However, no monies from the Temporary Assistance for Needy Families grant may be used for the School Safety Center.

Miss. Code Ann. § 37-3-82

§ 37-3-82. Mississippi Community Oriented Policing Services in Schools grant program established; purpose; use of funds.

- (1) There is hereby established the Mississippi Community Oriented Policing Services in Schools (MCOPS) grant program in the State Department of Education to provide funding, pursuant to specific appropriation by the Legislature therefor, to assist law enforcement agencies in providing additional School Resource Officers to engage in community policing in and around primary and secondary schools. The MCOPS program shall authorize the State Department of Education to make grants to increase deployment of law enforcement officers in order (a) to increase or enhance community policing in this state, (b) that trained, sworn enforcement officers assigned to schools play an integral part in the development and/or enhancement of a comprehensive school safety plan, and (c) that the presence of these officers shall provide schools with a direct link to local law enforcement agencies.
- (2) The MCOPS program shall meet the following requirements and standards:
  - (a) This program shall provide an incentive for law enforcement agencies to build collaborative partnerships with the school community and to use community policing efforts to combat school safety.
  - (b) The additional School Resource Officers must devote at least seventy-five percent (75%) of their time to work in and around primary and secondary schools, in addition to the time that School Resource Officers are devoting in the absence of the MCOPS in Schools grant.
  - (c) Beginning with the 2019-2020 school year, the MCOPS in Schools program shall provide a minimum state contribution of up to Ten Thousand Dollars (\$10,000.00) per officer position over the one-year grant period, to be matched from local funds on a 50/50 matching basis. Officers paid with MCOPS funds may be employed by the local law enforcement agency or by the local school district. MCOPS funds may be used to pay for entry-level salaries and benefits of newly trained additional School Resource Officers and may be used to pay the salaries and benefits of School Resource Officers employed prior to July 1, 2013. All jurisdictions that apply must demonstrate that they have primary law enforcement authority over the school(s) identified in their application and demonstrate their inability to implement this project without state assistance. Schools or law enforcement agencies may not reduce its overall federal, state, locally funded level of sworn officers (including other School Resource Officers or other sworn officers assigned to the schools) as a result of applying for or receiving MCOPS in Schools grant funding. MCOPS in Schools funding may be used to rehire sworn officers previously employed who have been laid off for financial reasons unrelated to the availability of the MCOPS in Schools grant, but must obtain prior written approval from the State Department of Education. MCOPS in Schools funding may be used to train school resource officers. In order to be eligible for such program, each local school board desiring to participate shall apply to the State Department of Education by May 31 before the beginning of the applicable fiscal year on forms provided by the department. The State Department of Education shall determine by July 1 of each succeeding year which local school districts have submitted approved applications for School Resource

Officer funding.

(d) School Resource Officers (SROs) may serve in a variety of roles, including, but not limited to, that of a law enforcement officer/safety specialist, law-related educator, and problem-solver/community liaison. These officers may teach programs such as crime prevention, substance abuse prevention, and gang resistance as well as monitor and assist troubled students through mentoring programs. The School Resource Officer(s) may also identify physical changes in the environment that may reduce crime in and around the schools, as well as assist in developing school policies which address criminal activity and school safety. The application must also include a Memorandum of Understanding (MOU), signed by the law enforcement executive and the appropriate school official(s), to document the roles and responsibilities to be undertaken by the law enforcement agency and the educational school partner(s) through this collaborative effort. The application must also include a Narrative Addendum to document that the School Resource Officer(s) will be assigned to work in and around primary or secondary schools and provide supporting documentation in the following areas: problem identification and justification, community policing strategies to be used by the officers, quality and level of commitment to the effort, and the link to community policing.

(e) All agencies receiving awards through the MCOPS in Schools program are required to send the School Resource Officer position(s) funded by this grant, to the Mississippi Law Enforcement Officers' Training Academy where they shall be required to participate in training through the Advanced Law Enforcement Rapid Response Training Program at the academy, with the cost to be defrayed from the MCOPS program. The MCOPS Office of the State Department of Education will reimburse grantees for training, per diem, travel, and lodging costs for attendance of required participants up to a maximum of One Thousand Two Hundred Dollars (\$1,200.00) per person attending. Applicants receiving an MCOPS in Schools grant, will receive additional training information following notification of the grant award. The MCOPS in Schools training requirement must be completed prior to the end of twelve-month grant funding for officer positions.

- (3) The State Department of Education shall promulgate rules and regulations prescribing procedures for the application, expenditure requirements and the administration of the Mississippi Community Oriented Policing Services in Schools (MCOPS) program established in this section, and shall make a report on the implementation of the MCOPS program with any recommendations to the 2020 Regular Session of the Legislature.

Miss. Code Ann. § 37-3-82.1

§ 37-3-82.1. Schools unable to meet financial requirements for participation in MCOPS program authorized to develop alternative plans for student security.

In the event that a public school district is unable to participate in the MCOPS program due to the district's inability to meet the necessary financial requirements of the local fund match, the local school board of that school district may develop a plan for the security of its students, faculty and administration, which must be approved by the State Board of Education and the Mississippi Department of Public Safety prior to its implementation. The local school board may still apply for grants under the MCOPS program for training of security personnel employed by the school district.

Miss. Code Ann. § 37-3-83

§ 37-3-83. School Safety Grant Program; implementation of "Erin's Law Awareness" policy addressing sexual abuse of children; pilot program utilizing evidence-based curriculum to provide children stress and anxiety management skills; biennial refresher training on mental health and suicide prevention for all school employees.

- (1) There is established within the State Department of Education, using only existing staff and resources, a School Safety Grant Program, available to all eligible public school districts, to assist in financing programs to provide school safety. However, no monies from the Temporary Assistance for Needy Families grant may be used for the School Safety Grant Program. The school board of each school district, with the assistance of the State Department of Education School Safety Center, shall adopt a comprehensive local school district school safety plan and shall update the plan on an annual basis.
- (2) The school board of each school district, with the assistance of the State Department of Education School Safety Center, shall adopt a comprehensive local school district school safety plan and shall update the plan on an annual basis.
- (3) Subject to the extent of appropriations available, the School Safety Grant Program shall offer any of the following specific preventive services, and other additional services appropriate to the most current school district school safety plan:
  - (a) Metal detectors;
  - (b) Video surveillance cameras, communications equipment and monitoring equipment for classrooms, school buildings, school grounds and school buses;
  - (c) Crisis management/action teams responding to school violence;
  - (d) Violence prevention training, conflict resolution training, behavioral stress training and other appropriate training designated by the State Department of Education for faculty and staff; and
  - (e) School safety personnel.
- (4) Each local school district of this state may annually apply for school safety grant funds subject to appropriations by the Legislature. School safety grants shall include a base grant amount plus an additional amount per student in average daily attendance in the school or school district. The base grant amount and amount per student shall be determined by the State Board of Education, subject to specific appropriation therefor by the Legislature. In order to be eligible for such program, each local school board desiring to participate shall apply to the State Department of Education by May 31 before the beginning of the applicable fiscal year on forms provided by the department, and shall be required to establish a local School Safety Task Force to involve members of the community in the school safety effort. The State Department of Education shall determine by July 1 of each succeeding year which local school districts have submitted approved applications for school safety grants.
- (5) As part of the School Safety Grant Program, the State Department of Education may conduct a pilot program to research the feasibility of using video camera equipment in the classroom to address the following:
  - (a) Determine if video cameras in the classroom reduce student disciplinary problems;
  - (b) Enable teachers to present clear and convincing evidence of a student's disruptive behavior to the student, the principal, the superintendent and the student's parents; and
  - (c) Enable teachers to review teaching performance and receive diagnostic feedback for developmental purposes.

- (6) Any local school district may use audio/visual-monitoring equipment in classrooms, hallways, buildings, grounds and buses for the purpose of monitoring school disciplinary problems.
- (7) As a component of the comprehensive local school district school safety plan required under subsection (2) of this section, the school board of a school district may adopt and implement a policy addressing sexual abuse of children, to be known as “Erin’s Law Awareness.” Any policy adopted under this subsection may include or address, but need not be limited to, the following:
  - (a) Methods for increasing teacher, student and parental awareness of issues regarding sexual abuse of children, including knowledge of likely warning signs indicating that a child may be a victim of sexual abuse;
  - (b) Educational information for parents or guardians, which may be included in the school handbook, on the warning signs of a child being abused, along with any needed assistance, referral or resource information;
  - (c) Training for school personnel on child sexual abuse;
  - (d) Age-appropriate curriculum for students in prekindergarten through fifth grade;
  - (e) Actions that a child who is a victim of sexual abuse should take to obtain assistance and intervention;
  - (f) Counseling and resources available for students affected by sexual abuse; and
  - (g) Emotional and educational support for a child who has been abused to enable the child to be successful in school.
- (8) As part of the school safety grant program, the State Department of Education shall establish three (3) pilot programs in six (6) school districts utilizing an evidence-based curriculum to provide students in Grades K-5 with skills to manage stress and anxiety in order for them to be better equipped to handle challenges in a healthy way and build resiliency. The Mississippi Department of Mental Health shall be responsible for the selection of the content of the evidence-based curriculum. The results of this pilot program shall be measured and reported, and such results shall be used in consideration of the implementation of this curriculum statewide.
- (9) As a component of the comprehensive local school district safety plan required under subsection (2) of this section, beginning in the 2019-2020 school year, the State Department of Education shall require local school districts to conduct, every two (2) years, refresher training on mental health and suicide prevention for all school employees and personnel, including all cafeteria workers, custodians, teachers and administrators. The Mississippi Department of Mental Health shall be responsible for the development and/or selection of the content of the training, which training shall be provided at no cost to school employees. School districts shall report completion of the training to the State Department of Education.

Miss. Code Ann. §37-3-84

§37-3-84. Confiscation of illegal firearms; reward.

- (1) Each school district in the state may pay a reward not exceeding Five Hundred Dollars (\$500.00) to any person who provides information that leads to the confiscation by the school district or a law enforcement agency of any illegal firearm on public school property.

- (2) Each school district shall establish a policy necessary to protect the confidentiality of any person who provides such information leading to the confiscation of an illegal firearm under this section.

Miss. Code Ann. §37-3-89

§37-3-89 School discipline and classroom management course; requirement; approval;

The State Board of Education, acting through the Commission on Teacher and Administrator Education, Certification and Licensure and Development, shall require each educator preparation program in the state, as a condition for approval, to include a course or courses on school discipline or classroom management as a required part of the teacher education program. All school discipline or classroom management courses offered by a teacher education program shall be approved by the Educator License Commission.

Miss. Code Ann. §37-3-93

§37-3-93. School Crisis Management Program; quick response teams; toll-free telephone service for reporting school violence; certified threat assessment officers and duties thereof.

- (1) Subject to the availability of funding specifically appropriated for such purpose, there is established a School Crisis Management Program under the State Department of Education. This program is to be initiated and executed by the department using only existing staff and resources. Under this program, the State Department of Education shall create an office making available a quick response team of personnel trained in school safety and crisis management to respond to traumatic or violent situations that impact students and faculty in the public schools in Mississippi. The required School Crisis Management Program shall operate in accordance with the following:
- (a) The basic response team shall consist of those personnel designated by the State Superintendent of Public Education, or their designees, depending on the size of the school and the nature of the event.
  - (b) In order to access the services of a response team, the request must be made by the local school principal or the superintendent of schools, who shall make the request to the State Department of Education or its contact designee.
  - (c) A response team shall enter a school to work with students and faculty for a period of no more than three (3) days, unless otherwise requested by the school district.
  - (d) The State Department of Education, or its designee, shall operate a toll-free incoming wide area telephone service for the purpose of receiving reports of suspected cases of school violence and other traumatic situations impacting on students and faculty in the public schools.
  - (e) The request made by a school district to access the services of a response team following a school safety incident may seek a review of the local school district's safety plan, and the results of this evaluation may be published by the local school board in a newspaper with wide circulation in the district.
  - (f) Subject to the availability of funds specifically appropriated therefor by the Legislature, the expenses of the quick response teams and their administrative support shall be provided from state funds. The State Department of Education may apply for and expend funds for the support and maintenance of this program from private and other funding sources.

- (2) Local school districts, school superintendents and principals may request and utilize the services of quick response teams provided for under this section; however, this section does not require school officials to request the services of quick response teams.
- (3) As a component of the School Crisis Management Program, the Mississippi Office of Homeland Security shall develop a curriculum, train and certify threat assessment officers. A certified threat assessment officer shall conduct an annual inspection and threat assessment of each public school in the state. The threat assessment officer shall develop an improvement plan for each school inspected. The assessment shall include the inspection of surveillance equipment and building-specific floor plans. The findings of the inspection and threat assessment, including a copy of the improvement plan shall be provided to local law enforcement agencies and the local school board within four (4) weeks of completion.

Miss. Code Ann. §37-7-321

§ 37-7-321. Employment and designation of peace officers; minimum level of basic law enforcement training required; operation of radio broadcasting and transmission station; interlocal agreements with other law enforcement entities for provision of certain equipment or services.

- (1) The school board of any school district within the State of Mississippi, in its discretion, may employ one or more persons as security personnel and may designate such persons as peace officers in or on any property operated for school purposes by such board upon their taking such oath and making such bond as required of a constable of the county in which the school district is situated.
- (2) Any person employed by a school board as a security guard or school resource officer or in any other position that has the powers of a peace officer must receive a minimum level of basic law enforcement training, as jointly determined and prescribed by the Board on Law Enforcement Officer Standards and Training and the State Board of Education, within two (2) years of the person's initial employment in such position. Upon the failure of any person employed in such position to receive the required training within the designated time, the person may not exercise the powers of a peace officer in or on the property of the school district.
- (3) The school board is authorized and empowered, in its discretion, and subject to the approval of the Federal Communications Commission, to install and operate a noncommercial radio broadcasting and transmission station for educational and vocational educational purposes.
- (4) If a law enforcement officer is duly appointed to be a peace officer by a school district under this section, the local school board may enter into an interlocal agreement with other law enforcement entities for the provision of equipment or traffic control duties, however, the duty to enforce traffic regulations and to enforce the laws of the state or municipality off of school property lies with the local police or sheriff's department which cannot withhold its services solely because of the lack of such an agreement.

Miss. Code Ann. §37-7-323

§37-7-323. Application and enforcement of general criminal laws of state.

Any act which, if committed within the limits of a city, town or village, or in any public place, would be a violation of the general laws of this state, shall be criminal and punishable if done on the campus, grounds or roads of any of the public schools of this state. The peace officers duly appointed by the school board of any school district are vested with the powers and subjected to the duties of a constable for the purpose of preventing all violations of law on school property within the district, and for preserving order and decorum thereon. The peace officers duly appointed by the school board of any school district are also vested with the powers and subjected to the duties of a constable for the purpose of preventing all violations of law that occur



within five hundred (500) feet of any property owned by the school district, if reasonably determined to have a possible impact on the safety of students, faculty or staff of the school district while on said property. Provided, however, that nothing in this section shall be interpreted to require action by any such peace officer appointed by a school district to events occurring outside the boundaries of school property, nor shall any such school district or its employees be liable for any failure to act to any event occurring outside the boundaries of property owned by the school district.

Miss. Code Ann. §37-9-14

§37-9-14. Responsibilities and powers of superintendent

(1) It shall be the duty of the superintendent of schools to administer the schools within his district and to implement the decisions of the school board.

(2) In addition to all other powers, authority and duties imposed or granted by law, the superintendent of schools shall have the following powers, authority and duties:

(a) To enter into contracts in the manner provided by law with each assistant superintendent, principal and teacher of the public schools under his supervision, after such assistant superintendent, principal and teachers have been selected and approved in the manner provided by law.

(b) To enforce in the public schools of the school district the courses of study provided by law or the rules and regulations of the State Board of Education, and to comply with the law with reference to the use and distribution of free textbooks.

(c) To administer oaths in all cases to persons testifying before him relative to disputes relating to the schools submitted to him for determination, and to take testimony in such cases as provided by law.

(d) To examine the monthly and annual reports submitted to him by principals and teachers for the purpose of determining and verifying the accuracy thereof.

(e) To preserve all reports of superintendents, principals, teachers and other school officers, and to deliver to his successor or clerk of the board of supervisors all money, property, books, effects and papers.

(f) To prepare and keep in his office a map or maps showing the territory embraced in his school district, to furnish the county assessor with a copy of such map or maps, and to revise and correct same from time to time as changes in or alterations of school districts may necessitate.

(g) To keep an accurate record of the names of all of the members of the school board showing the districts for which each was elected or appointed, the post office address of each, and the date of the expiration of his term of office. All official correspondence shall be addressed to the school board, and notice to such members shall be regarded as notice to the residents of the district, and it shall be the duty of the members to notify such residents.

(h) To deliver in proper time to the assistant superintendents, principals, teachers and board members such forms, records and other supplies which will be needed during the school year as provided by law or any applicable rules and regulations, and to give to such individuals such information with regard to their duties as may be required.

(i) To make to the school board reports for each scholastic month in such form as the school board may require.

(j) To distribute promptly all reports, letters, forms, circulars and instructions which he may receive for the use of school officials.

(k) To keep on file and preserve in his office all appropriate information concerning the affairs of the school district.

(l) To visit the schools of his school district in his discretion, and to require the assistant superintendents, principals and teachers thereof to perform their duties as prescribed by law.

(m) To observe such instructions and regulations as the school board and other public officials may prescribe, and to make special reports to these officers whenever required.

(n) To keep his office open for the transaction of business upon the days and during the hours to be designated by the school board.

(o) To make such reports as are required by the State Board of Education.

(p) To make an enumeration of educable children in his school district as prescribed by law.

(q) To keep in his office and carefully preserve the public school record provided, to enter therein the proceedings of the school board and his decision upon cases and his other official acts, to record therein the data required from the monthly and term reports of principals and teachers, and from the summaries of records thus kept.

(r) To delegate student disciplinary matters to appropriate school personnel.

(s) To make assignments to the various schools in the district of all noninstructional and nonlicensed employees and all licensed employees, as provided in Sections 37-9-15 and 37-9-17, and to make reassignments of such employees from time to time; however, a reassignment of a licensed employee may only be to an area in which the employee has a valid license issued by the State Department of Education. Upon request from any employee transferred, such assignment shall be subject to review by the school board.

(t) To employ substitutes for licensed employees, regardless of whether or not such substitute holds the proper license, subject to such reasonable rules and regulations as may be adopted by the State Board of Education.

(u) To comply in a timely manner with the compulsory education reporting requirements prescribed in Section 37-13-91(6).

(v) To perform such other duties as may be required of him by law.

(w) To notify, in writing, the parent, guardian or custodian, the youth court and local law enforcement of any expulsion of a student for criminal activity as defined in Section 37-11-29.

(x) To notify the youth court and local law enforcement agencies, by affidavit, of the occurrence of any crime committed by a student or students upon school property or during any school-related activity, regardless of location and the identity of the student or students committing the crime.

(y) To employ and dismiss noninstructional and nonlicensed employees as provided by law.

(z) To temporarily employ licensed and nonlicensed employees to fill vacancies which may occur from time to time without prior approval of the board of trustees, provided that the board of trustees is notified of such employment and the action is ratified by the board at the next regular meeting of the board. A school district may pay a licensed employee based on the same salary schedule as other contracted licensed employees in the district until school board action, at which time a licensed employee approved by the school board enters a contract. If the board, within thirty (30) days of the date of employment of



such employee under this subsection, takes action to disapprove of the employment by the superintendent, then the employment shall be immediately terminated without further compensation, notice or other employment rights with the district. The terminated employee shall be paid such salary and fringe benefits that such employee would otherwise be entitled to from the date of employment to the date of termination for days actually worked.

(3) All funds to the credit of a school district shall be paid out on pay certificates issued by the superintendent upon order of the school board of the school district properly entered upon the minutes thereof, and all such orders shall be supported by properly itemized invoices from the vendors covering the materials and supplies purchased. All such orders and the itemized invoices supporting same shall be filed as a public record in the office of the superintendent for a period of five (5) years. The superintendent shall be liable upon his official bond for the amount of any pay certificate issued in violation of the provisions of this section. The school board shall have the power and authority to direct and cause warrants to be issued against such district funds for the purpose of refunding any amount of taxes erroneously or illegally paid into such fund when such refund has been approved in the manner provided by law.

(4) The superintendent of schools shall be special accounting officer and treasurer with respect to any and all district school funds for his school district. He or his designee shall issue all warrants without the necessity of registration thereof by the chancery clerk. Transactions with the depositories and with the various tax collecting agencies which involve school funds for such school district shall be with the superintendent of schools, or his designee.

(5) The superintendent of schools will have no responsibility with regard to agricultural high school and junior college funds.

All agricultural high school and junior college funds shall be handled and expended in the manner provided for in Sections 37-29-31 through 37-29-39.

(6) It shall be the duty of the superintendent of schools to keep and preserve the minutes of the proceedings of the school board.

(7) The superintendent of schools shall maintain as a record in his office a book or a computer printout in which he shall enter all demands, claims and accounts paid from any funds of the school district. The record shall be in a form to be prescribed by the State Auditor. All demands, claims and accounts filed shall be preserved by the superintendent of schools as a public record for a period of five (5) years. All claims found by the school board to be illegal shall be rejected or

disallowed. To the extent allowed by board policy, all claims which are found to be legal and proper may be paid and then ratified by the school board at the next regularly scheduled board meeting, as paid by the superintendent of schools. All claims as to which a continuance is requested by the claimant and those found to be defective but which may be perfected by amendment shall be continued. The superintendent of schools shall issue a pay certificate against any legal and proper fund of the school district in favor of the claimant in payment of claims. The provisions of this section, however, shall not be applicable to the payment of salaries and applicable benefits, travel advances, amounts due private contractors or other obligations where the amount thereof has been previously approved by a contract or by an order of the school board entered upon its minutes, or paid by board policy, or by inclusion in the current fiscal year budget, and all such amounts may be paid by the superintendent of schools by pay certificates issued by him against the legal and proper fund without allowance of a specific claim therefor as provided in this section, provided that the payment thereof is otherwise in conformity with law.

§37-9-17. Selection of licensed employees or non-instructional employees to be employed for school year; increase in compensation of certain licensed employees; fingerprinting and criminal background checks for applicants.

(1) On or before April 1 of each year, the principal of each school shall recommend to the superintendent of the local school district the licensed employees or noninstructional employees to be employed for the school involved except those licensed employees or noninstructional employees who have been previously employed and who have a contract valid for the ensuing scholastic year. If such recommendations meet with the approval of the superintendent, the superintendent shall recommend the employment of such licensed employees or noninstructional employees to the local school board, and, unless good reason to the contrary exists, the board shall elect the employees so recommended. If, for any reason, the local school board shall decline to elect any employee so recommended, additional recommendations for the places to be filled shall be made by the principal to the superintendent and then by the superintendent to the local school board as provided above. The school board of any local school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to recommend to the superintendent licensed employees or noninstructional employees; however, this authorization shall be restricted to no more than two (2) positions for each employment period for each school in the local school district. Any noninstructional employee employed upon the recommendation of a personnel supervisor or another principal employed by the local school district must have been employed by the local school district at the time the superintendent was elected or appointed to office; a noninstructional employee employed under this authorization may not be paid compensation in excess of the statewide average compensation for such noninstructional position with comparable experience, as established by the State Department of Education. The school board of any local school district shall be authorized to designate a personnel supervisor or another principal employed by the school district to accept the recommendations of principals or their designees for licensed employees or noninstructional employees and to transmit approved recommendations to the local school board; however, this authorization shall be restricted to no more than two (2) positions for each employment period for each school in the local school district.

When the licensed employees have been elected as provided in the preceding paragraph, the superintendent of the district shall enter into a contract with such persons in the manner provided in this chapter.

If, at the commencement of the scholastic year, any licensed employee shall present to the superintendent a license of a higher grade than that specified in such individual's contract, such individual may, if funds are available from adequate education program funds of the district, or from district funds, be paid from such funds the amount to which such higher grade license would have entitled the individual, had the license been held at the time the contract was executed.

(2) Superintendents/directors of schools under the purview of the State Board of Education, the superintendent of the local school district and any private firm under contract with the local public school district to provide substitute teachers to teach during the absence of a regularly employed schoolteacher shall require, through the appropriate governmental authority, that current criminal records background checks and current child abuse registry checks are obtained, and that such criminal record information and registry checks are on file for any new hires applying for employment as a licensed or nonlicensed employee at a school and not previously employed in such school under the purview of the State Board of Education or at such local school district prior to July 1, 2000. In order to determine the applicant's suitability for employment, the applicant shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. The fee for such fingerprinting and criminal history record check shall be paid by the applicant, not to exceed Fifty Dollars (\$50.00); however, the State Board of Education, the school board of the local school district or a private firm under contract with a local school district to provide substitute teachers to teach during the temporary absence of the regularly employed schoolteacher, in its discretion, may elect to pay the fee for the fingerprinting and criminal history record check on behalf of

any applicant. Under no circumstances shall a member of the State Board of Education, superintendent/director of schools under the purview of the State Board of Education, local school district superintendent, local school board member or any individual other than the subject of the criminal history record checks disseminate information received through any such checks except insofar as required to fulfill the purposes of this section. Any nonpublic school which is accredited or approved by the State Board of Education may avail itself of the procedures provided for herein and shall be responsible for the same fee charged in the case of local public schools of this state. The determination whether the applicant has a disqualifying crime, as set forth in subsection (3) of this section, shall be made by the appropriate governmental authority, and the appropriate governmental authority shall notify the private firm whether a disqualifying crime exists.

(3) If such fingerprinting or criminal record checks disclose a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-33-23(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault which has not been reversed on appeal or for which a pardon has not been granted, the new hire shall not be eligible to be employed at such school. Any employment contract for a new hire executed by the superintendent of the local school district or any employment of a new hire by a superintendent/director of a new school under the purview of the State Board of Education or by a private firm shall be voidable if the new hire receives a disqualifying criminal record check. However, the State Board of Education or the school board may, in its discretion, allow any applicant aggrieved by the employment decision under this section to appear before the respective board, or before a hearing officer designated for such purpose, to show mitigating circumstances which may exist and allow the new hire to be employed at the school. The State Board of Education or local school board may grant waivers for such mitigating circumstances, which shall include, but not be limited to: (a) age at which the crime was committed; (b) circumstances surrounding the crime; (c) length of time since the conviction and criminal history since the conviction; (d) work history; (e) current employment and character references; (f) other evidence demonstrating the ability of the person to perform the employment responsibilities competently and that the person does not pose a threat to the health or safety of the children at the school.

(4) No local school district, local school district employee, member of the State Board of Education or employee of a school under the purview of the State Board of Education shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this Section 37-9-17.

(5) The provisions of this section shall be fully applicable to licensed employees of the Mississippi School of the Arts (MSA), established in Section 37-140-1 et seq.

## JUDICIAL DECISIONS

### **Recommendations**

Section **37-9-17** allows a local school board to appoint someone other than the superintendent to accept and bring recommendations to the board for two (2) positions, be it a licensed employee or a noninstructional employee, such as a transportation supervisor, for each school in each employment period (usually one year). Op.Atty.Gen.No. 2002-0418, Brown, September 20, 2002.

As Section **37-9-17** pertains to employees of schools, not to employees of the main office of the school district, the recommendation for employment for a business manager for a school district may be made at any time subject to any applicable policies and procedures of the local school board. Op.Atty.Gen. No. 2002-0137, Varas, April 12, 2002.

Under the two tiered recommendation system adopted by the Mississippi Legislature, the principal and the superintendent of a school district recommend the employment of teachers and the school board acts upon the recommendations by either approving or disapproving the submissions. Section **37-9-17** clearly

states that the superintendent has the discretion in determining whom to recommend although he is limited in his recommendations to those included in the lists from the principal of each school. It is the duty of the district superintendent to recommend to the school board all teachers having the necessary qualifications, ability and character. There is no authority for a school board to both recommend and employ teachers. Op.Atty.Gen. No. 2009-00529, Wright, October 23, 2009, 2009 WL 3853266.

#### Conflict of interest

Mississippi Const. Art. 4, § 109 and § 25-4-105(2) prohibit a school board member from voting to employ a relative who is a spouse, minor child, a relative living in the board member's household, or a relative who the board member has an interest in the relative's employment. A board member may vote to employ a child or parent who is financially independent and in whose contract the member has no interest. Cautioned regarding § 25-4-105(1). The conflict of interest laws do not prohibit a school board member from voting on the hiring of a relative other than child, parent, or spouse. Cautioned regarding the nepotism laws. Additionally, § 37-9-17 is specific legislation that allows the school board to appoint a designee, in place of the superintendent, to recommend the employment of certified employees to the school board for no more than two positions for each employment period for each school. Op.Miss. Ethics Comm. No. 02-064-E

Section 37-9-17 does provide for a limited procedure where the superintendent of education can be removed from involvement in the employment process. Specifically, Section 37-9-17 allows a school board of trustees to establish a policy where the board's designee, in place of the superintendent of education, is authorized to recommend employment of instructional/certificated employees to the board of trustees for no more than two (2) positions for each employment period. Cautioned regarding § 25-4-105(1) and § 25-4-101. Op.Miss. Ethics Comm. No. 04-009-E.

Section 37-9-17 allows a school board to establish a policy, whereby, the board's designee, in place of the superintendent of education, is authorized to recommend employment of instructional and non-instructional employees to the school board to avoid a violation of § 25-4-105(1). This process is "restricted to no more than two (2) positions for each employment period for each school in the local school district." Op.Miss. Ethics Comm. No. 04-012-E.

#### Reapplication

Sections 37-9-17 and 37-9-105 set out the procedure that must be followed with regard to school staff and principal employment. These statutes do not provide for a re-application process, and for this reason, a superintendent does not have any authority to require an employee to reapply. Op.Atty.Gen. No. 2013-00403, Taplin, October 11, 2013.

#### Family members

Sections 37-9-15 and 37-9-17 authorize a school board to appoint individuals other than the Superintendent to recommend employees for hire by the board. These laws do not limit the "step-aside" provisions to the employment of a Superintendent's spouse or child. Op.Atty.Gen. No. 2004-0315, Rhodes, August 27, 2004.

#### Construction with other laws

Reading Sections 37-7-301, 37-9-1, 37-9-14, 37-9-17, 37-9-23 and 37-9-24 in pari materia, school boards do not have authority to increase contract days of school counselors without the recommendation from the Superintendent. The school board may make a policy of the duties to be accomplished by school counselors. The Superintendent, involved in the day-to-day activities of the district, would be in a position to know the number of days a school counselor would need to work to accomplish those

duties for the benefit of the students of the district. In other words, determining the number of contract days for school counselors would be part of the administrative duties of the superintendent implementing the decision of the school board of the duties to be accomplished by the school counselors. Op.Atty.Gen. No. 2008-00352, Scott, August 8, 2008, 2008 WL 41.40475 .

#### Substitutes

If a substitute teacher is deemed to be an employee of the local school district, Section 37-9-17(2) must be complied with, and Sec. 37-9-17(3) states that any contract for a new hire shall be voidable if the new hire receives a disqualifying criminal record check including any of the enumerated crimes set out in this subsection, which does not include embezzlement as an automatically disqualifying crime. Op.Atty.Gen. No. 2001-0327, Mayfield, June 21, 2001.

A substitute teacher is included in the definition of a noninstructional employee for purposes of Title 37, Chapter 9 of the Mississippi Code. The employment of any noninstructional employee under the "step-aside" provisions in Section 37-9-17 is subject to the condition that the noninstructional employee be employed by the district at the time the superintendent was elected or appointed to office. The step-aside provisions in Section 37-9-17 may be used to employ a licensed employee, who was not employed by the school district at the time the superintendent was elected or appointed to office. Op.Atty.Gen. No. 2012-00065, Nettles, February 24, 2012.

#### Background checks

Section 37-9-17 does not authorize school districts to conduct current criminal background checks and current child abuse registry checks on non-employees. Section 37-7-301 grants school boards of all school districts the authority to adopt a policy that addresses non-employees, as long as the policy is consistent with all state and federal laws and State Board of Education regulations. A school district may, in the exercise of its authority to provide a safe and secure environment for its students, prohibit or otherwise restrict a convicted felon from working with students on campus. Op.Atty.Gen. No. 2001-0688, Tutor, March 20, 2001.

#### Employees

Licensed educators who are issued written contracts in accordance with Sections 37-9-17 and 37-9- 23 and who meet statutory time of employment requirements should be considered employees for the purposes of EEPL, regardless of their status as retirees and that they work part-time. However, licensed educators who work on a casual basis without written contracts per Section 37-9-17 and 37-9-23 would not be considered employees for the purposes of EEPL. Op.Atty.Gen. No. 2014-00306, Griffin, February 6, 2015, 2015 WL 1524053.

### Miss. Code Ann. § 37-9-69

#### § 37-9-69. General responsibilities

It shall be the duty of each superintendent, principal and teacher in the public schools of this state to enforce in the schools the courses of study prescribed by law or by the state board of education, to comply with the law in distribution and use of free textbooks, and to observe and enforce the statutes, rules and regulations prescribed for the operation of schools. Such superintendents, principals and teachers shall hold the pupils to strict account for disorderly conduct at school, on the way to and from school, on the playgrounds, and during recess.

Miss. Code Ann. § 37-11-1

§ 37-11-1. Assignment of pupil to class where presence of pupil would have adverse effect on class; request by parent or guardian to place twins or other multiples in same or separate classrooms.

(1) Subject to the provisions of subsection (2) of this section, after a pupil has been assigned to a particular public school in a school district, the principal, or anyone else vested with the authority of assigning pupils to classes, knowingly shall not place such pupil in a class where the pupil's presence would serve to adversely affect, hinder, or retard the academic development of the other pupils in the class.

(2)(a) A parent or guardian of twins or higher order multiples, as defined in paragraph (d) of this subsection, may request that the children be placed in the same classroom or in separate classrooms if the children are in the same grade level at the same school in the school district. The school may recommend classroom placement and provide professional education advice to the parent or guardian to assist the parent or guardian in making the best decision for the children's education. A school must provide the placement requested by the children's parent or guardian unless: (i) the parent or guardian has requested that the children, who are different sexes, be placed in the same classroom and the students in the school have been assigned to different classrooms according to sex, as authorized under Section 37-1 1-3; or (ii) the school board of the school district makes a classroom placement determination following the school principal's request according to this subsection.

(b) A parent or guardian making a request under this subsection must submit a written request for the classroom placement to the school principal no later than fourteen (14) calendar days after the first day of each school year or, if the children are enrolled in the school after the school year commences, no later than fourteen (14) calendar days after the children's first day of attendance in the school.

(c) At the end of the initial grading period during which children have been in the same classroom or separate classrooms pursuant to their parent or guardian's request under this subsection, if the principal, in consultation with the children's classroom teacher or teachers, determines that the requested classroom placement is disruptive to the school, the principal may request that the school board determine the children's classroom placement.

(d) For purposes of this section, the term "higher order multiples" means triplets, quadruplets, quintuplets or more.

Miss. Code Ann. § 37-11-5

§ 37-11-5. Fire drills instruction; emergency management

It shall be the duty of the principals and teachers in all public school buildings to instruct the pupils in the methods of fire drills and to practice fire drills until all the pupils in the school are familiar with the methods of escape. Such fire drills shall be conducted often enough to keep such pupils well drilled. It shall be the further duty of such principals and teachers to instruct the pupils in all programs of emergency management as may be designated by the state department of education.



Miss. Code Ann. §37-11-6

§37-11-6. Purchase and installation in each school of weather radio.

In order to provide public schools with immediate access to inclement weather warnings, the State Board of Education shall require each public school district to provide for the purchase and installation, before July 1, 1997, of a weather radio for each school in the district.

Miss. Code Ann. §37-11-18

§ 37-11-18. Expulsion of student possessing controlled substance or weapon or committing violent act on school property.

Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property as defined in Section 97-37-17, Mississippi Code of 1972, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; provided, however, that the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board.

Miss. Code Ann. §37-11-18.1

§ 37-11-18.1. Expulsion of habitually disruptive students aged 13 years or older upon third occurrence of disruptive behavior within school year.

(1) For the purposes of this section:

(a) The term "disruptive behavior" means conduct of a student that is so unruly, disruptive or abusive that it seriously interferes with a schoolteacher's or school administrator's ability to communicate with the students in a classroom, with a student's ability to learn, or with the operation of a school or school-related activity, and which is not covered by other laws related to violence or possession of weapons or controlled substances on school property, school vehicles or at school-related activities. Such behaviors include, but are not limited to: foul, profane, obscene, threatening, defiant or abusive language or action toward teachers or other school employees; defiance, ridicule or verbal attack of a teacher; and willful, deliberate and overt acts of disobedience of the directions of a teacher; and

(b) The term "habitually disruptive" refers to such actions of a student which cause disruption in a classroom, on school property or vehicles or at a school-related activity on more than two (2) occasions during a school year, and to disruptive behavior that was initiated, willful and overt on the part of the student and which required the attention of school personnel to deal with the disruption. However, no student shall be considered to be habitually disruptive before the development of a behavior modification plan for the student in accordance with the code of student conduct and discipline plans of the school district.

(2) Every behavior modification plan written pursuant to this section must be developed by utilizing evidence-based practices and positive behavioral intervention supports. The plan must be implemented no later than two (2) weeks after the occurrence of the disruptive behavior.

(3) Any student who is thirteen (13) years of age or older for whom a behavior modification plan is developed by the school principal, reporting teacher and student's parent and which student does not comply with the plan shall be deemed habitually disruptive and subject to expulsion on the occurrence of the third act of disruptive behavior during a school year. After the second act of disruptive behavior during a school year by a student, a psychological evaluation shall be performed upon the child.

Miss. Code Ann. § 37-11-19

§ 37-11-19. Suspension or expulsion of student damaging school property; liability of parent or custodian.

If any pupil shall wilfully destroy, cut, deface, damage, or injure any school building, equipment or other school property he shall be liable to suspension or expulsion and his parents or person or persons in loco parentis shall be liable for all damages.

Miss. Code Ann. § 37-11-20

§37-11-20. Intimidation, threatening or coercion of students for purpose of interfering with attendance of classes.

It shall be unlawful for any person to intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, whether by illegal force, threats of force or by the distribution of intimidating, threatening or coercive material, any person enrolled in any school for the purpose of interfering with the right of that person to attend school classes or of causing him not to attend such classes.

Upon conviction of violation of any provision of this section, such individual shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00), imprisonment in jail for a period not to exceed six (6) months, or both. Any person under the age of seventeen (17) years who violates any provision of this section shall be treated as a delinquent within the jurisdiction of the youth court.

Miss. Code Ann. § 37-11-21

§ 37-11-21. Abuse of superintendent, principal, teacher, or bus driver.

If any parent, guardian or other person, shall abuse any superintendent, principal, teacher or school bus driver while school is in session or at a school-related activity, in the presence of school pupils, such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).

Miss. Code Ann. § 37-11-23

§ 37-11-23. Disturbing school sessions or meetings

If any person shall willfully disturb any session of the public school or any public school meeting, such person shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than Ten Dollars (\$10.00) nor more than Fifty Dollars (\$50.00).



Miss. Code Ann. §37-11-29

§ 37-11-29. Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement officers; reporting of disposition of charges against student; liability of school personnel participating in reporting.

(1) Any principal, teacher or other school employee who has knowledge of any unlawful activity which occurred on educational property or during a school related activity or which may have occurred shall report such activity to the superintendent of the school district or his designee who shall notify the appropriate law enforcement officials as required by this section. In the event of an emergency or if the superintendent or his designee is unavailable, any principal may make a report required under this subsection.

(2) Whenever any person who shall be an enrolled student in any school or educational institution in this state supported in whole or in part by public funds, or who shall be an enrolled student in any private school or educational institution, is arrested for, and lawfully charged with, the commission of any crime and convicted upon the charge for which he was arrested, or convicted of any crime charged against him after his arrest and before trial, the office or law enforcement department of which the arresting officer is a member, and the justice court judge and any circuit judge or court before whom such student is tried upon said charge or charges, shall make or cause to be made a report thereof to the superintendent or the president or chancellor, as the case may be, of the school district or other educational institution in which such student is enrolled.

If the charge upon which such student was arrested, or any other charges preferred against him are dismissed or nol prossed, or if upon trial he is either convicted or acquitted of such charge or charges, same shall be reported to said respective superintendent or president, or chancellor, as the case may be. A copy of said report shall be sent to the Secretary of the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi, at Jackson, Mississippi.

Said report shall be made within one (1) week after the arrest of such student and within one (1) week after any charge placed against him is dismissed or nol prossed, and within one (1) week after he shall have pled guilty, been convicted, or have been acquitted by trial upon any charge placed against him. This section shall not apply to ordinary traffic violations involving a penalty of less than Fifty Dollars (\$50.00) and costs.

The State Superintendent of Public Education shall gather annually all of the reports provided under this section and prepare a report on the number of students arrested as a result of any unlawful activity which occurred on educational property or during a school related activity. All data must be disaggregated by race, ethnicity, gender, school, offense and law enforcement agency involved.

However, the report prepared by the State Superintendent of Public Education shall not include the identity of any student who was arrested.

On or before January 1 of each year, the State Superintendent of Public Education shall report to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Joint PEER Committee on this section. The report must include data regarding arrests as a result of any unlawful activity which occurred on educational property or during a school related activity.

(3) When the superintendent or his designee has a reasonable belief that an act has occurred on educational property or during a school related activity involving any of the offenses set forth in subsection (6) of this section, the superintendent or his designee shall immediately report the act to

the appropriate local law enforcement agency. For purposes of this subsection, "school property" shall include any public school building, bus, public school campus, grounds, recreational area or athletic field in the charge of the superintendent. The State Board of Education shall prescribe a form for making reports required under this subsection. Any superintendent or his designee who fails to make a report required by this section shall be subject to the penalties provided in Section 37-11-35.

(4) The law enforcement authority shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary as provided in Section 37-11-35.

(5) Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

(6) For purposes of this section, "unlawful activity" means any of the following:

(a) Possession or use of a deadly weapon, as defined in Section 97-37-1;

(b) Possession, sale or use of any controlled substance;

(c) Aggravated assault, as defined in Section 97-3-7;

(d) Simple assault, as defined in Section 97-3-7, upon any school employee;

(e) Rape, as defined under Mississippi law;

(t) Sexual battery, as defined under Mississippi law;

(g) Murder, as defined under Mississippi law;

(h) Kidnapping, as defined under Mississippi law; or

(i) Fondling, touching, handling, etc., a child for lustful purposes, as defined in Section 7-5-23.

#### Miss. Code Ann. § 37-11-31

#### § 37-11-31. Contents of report pursuant to § 37-11-29

Such report as is required pursuant to the provisions of Section 37-11-29(2), shall contain the full name of the student; the place, date and time of arrest; a brief statement of the charge or charges upon which he was arrested, and any other charges placed against him after his arrest but before the making of the report, and the disposition, if any, which may have been made of said charges by the arresting officer or the law enforcement department of which he be a member; whether the student was released on bail and, if so, the amount thereof; and the person's home address and the school or educational institution in which he was enrolled. If the report be made after the trial of such person it shall contain all of the foregoing information and, in addition, a brief statement of the charge or charges upon which he was tried, whether acquitted or convicted; if convicted, the punishment inflicted; if any appeal has been taken from the decision of the justice court judge or circuit court such shall be so stated; and if such person be admitted to bail either before or after trial, the amount thereof shall be stated, together with the name of each surety upon his bail bond.

Miss. Code Ann. § 37-11-35

§ 37-11-35. Penalties for failure to file reports pursuant to Section 37-11-29 or 97-5-24.

(1) If any person charged by Section 37-11-29(2) or (3) to make the reports therein provided for shall willfully fail, refuse or neglect to file any such report, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months, or both.

(2) If any person charged by Section 97-5-24 to make the reports therein provided for shall willfully fail, refuse or neglect to file any such report, he shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned not exceeding six (6) months, or both.

Miss. Code Ann. § 37-11-37

§ 37-11-37. Public high school fraternity, sorority or secret society; definition.

A public high school fraternity, sorority or secret society, as contemplated by Sections 37-11-37 through 37-11-45, is hereby defined to be any organization composed wholly, or in part, of public high school pupils, which seeks to perpetuate itself by taking in additional members from the pupils enrolled in such high school on the basis of the decision of the membership of such fraternity, sorority or secret society, rather than upon the free choice of any pupil in the school. However, this does not apply to the Order of DeMolay or a similar organization sponsored by any branch of the Masonic Orders or like adult fraternal organization.

Miss. Code Ann. § 37-11-39

§ 37-11-39. Public high school fraternity, sorority or secret society; illegality.

Any public high school fraternity, sorority, or secret society organization as defined in Section 37-11-37 is hereby declared to be inimical to public free schools and therefore unlawful.

Miss. Code Ann. § 37-11-41

§ 37-11-41. Public high school fraternity, sorority or secret society; membership or participation in activities.

It shall be unlawful for any pupil attending the public schools of this state to become a member of or to belong to or participate in the activities of any high school fraternity, sorority, or secret society as defined in Section 37-11-37.

Miss. Code Ann. § 37-11-43

§ 37-11-43. Public high school fraternity, sorority or secret society; duties of boards of trustees.

All boards of trustees of public high schools shall prohibit fraternities, sororities, or secret societies in all high schools under their respective jurisdiction. It shall be the duty of said boards of trustees to suspend or expel from said high schools under their control, any pupil or pupils who shall be or remain a member of, or shall join or promise to join, or who shall become pledged to become a member, or who shall solicit or encourage any other person to join, promise to join, or be pledged

to become a member of, any such public high school fraternity, sorority or secret society, as defined in Section 37-11-37.

Miss. Code Ann. § 37-11-45

§ 37-11-45. Public high school fraternity, sorority or secret society;  
solicitation of pupils.

It shall be unlawful for any person not enrolled in any such public high school to solicit any pupil enrolled in any such public high school, to join or pledge himself or herself to become a member of any such public high school fraternity, sorority, or secret society, or to solicit any such pupil to attend a meeting thereof or any meeting where the joining of any such public high school fraternity, sorority, or secret organization shall be encouraged.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each and every offense.

Miss. Code Ann. § 37-11-49

§ 37-11-49. Wearing of approved eye protective devices required during  
participation in certain vocational, industrial arts, and chemical-physical  
laboratory courses of instruction.

(1) Each student and teacher in schools, colleges, universities, or other educational institutions, while participating in or observing any of the following courses of instruction:

(a) Vocational, technical, industrial arts, chemical, or chemical-physical, involving exposure to:

(i) Hot molten metals, or other molten materials;

(ii) Milling, sawing, turning, shaping, cutting, grinding, or stamping of any solid materials;

(iii) Heat treatment, tempering, or kiln firing of any metal or other materials;

(iv) Gas or electric arc welding, or other forms of welding processes;

(v) Caustic or explosive materials; or

(b) Chemical, physical, or combined chemical-physical laboratories involving caustic or explosive materials, hot liquids or solids, injurious radiations, or other hazards not enumerated; is required to wear an appropriate industrial quality eye protective device at all times.

(2) For purposes of this section unless the context indicates otherwise "Industrial quality eye protective device" shall mean a device meeting the standards of the American National Standard Practice for Occupational and Educational Eye and Face Protection, Z 87.1-1968, and subsequent revisions thereof, approved by the American National Standards Institute, Inc.

(3) Such devices may, at the discretion of the individual school, be

(a) furnished for all students and teachers;

(b) purchased and sold at cost to students and teachers; or

(c) made available for a moderate rental fee.

Such devices shall be furnished to all visitors to such shops and laboratories.

(4) The state superintendent of education shall prepare and circulate to each public and private

educational institution in this state instructions and recommendations for implementing the eye safety provisions of this section.

Miss. Code Ann. §37-11-53

§37-11-53. School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property; parent allowed to accompany child to school as alternative to child's suspension.

(1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1, shall be fully incorporated into the school district's discipline plan and code of student conduct.

(2) All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this section may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

(3) Any parent, guardian or custodian of a compulsory-school-age child who (a) fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section, or (b) refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars (\$250.00).

(4) Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars (\$20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six (6) years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree.

The action authorized in this section shall be in addition to all other actions which the school district is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor

or other person would otherwise be liable.

(5) A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

Miss. Code Ann. § 37-11-54

§ 37-11-54. State Board of Education to develop list of conflict resolution and peer mediation materials, models, and curricula from evidence-based practices and positive behavioral intervention supports.

The State Board of Education shall develop a list of recommended conflict resolution and mediation materials, models and curricula that are developed from evidence-based practices and positive behavioral intervention supports to address responsible decision making, the causes and effects of school violence and harassment, cultural diversity, and nonviolent methods for resolving conflict, including peer mediation, and shall make the list available to local school administrative units and school buildings before the beginning of the 2007-2008 school year. In addition, local school boards shall incorporate evidence-based practices and positive behavioral intervention supports into individual school district policies and Codes of Conduct. In developing this list, the board shall emphasize materials, models and curricula that currently are being used in Mississippi and that the board determines to be effective. The board shall include at least one (1) model that includes instruction and guidance for the voluntary implementation of peer mediation programs and one (1) model that provides instruction and guidance for teachers concerning the integration of conflict resolution and mediation lessons into the existing classroom curriculum.

Miss. Code Ann. § 37-11-55

§ 37-11-55. Code of student conduct

The local school board shall adopt and make available to all teachers, school personnel, students and parents or guardians, at the beginning of each school year, a code of student conduct developed in consultation with teachers, school personnel, students and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and shall be made available at the school level in the student handbook or similar publication. The code shall include, but not be limited to:

- (a) Specific grounds for disciplinary action under the school district's discipline plan;
- (b) Procedures to be followed for acts requiring discipline, including suspensions and expulsion, which comply with due process requirements;
- (c) An explanation of the responsibilities and rights of students with regard to: attendance; respect for persons and property; knowledge and observation of rules of conduct; free speech and student publications; assembly; privacy; and participation in school programs and activities;
- (d) Policies and procedures recognizing the teacher as the authority in classroom matters, and supporting that teacher in any decision in compliance with the written discipline code of conduct. Such recognition shall include the right of the teacher to remove from the classroom any student who, in the professional judgment of the teacher, is disrupting the learning environment, to the office of the principal or assistant principal. The principal or assistant principal shall determine the proper placement for the student, who may not be returned to the classroom until a conference of



some kind has been held with the parent, guardian or custodian during which the disrupting behavior is discussed and agreements are reached that no further disruption will be tolerated. If the principal does not approve of the determination of the teacher to remove the student from the classroom, the student may not be removed from the classroom, and the principal, upon request from the teacher, must provide justification for his disapproval;

(e) Policies and procedures for dealing with a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities;

(t) Procedures for the development of behavior modification plans by the school principal, reporting teacher and student's parent for a student who causes a disruption in the classroom, on school property or vehicles, or at school-related activities for a second time during the school year; and

(g) Policies and procedures specifically concerning gang-related activities in the school, on school property or vehicles, or at school-related activities.

Miss. Code Ann. § 37-11-57

§ 37-11-57. Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students; exception for students with disabilities.

(1) Except in the case of excessive force or cruel and unusual punishment, a public school teacher, assistant teacher, principal, or an assistant principal acting within the course and scope of his employment shall not be liable for any action carried out in conformity with state or federal law or rules or regulations of the State Board of Education or the local school board or governing board of a charter school regarding the control, discipline, suspension and expulsion of students. The local school board shall provide any necessary legal defense to a teacher, assistant teacher, principal, or assistant principal in the school district who was acting within the course and scope of his employment in any action which may be filed against such school personnel. A school district or charter school, as the case may be, shall be entitled to reimbursement for legal fees and expenses from its employee if a court finds that the act of the employee was outside the course and scope of his employment, or that the employee was acting with criminal intent. Any action by a school district or charter school against its employee and any action by the employee against the school district or charter school for necessary legal fees and expenses shall be tried to the court in the same suit brought against the school employee.

Corporal punishment administered in a reasonable manner, or any reasonable action to maintain control and discipline of students taken by a public school teacher, assistant teacher, principal or assistant principal acting within the scope of his employment or function and in accordance with any state or federal laws or rules or regulations of the State Board of Education or the local school board or governing board of a charter school does not constitute negligence or child abuse. No public school teacher, assistant teacher, principal or assistant principal so acting shall be held liable in a suit for civil damages alleged to have been suffered by a student as a result of the administration of corporal punishment, or the taking of action to maintain control and discipline of a student, unless the court determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

Miss. Code Ann. § 37-11-67

§ 37-11-67. Bullying or harassing behavior in public schools prohibited.

(1) As used in this section and Section 37-11-9, "bullying or harassing behavior" is any pattern of

gestures or written, electronic or verbal communications, or any physical act or any threatening communication, or any act reasonably perceived as being motivated by any actual or perceived differentiating characteristic, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

- (a) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
  - (b) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.
- (2) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.
  - (3) No person shall engage in any act of reprisal or retaliation against a victim, witness or a person with reliable information about an act of bullying or harassing behavior.
  - (4) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.
  - (5) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

Miss. Code Ann. § 37-11-69

§37-11-69. Anti-bullying personnel and discipline policies and code of student conduct.

(1) Each local school district shall include in its personnel policies, discipline policies and code of student conduct a prohibition against bullying or harassing behavior and adopt procedures for reporting, investigating and addressing such behavior, that:

- (a) Prohibit the bullying of a student;
- (b) Prohibit retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
- (c) Establish a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;
- (d) Establish the actions a student should take to obtain assistance and intervention in response to bullying;
- (e) Set out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
- (f) Establish procedures for reporting an incident of bullying, investigating a reported incident of bullying and determining whether the reported incident of bullying occurred;
- (g) Prohibit the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and
- (h) Require that discipline for bullying of a student with disabilities comply with



applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 USCS Section 1400 et seq.).

(2) The policies must recognize the fundamental right of every student to take reasonable actions as may be necessary to defend himself or herself from an attack by another student who has evidenced menacing or threatening behavior through bullying or harassing.

(3) The procedure for reporting bullying established under subsection (1) of this section must be posted on the district's Internet website.

Miss. Code Ann. § 37-13-91

§ 37-13-91. Compulsory school attendance requirements generally; enforcement of law.

(1) This section shall be referred to as the "Mississippi Compulsory School Attendance Law."

(2) The following terms as used in this section are defined as follows:

(a) "Parent" means the father or mother to whom a child has been born, or the father or mother by whom a child has been legally adopted.

(b) "Guardian" means a guardian of the person of a child, other than a parent, who is legally appointed by a court of competent jurisdiction.

(c) "Custodian" means any person having the present care or custody of a child, other than a parent or guardian of the child.

(d) "School day" means not less than five and one-half (5- 1/2 ) and not more than eight (8) hours of actual teaching in which both teachers and pupils are in regular attendance for scheduled schoolwork.

(e) "School" means any public school, including a charter school, in this state or any nonpublic school in this state which is in session each school year for at least one hundred eighty (180) school days, except that the "nonpublic" school term shall be the number of days that each school shall require for promotion from grade to grade.

(f) "Compulsory-school-age child" means a child who has attained or will attain the age of six (6) years on or before September 1 of the calendar year and who has not attained the age of seventeen (17) years on or before September 1 of the calendar year; and shall include any child who has attained or will attain the age of five (5) years on or before September 1 and has enrolled in a full- day public school kindergarten program.

(g) "School attendance officer" means a person employed by the State Department of Education pursuant to Section 37-13-89.

(h) "Appropriate school official" means the superintendent of the school district, or his designee, or, in the case of a nonpublic school, the principal or the headmaster.

(i) "Nonpublic school" means an institution for the teaching of children, consisting of a physical plant, whether owned or leased, including a home, instructional staff members and students, and which is in session each school year. This definition shall include, but not be limited to, private, church, parochial and home instruction programs.

(3) A parent, guardian or custodian of a compulsory-school-age child in this state shall cause the child to enroll in and attend a public school or legitimate nonpublic school for the period of time that the child is of compulsory school age, except under the following circumstances:

(a) When a compulsory-school-age child is physically, mentally or emotionally incapable of attending school as determined by the appropriate school official based upon sufficient medical documentation.

(b) When a compulsory-school-age child is enrolled in and pursuing a course of special education, remedial education or education for handicapped or physically or mentally disadvantaged children.

(c) When a compulsory-school-age child is being educated in a legitimate home instruction program. The parent, guardian or custodian of a compulsory-school-age child described in this subsection, or the parent, guardian or custodian of a compulsory-school-age child attending any charter school or nonpublic school, or the appropriate school official for any or all children attending a charter school or nonpublic school shall complete a "certificate of enrollment" in order to facilitate the administration of this section.

The form of the certificate of enrollment shall be prepared by the Office of Compulsory School Attendance Enforcement of the State Department of Education and shall be designed to obtain the following information only:

(i) The name, address, telephone number and date of birth of the compulsory-school-age child;

(ii) The name, address and telephone number of the parent, guardian or custodian of the compulsory-school-age child;

(iii) A simple description of the type of education the compulsory-school-age child is receiving and, if the child is enrolled in a nonpublic school, the name and address of the school; and

(iv) The signature of the parent, guardian or custodian of the compulsory-school-age child or, for any or all compulsory-school-age child or children attending a charter school or nonpublic school, the signature of the appropriate school official and the date signed.

The certificate of enrollment shall be returned to the school attendance officer where the child resides on or before September 15 of each year. Any parent, guardian or custodian found by the school attendance officer to be in noncompliance with this section shall comply, after written notice of the noncompliance by the school attendance officer, with this subsection within ten (10) days after the notice or be in violation of this section. However, in the event the child has been enrolled in a public school within fifteen (15) calendar days after the first day of the school year as required in subsection (6), the parent or custodian may, at a later date, enroll the child in a legitimate nonpublic school or legitimate home instruction program and send the certificate of enrollment to the school attendance officer and be in compliance with this subsection.

For the purposes of this subsection, a legitimate nonpublic school or legitimate home instruction program shall be those not operated or instituted for the purpose of avoiding or circumventing the compulsory attendance law.

(4) An "unlawful absence" is an absence for an entire school day or during part of a school day by a compulsory-school-age child, which absence is not due to a valid excuse for temporary nonattendance. For purposes of reporting absenteeism under subsection (6) of this section, if a compulsory-school-age child has an absence that is more than thirty-seven percent (37%) of the instructional day, as fixed by the school board for the school at which the compulsory-school-age child is enrolled, the child must be considered absent the entire school day. Days missed from school due to disciplinary suspension shall not be considered an "excused" absence under this section. This subsection shall not apply to children enrolled in a nonpublic school.

Each of the following shall constitute a valid excuse for temporary nonattendance of a compulsory-school-age child enrolled in a noncharter public school, provided satisfactory evidence of the excuse is provided to the superintendent of the school district, or his designee:

(a) An absence is excused when the absence results from the compulsory-school-age child's attendance at an authorized school activity with the prior approval of the superintendent of the school district, or his designee. These activities may include field trips, athletic contests, student conventions, musical festivals and any similar activity.

(b) An absence is excused when the absence results from illness or injury which prevents the compulsory-school-age child from being physically able to attend school.

(c) An absence is excused when isolation of a compulsory-school-age child is ordered by the county health officer, by the State Board of Health or appropriate school official.

(d) An absence is excused when it results from the death or serious illness of a member of the immediate family of a compulsory-school-age child. The immediate family members of a compulsory-school-age child shall include children, spouse, grandparents, parents, brothers and sisters, including stepbrothers and stepsisters.

(e) An absence is excused when it results from a medical or dental appointment of a compulsory-school-age child.

(f) An absence is excused when it results from the attendance of a compulsory-school-age child at the proceedings of a court or an administrative tribunal if the child is a party to the action or under subpoena as a witness.

(g) An absence may be excused if the religion to which the compulsory-school-age child or the child's parents adheres, requires or suggests the observance of a religious event. The approval of the absence is within the discretion of the superintendent of the school district, or his designee, but approval should be granted unless the religion's observance is of such duration as to interfere with the education of the child.

(h) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that the purpose of the absence is to take advantage of a valid educational opportunity such as travel, including vacations or other family travel. Approval of the absence must be gained from the superintendent of the school district, or his designee, before the absence, but the approval shall not be unreasonably withheld.

(i) An absence may be excused when it is demonstrated to the satisfaction of the superintendent of the school district, or his designee, that conditions are sufficient to warrant the compulsory-school-age child's nonattendance. However, no absences shall be excused by the school district superintendent, or his designee, when any student suspensions or expulsions circumvent the intent and spirit of the compulsory attendance law.

(j) An absence is excused when it results from the attendance of a compulsory-school-age child participating in official organized events sponsored by the 4-H or Future Farmers of America (FFA). The excuse for the 4-H or FFA event must be provided in writing to the appropriate school superintendent by the Extension Agent or High School Agricultural Instructor/FFA Advisor.

(k) An absence is excused when it results from the compulsory-school-age child officially being employed to serve as a page at the State Capitol for the Mississippi House of Representatives or Senate.

(5) Any parent, guardian or custodian of a compulsory-& school-age child subject to this section who refuses or willfully fails to perform any of the duties imposed upon him or her under this section or who intentionally falsifies any information required to be contained in a certificate of enrollment, shall be guilty of contributing to the neglect of a child and, upon conviction, shall be punished in accordance with Section 97-5-39.

Upon prosecution of a parent, guardian or custodian of a compulsory-school-age child for violation of this section, the presentation of evidence by the prosecutor that shows that the child has not been enrolled in school within eighteen (18) calendar days after the first day of the school year of the public school which the child is eligible to attend, or that the child has accumulated twelve (12) unlawful absences during the school year at the public school in which the child has been enrolled, shall establish

a prima facie case that the child's parent, guardian or custodian is responsible for the absences and has refused or willfully failed to perform the duties imposed upon him or her under this section. However, no proceedings under this section shall be brought against a parent, guardian or custodian of a compulsory-school-age child unless the school attendance officer has contacted promptly the home of the child and has provided written notice to the parent, guardian or custodian of the requirement for the child's enrollment or attendance.

(6) If a compulsory-school-age child has not been enrolled in a school within fifteen (15) calendar days after the first day of the school year of the school which the child is eligible to attend or the child has accumulated five (5) unlawful absences during the school year of the public school in which the child is enrolled, the school district superintendent or his designee shall report, within two (2) school days or within five (5) calendar days, whichever is less, the absences to the school attendance officer. The State Department of Education shall prescribe a uniform method for schools to utilize in reporting the unlawful absences to the school attendance officer. The superintendent or his designee, also shall report any student suspensions or student expulsions to the school attendance officer when they occur.

(7) When a school attendance officer has made all attempts to secure enrollment and/or attendance of a compulsory-school-age child and is unable to effect the enrollment and/or attendance, the attendance officer shall file a petition with the youth court under Section 43-21-451 or shall file a petition in a court of competent jurisdiction as it pertains to parent or child. Sheriffs, deputy sheriffs and municipal law enforcement officers shall be fully authorized to investigate all cases of nonattendance and unlawful absences by compulsory-school-age children, and shall be authorized to file a petition with the youth court under Section 43-21-451 or file a petition or information in the court of competent jurisdiction as it pertains to parent or child for violation of this section. The youth court shall expedite a hearing to make an appropriate adjudication and a disposition to ensure compliance with the Compulsory School Attendance Law, and may order the child to enroll or re-enroll in school. The superintendent of the school district to which the child is ordered may assign, in his discretion, the child to the alternative school program of the school established pursuant to Section 37-13-92.

(8) The State Board of Education shall adopt rules and regulations for the purpose of reprimanding any school superintendents who fail to timely report unexcused absences under the provisions of this section.

(9) Notwithstanding any provision or implication herein to the contrary, it is not the intention of this section to impair the primary right and the obligation of the parent or parents, or person or persons in loco parentis to a child, to choose the proper education and training for such child, and nothing in this section shall ever be construed to grant, by implication or otherwise, to the State of Mississippi, any of its officers, agencies or subdivisions any right or authority to control, manage, supervise or make any suggestion as to the control, management or supervision of any private or parochial school or institution for the education or training of children, of any kind whatsoever that is not a public school according to the laws of this state; and this section shall never be construed so as to grant, by implication or otherwise, any right or authority to any state agency or other entity to control, manage, supervise, provide for or affect the operation, management, program, curriculum, admissions policy or discipline of any such school or home instruction program.

Miss. Code Ann. § 37-13-92

§ 37-13-92. Alternative school program for compulsory-school-age students; placement of children in alternative school; transportation of students; expenses; annual report.

(1) Beginning with the school year 2004-2005, the school boards of all school districts shall establish, maintain and operate, in connection with the regular programs of the school district, an

alternative school program or behavior modification program as defined by the State Board of Education for, but not limited to, the following categories of compulsory-school-age students:

(a) Any compulsory-school-age child who has been suspended for more than ten (10) days or expelled from school, except for any student expelled for possession of a weapon or other felonious conduct;

(b) Any compulsory-school-age child referred to such alternative school based upon a documented need for placement in the alternative school program by the parent, legal guardian or custodian of such child due to disciplinary problems;

(c) Any compulsory-school-age child referred to such alternative school program by the dispositive order of a chancellor or youth court judge, with the consent of the superintendent of the child's school district;

(d) Any compulsory-school-age child whose presence in the classroom, in the determination of the school superintendent or principal, is a disruption to the educational environment of the school or a detriment to the interest and welfare of the students and teachers of such class as a whole; and

(e) No school district is required to place a child returning from out-of-home placement in the mental health, juvenile justice or foster care system in alternative school. Placement of a child in the alternative school shall be done consistently, and for students identified under the Individuals with Disabilities Education Act (IDEA), shall adhere to the requirements of the Individuals with Disabilities Education Improvement Act of 2004. If a school district chooses to place a child in alternative school the district will make an individual assessment and evaluation of that child in the following time periods:

(i) Five (5) days for a child transitioning from a group home, mental health care system, and/or the custody of the Department of Human Services, Division of Youth and Family Services;

(ii) Ten (10) days for a child transitioning from a dispositional placement order by a youth court pursuant to Section 43-21-605; and

(iii) An individualized assessment for youth transitioning from out-of-home placement to the alternative school shall include:

1. A strength needs assessment.

2. A determination of the child's academic strengths and deficiencies.

3. A proposed plan for transitioning the child to a regular education placement at the earliest possible date.

(2) The principal or program administrator of any such alternative school program shall require verification from the appropriate guidance counselor of any such child referred to the alternative school program regarding the suitability of such child for attendance at the alternative school program. Before a student may be removed to an alternative school education program, the superintendent of the student's school district must determine that the written and distributed disciplinary policy of the local district is being followed. The policy shall include standards for:

(a) The removal of a student to an alternative education program that will include a process of educational review to develop the student's individual instruction plan and the evaluation at regular intervals of the student's educational progress; the process shall include classroom teachers and/or other appropriate professional personnel, as defined in the district policy, to ensure a continuing educational program for the removed student;

(b) The duration of alternative placement; and

(c) The notification of parents or guardians, and their appropriate inclusion in the removal and evaluation process, as defined in the district policy. Nothing in this paragraph should be defined in a

manner to circumvent the principal's or the superintendent's authority to remove a student to alternative education.

(3) The local school board or the superintendent shall provide for the continuing education of a student who has been removed to an alternative school program.

(4) A school district, in its discretion, may provide a program of High School Equivalency Diploma preparatory instruction in the alternative school program. However, any High School Equivalency Diploma preparation program offered in an alternative school program must be administered in compliance with the rules and regulations established for such programs under Sections 37-35-1 through 37-35-11 and by the Mississippi Community College Board. The school district may administer the High School Equivalency Diploma Testing Program under the policies and guidelines of the Testing Service of the American Council on Education in the alternative school program or may authorize the test to be administered through the community/junior college district in which the alternative school is situated.

(5) Any such alternative school program operated under the authority of this section shall meet all appropriate accreditation requirements of the State Department of Education.

(6) The alternative school program may be held within such school district or may be operated by two (2) or more adjacent school districts, pursuant to a contract approved by the State Board of Education. When two (2) or more school districts contract to operate an alternative school program, the school board of a district designated to be the lead district shall serve as the governing board of the alternative school program. Transportation for students attending the alternative school program shall be the responsibility of the local school district. The expense of establishing, maintaining and operating such alternative school program may be paid from funds contributed or otherwise made available to the school district for such purpose or from local district maintenance funds.

(7) The State Board of Education shall promulgate minimum guidelines for alternative school programs. The guidelines shall require, at a minimum, the formulation of an individual instruction plan for each student referred to the alternative school program and, upon a determination that it is in a student's best interest for that student to receive High School Equivalency Diploma preparatory instruction, that the local school board assign the student to a High School Equivalency Diploma preparatory program established under subsection (4) of this section. The minimum guidelines for alternative school programs shall also require the following components:

(a) Clear guidelines and procedures for placement of students into alternative education programs which at a minimum shall prescribe due process procedures for disciplinary and High School Equivalency Diploma placement;

(b) Clear and consistent goals for students and parents;

(c) Curricula addressing cultural and learning style differences;

(d) Direct supervision of all activities on a closed campus;

(e) Attendance requirements that allow for educational and workforce development opportunities;

(f) Selection of program from options provided by the local school district, Division of Youth Services or the youth court, including transfer to a community-based alternative school;

(g) Continual monitoring and evaluation and formalized passage from one (1) step or program to another;

(h) A motivated and culturally diverse staff;

(i) Counseling for parents and students;



G) Administrative and community support for the program; and

(k) Clear procedures for annual alternative school program review and evaluation.

(8) On request of a school district, the State Department of Education shall provide the district informational material on developing an alternative school program that takes into consideration size, wealth and existing facilities in determining a program best suited to a district.

(9) Any compulsory-school-age child who becomes involved in any criminal or violent behavior shall be removed from such alternative school program and, if probable cause exists, a case shall be referred to the youth court.

(10) The State Board of Education shall promulgate guidelines for alternative school programs which provide broad authority to school boards of local school districts to establish alternative education programs to meet the specific needs of the school district.

(11) Each school district having an alternative school program shall submit a report by July 31 of each calendar year to the State Department of Education describing the results of its annual alternative school program review and evaluation undertaken pursuant to subsection (7)(k). The report shall include a detailed account of any actions taken by the school district during the previous year to comply with substantive guidelines promulgated by the State Board of Education under subsection (7)(a) through (j). In the report to be implemented under this section, the State Department of Education shall prescribe the appropriate measures on school districts that fail to file the annual report. The report should be made available online via the department's website to ensure transparency, accountability and efficiency.

Miss. Code Ann. §37-13-181

§37-13-181. Character education programs in public schools authorized.

The local school boards of the public school districts, in their discretion, may develop and implement, at the beginning of the 1999-2000 school year, a comprehensive program for character education in Grades K-12. The definition of the character traits chosen by the school district for implementation shall reflect and be in keeping with both the spirit and the letter of the following founding documents: the Mississippi Constitution of 1890; the Constitution of the United States of America; the Declaration of Independence; and state and federal law. A public school may not define or teach character or character traits in any manner that might promote or encourage students to participate in conduct that would violate any state or federal law.

Miss. Code Ann. §37-13-183

§37-13-183. Assessment of students' understanding of character traits.

Assessment of the students' understanding of the character traits chosen to be taught in public school shall be limited to and must reflect the material taught in the classroom. Students shall not be evaluated in any way as to whether or not the students evidence a specific character trait in their own lives.

Miss. Code Ann. §37-13-185

§37-13-185. Review of proposed character education programs by State Board of Education.

The State Board of Education shall review the proposed character education programs of the individual school districts to ascertain if the programs comply with the criteria set forth in Section 37-13-181. Review of the programs shall not exceed a time period of sixty (60) days. If a review extends beyond this time period, the proposal will be deemed in compliance with the law.

If the proposed character education program is rejected, the State Board of Education shall set forth in writing the specific areas of objection. These objections must be based on and limited to the following criteria: the definition of the character traits chosen by the school district for implementation shall reflect and be in keeping with both the spirit and letter of our founding documents; no instruction shall promote or encourage participation in any conduct that would violate existing state or federal law; and no student shall be assessed or evaluated as to whether or not the student evidences a specific character trait in his or her own life.

Miss. Code Ann. § 37-15-6

§37-15-6. Central reporting system for information concerning expulsions from public schools; access to information.

For the purpose of providing notice to public and private school officials, both within and outside the boundaries of the state, of the expulsion of any public school student, the State Department of Education may develop a central reporting system for maintaining information concerning each expulsion from a public school. In establishing and maintaining the reporting system, the department may require each school district and charter school to report, within a certain period of time after an expulsion, as established by the department, information such as the following:

- (a) The name of the student expelled;
- (b) The date the student was expelled;
- (c) The age of the student at the time of the expulsion;
- (d) The school from which the student was expelled;
- (e) The reason for the expulsion, including a detailed description of the student's act or acts;
- (f) The duration of the period of expulsion, if not indefinite; and
- (g) Any other information that the department deems necessary for school officials in a public or private school, where a student is seeking enrollment, to determine whether or not a student should be denied enrollment based upon a previous expulsion.

Any information maintained by the department under the authority of this section shall be strictly confidential. The information shall be available to school officials at a public or private school only upon their request and only when a student seeks enrollment or admission to that school. In no case shall the information be available to the general public.

Miss. Code Ann. §37-15-9

§37-15-9. Requirements for enrollment of children in public schools.

(1) Except as provided in subsection (2) and subject to the provisions of subsection (3) of this section, no child shall be enrolled or admitted to any kindergarten which is a part of a public school during any school year unless such child will reach his fifth birthday on or before September 1 of said school year, and no child shall be enrolled or admitted to the first grade in any public school during any school year unless such child will reach his sixth birthday on or before September 1 of said school year. No pupil shall be permanently enrolled in a public school in the State of Mississippi who formerly was enrolled in another public or private school within the state until the cumulative record of the pupil shall have been received from the school from which he transferred. Should such record have become lost or destroyed, then it shall be the duty of the superintendent or principal of the school where the pupil last attended school to initiate a new record.



(2) Subject to the provisions of subsection (3) of this section, any child who transfers from an out-of-state public or private school in which that state's law provides for a first-grade or kindergarten enrollment date subsequent to September 1, shall be allowed to enroll in the public schools of Mississippi, at the same grade level as their prior out-of-state enrollment, if:

(a) The parent, legal guardian or custodian of such child was a legal resident of the state from which the child is transferring;

(b) The out-of-state school from which the child is transferring is duly accredited by that state's appropriate accrediting authority;

(c) Such child was legally enrolled in a public or private school for a minimum of four (4) weeks in the previous state; and

(d) The superintendent of schools in the applicable Mississippi school district or the principal of a charter school, as the case may be, has determined that the child was making satisfactory educational progress in the previous state.

(3) When any child applies for admission or enrollment in any public school in the state, the parent, guardian or child, in the absence of an accompanying parent or guardian, shall indicate on the school registration form if the enrolling child has been expelled from any public or private school or is currently a party to an expulsion proceeding. If it is determined from the child's cumulative record or application for admission or enrollment that the child has been expelled, the school district or charter school may deny the student admission and enrollment until the superintendent of the school, or his designee, or principal of the charter school, as the case may be, has reviewed the child's cumulative record and determined that the child has participated in successful rehabilitative efforts including, but not limited to, progress in an alternative school or similar program. If the child is a party to an expulsion proceeding, the child may be admitted to a public school pending final disposition of the expulsion proceeding. If the expulsion proceeding results in the expulsion of the child, the public school may revoke such admission to school. If the child was expelled or is a party to an expulsion proceeding for an act involving violence, weapons, alcohol, illegal drugs or other activity that may result in expulsion, the school district or charter school shall not be required to grant admission or enrollment to the child before one (1) calendar year after the date of the expulsion.

Miss. Code Ann. §37-41-2

§37-41-2. Interference with operation of school bus; penalty.

(a) It shall be unlawful for any individual, other than a student scheduled to be a passenger upon that particular bus, a member of the public school administration or faculty, or a law enforcement official, to directly or indirectly interfere in any way with passenger ingress and egress or the operation, including unauthorized boarding thereof, of a bus used in public school student transportation unless permission has been obtained as prescribed by pertinent rules and regulations promulgated by the state board of education or the local school authorities.

(b) Upon conviction of violation of any provision of this section, such individual shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed five hundred dollars (\$500.00), imprisonment in the county jail for a period not to exceed six (6) months, or both. Any person under the age of seventeen (17) who violates any provision of this section shall be treated as delinquent within the jurisdiction of the youth court.

Miss. Code Ann. §37-41-3

§37-41-3. Pupils entitled to transportation.

Pupils of legal school age, which shall include kindergarten pupils, and in actual attendance in the public schools who live a distance of one (1) mile or more by the nearest traveled road from the school

to which they are assigned by the school district in which they are enrolled shall be entitled to transportation within the meaning of this chapter. Nothing contained in this section shall be construed to bar any child from such transportation where he or she lives less than one (1) mile and is on the regular route of travel of a school bus and space is available in such bus for such transportation. No state funds shall be paid for the transportation of children living within one (1) mile of the school, except as otherwise provided in this chapter, and such children shall not be included in transportation reports. In the development of route plans, economy shall be a prime consideration. There shall be no duplication of routes except in circumstances where it is totally unavoidable. The State Department of Education shall have authority to investigate school bus routing when there is reason to believe the provisions of this statute are being violated. The State Board of Education shall have authority to withhold transportation funds when school districts fail to correct unnecessary route duplication. Provided further, that all school districts are hereby authorized to lease or contract with any public or private individual, partnership, corporation, association, agency or other organization for the implementation of transportation of pupils as provided for in this section.

The school boards may provide transportation to such crippled and physically handicapped children as may be designated by such boards, when the failure to do so would result in undue hardship, even though the children are not otherwise entitled to transportation under the provisions of this chapter. The State Department of Education shall require all school districts during the 1993-1994 school year to equip school buses with properly designed seat belts to protect such physically handicapped children, and school districts are authorized to expend funds therefor from nonminimum program or other sources.

Where space is available, students attending junior colleges shall be allowed transportation on established routes in district-owned buses. However, no additional funds shall be allocated or expended for such purposes, and such persons shall not be included in transportation reports.

Children enrolled in special or alternative programs approved by school boards may be provided transportation even though such children are not otherwise entitled to transportation under the provisions of this chapter. No additional funds shall be allocated or expended for such purpose, and such children shall not be included in transportation reports.

Miss. Code Ann. § 37-41-5

§37-41-5. Transportation of children under extraordinary circumstances and conditions.

In addition to public school students or pupils authorized to be transported to the public schools by virtue of Section 37-41-3, the local school board, with the concurrence of the board of supervisors, in their discretion and with local tax funds or other local contributions or support exclusively and without state appropriations, may provide transportation for students or pupils to the public schools whenever the within described boards or officers find that extraordinary circumstances and conditions are prevalent in said school district in regard to such matters as the public health and safety, school facilities, location of the school site, unusual economic growth and population expansion, newly expanded municipal corporation limits, the general welfare, and any other emergency facts and conditions which may be deemed by said authorities to be in the best interest of the political subdivision.

Miss. Code Ann. § 37-41-15

§ 37-41-15. Alteration of routes; emergency transportation.

The school boards are hereby authorized to make necessary alterations in transportation routes, or to establish supplementary transportation routes in order to meet emergencies which may arise during the school year, such as the destruction of a school building by fire or other causes, an unanticipated increase in the number of school children in the school district during the school year, or any other emergency. Such emergency transportation shall be continued only so long as is necessary by reason of the emergency conditions.

Miss. Code Ann. § 37-41-21

§ 37-41-21. Prohibition on transporting certain pupils; exceptions.

It shall be unlawful to transport pupils who are not entitled to such transportation, or to transport pupils from one (1) district to another if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such districts shall have been approved in the manner provided by law. It shall be further unlawful for the school board to expend funds from any source whatsoever for the transportation of pupils from one (1) district to another district if their grade or grades are taught in a school within the district wherein they reside, unless the transfer of such children from the district in which they reside to such other district shall have been approved in the manner provided by law.

Miss. Code Ann. § 37-41-45

§ 37-41-45. Police may stop publicly-owned school district bus to ascertain whether its use is authorized by law.

It shall be a misdemeanor for any person to use a publicly owned school district bus for any purpose other than one in connection with the school, and, upon conviction thereof, such person shall be fined not less than Fifty Dollars (\$50.00). When any publicly owned school district bus is being operated on the public roads or highways at a time other than the usual and customary time for the transportation of children to and from the public schools, members of the Highway Safety Patrol, sheriffs, constables and other peace officers shall have the power and authority to stop such bus for the purpose of ascertaining whether the trip then being made is authorized by law. If it be found that such trip is unauthorized, such highway patrolman, sheriff, constable or other peace or police officer shall forthwith report the same to the school board owning such bus and to the State Department of Education.

Miss. Code Ann. § 37-41-47

§ 37-41-47. School bus speed; penalty

It shall be unlawful for a driver of any school bus, whether a public or a contract bus, to drive said bus at a speed greater than forty-five (45) miles per hour while transporting children to and from school on regular routes. However, any such driver, while operating a school bus on other authorized trips, shall not drive said school bus at a speed greater than fifty (50) miles per hour. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) for each such offense. In addition thereto, upon such conviction, such

driver may be discharged from further employment as a school bus driver or carrier and his contract as such may be terminated.

Miss. Code Ann. § 37-41-55

§ 37-41-55. Duties of driver of school transportation vehicle used to transport pupils upon approaching railroad crossing or highway intersection.

(1) The driver of every school transportation vehicle used to transport pupils, on approaching any railroad crossing, shall bring the vehicle to a complete stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of the railroad. While stopped, the driver shall open the service door and driver's window, and look and listen for:

(a) Approaching trains or any other vehicle operated upon the rails for the purpose of maintenance of railroads, including, but not limited to, all hi-rail vehicles and on-track maintenance machines; and

(b) Signals indicating the approach of a train or other vehicle or machine operated upon the rails. The driver shall not proceed until the driver has determined that it is safe to proceed.

(2) The driver of every school transportation vehicle used to transport pupils, on approaching any highway intersection, shall bring the vehicle to a complete stop and shall not proceed until the driver has determined that it is safe to proceed.

(3) Any driver who fails to bring his vehicle to a complete stop and follow the procedures as herein required is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Fifty Dollars (\$250.00) for each offense.

Miss. Code Ann. § 43-21-151

§ 43-21-151. Exclusive original jurisdiction; exceptions; children under 13

(1) The youth court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child except in the following circumstances:

(a) Any act attempted or committed by a child, which if committed by an adult would be punishable under state or federal law by life imprisonment or death, will be in the original jurisdiction of the circuit court;

(b) Any act attempted or committed by a child with the use of a deadly weapon, the carrying of which concealed is prohibited by Section 7-37-1, or a shotgun or a rifle, which would be a felony if committed by an adult, will be in the original jurisdiction of the circuit court; and

(c) When a charge of abuse of a child first arises in the course of a custody action between the parents of the child already pending in the chancery court and no notice of such abuse was provided prior to such chancery proceedings, the chancery court may proceed with the investigation, hearing

and determination of such abuse charge as a part of its hearing and determination of the custody issue as between the parents, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse charge shall be confidential in the same manner as provided in youth court proceedings.

When a child is expelled from the public schools, the youth court shall be notified of the act of expulsion and the act or acts constituting the basis for expulsion.

(2) Jurisdiction of the child in the cause shall attach at the time of the offense and shall continue thereafter for that offense until the child's twentieth birthday, unless sooner terminated by order of the youth court. The youth court shall not have jurisdiction over offenses committed by a child on or after his eighteenth birthday.

(3) No child who has not reached his thirteenth birthday shall be held criminally responsible or criminally prosecuted for a misdemeanor or felony; however, the parent, guardian or custodian of such child may be civilly liable for any criminal acts of such child. No child under the jurisdiction of the youth court shall be held criminally responsible or criminally prosecuted by any court for any act designated as a delinquent act, unless jurisdiction is transferred to another court under Section 43-21-157.

(4) The youth court shall also have jurisdiction of offenses committed by a child which have been transferred to the youth court by an order of a circuit court of this state having original jurisdiction of the offense, as provided by Section 43-21-159.

(5) The youth court shall regulate and approve the use of teen court as provided in Section 43-21-753.

(6) Nothing in this section shall prevent the circuit court from assuming jurisdiction over a youth who has committed an act of delinquency upon a youth court's ruling that a transfer is appropriate pursuant to Section 43-21-157.

Miss. Code Ann, § 43-21-153

§43-21-153. Powers of youth court; contempt.

(1) The youth court shall have full power and authority to issue all writs and processes including injunctions necessary to the exercise of jurisdiction and to carrying out the purpose of this chapter.

(2) Any person who willfully violates, neglects or refuses to obey, perform or comply with any order of the youth court shall be in contempt of court and punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment.

Miss. Code Ann. § 43-21-255

§43-21-255. Law enforcement records.

(1) Except as otherwise provided by this section, all records involving children made and retained by law enforcement officers and agencies or by the youth court prosecutor and the contents thereof shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.

(2) A child in the jurisdiction of the youth court and who has been taken into custody for an act, which if committed by an adult would be considered a felony or offenses involving possession or use of a dangerous weapon or any firearm, may be photographed or fingerprinted or both. Any law enforcement agency taking such photographs or fingerprints shall immediately report the existence and location of the photographs and fingerprints to the youth court. Copies of fingerprints known to be those of a child shall be maintained on a local basis only. Such copies of fingerprints may be forwarded to another local, state or federal bureau of criminal identification or regional depository for identification purposes only. Such copies of fingerprints shall be returned promptly and shall not be maintained by such agencies.

(3) Any law enforcement record involving children who have been taken into custody for an act, which if committed by an adult would be considered a felony and/or offenses involving possession or use of a dangerous weapon including photographs and fingerprints, may be released to a law enforcement agency supported by public funds, youth court officials and appropriate school officials without a court order under Section 43-21-261. Law enforcement records shall be released to youth court officials and to appropriate school officials upon written request. Except as provided in subsection (4) of this section, any law enforcement agency releasing such records of children in the jurisdiction of the youth court shall immediately report the release and location of the records to the youth court. The law enforcement agencies, youth court officials and school officials receiving such records are prohibited from using the photographs and fingerprints for any purpose other than for criminal law enforcement and juvenile law enforcement. Each law enforcement officer or employee, each youth court official or employee and each school official or employee receiving the records shall submit to the sender a signed statement acknowledging his or her duty to maintain the confidentiality of the records. In no instance shall the fact that such records of children in the jurisdiction of the youth court exist be conveyed to any private individual, firm, association or corporation or to any public or quasi-public agency the duties of which do not include criminal law enforcement or juvenile law enforcement.

(4) When a child's driver's license is suspended for refusal to take a test provided under the Mississippi Implied Consent Law, the law enforcement agency shall report such refusal, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.

(5) All records involving a child convicted as an adult or who has been twice adjudicated delinquent for a sex offense as defined by Section 45-33-23, Mississippi Code of 1972, shall be public and shall not be kept confidential.

#### Miss. Code Ann. § 43-21-257

##### §43-21-257. Agency records

(1) Unless otherwise provided in this section, any record involving children, including valid and invalid complaints, and the contents thereof maintained by the Department of Child Protection Services, or any other state agency, shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.

(2) The Office of Youth Services shall maintain a state central registry containing the number and disposition of all cases together with such other useful information regarding those cases as may be requested and is obtainable from the records of the youth court. The Office of Youth Services shall annually publish a statistical record of the number and disposition of all cases, but the names or identity of any children shall not be disclosed in the reports or records. The Office of Youth Services shall adopt such rules as may be necessary to carry out this subsection. The central registry files and the contents thereof shall be confidential and shall not be open to public inspection. Any person who discloses or encourages the disclosure of any record involving children from the central registry shall be subject to the penalty in Section 43-21-267. The youth court shall furnish, upon forms provided by



the Office of Youth Services, the necessary information, and these completed forms shall be forwarded to the Office of Youth Services. The Department of Human Services and its employees are exempt from any civil liability as a result of any action taken pursuant to the compilation or release of information on the central registry under this section and any other applicable section of this code, unless determined that an employee has willfully and maliciously violated the rules and administrative procedures of the department pertaining to the central registry or any section of this code. If an employee is determined to have willfully and maliciously performed such a violation, said employee shall not be exempt from civil liability in this regard.

(3) The Department of Child Protection Services shall maintain a state central registry on neglect and abuse cases containing (a) the name, address and age of each child, (b) the nature of the harm reported, (c) the name and address of the person responsible for the care of the child, and (d) the name and address of the substantiated perpetrator of the harm reported. "Substantiated perpetrator" shall be defined as an individual who has committed an act(s) of sexual abuse or physical abuse that would otherwise be deemed as a felony or any child neglect that would be deemed as a threat to life. A name is to be added to the registry only based upon a criminal conviction or an adjudication by a youth court judge or court of competent jurisdiction, ordering that the name of the perpetrator be listed on the central registry. The central registry shall be confidential and shall not be open to public inspection. Any person who discloses or encourages the disclosure of any record involving children from the central registry without following the rules and administrative procedures of the department shall be subject to the penalty in Section 43-21-267. The Department of Child Protection Services and its employees are exempt from any civil liability as a result of any action taken pursuant to the compilation or release of information on the central registry under this section and any other applicable section of this code, unless determined that an employee has willfully and maliciously violated the rules and administrative procedures of the department pertaining to the central registry or any section of this code. If an employee is determined to have willfully and maliciously performed such a violation, said employee shall not be exempt from civil liability in this regard.

(4) The Mississippi State Department of Health may release the findings of investigations into allegations of abuse within licensed day care centers made under the provisions of Section 43-21-353(8) to any parent of a child who is enrolled in the day care center at the time of the alleged abuse or at the time the request for information is made. The findings of any such investigation may also be released to parents who are considering placing children in the day care center. No information concerning those investigations may contain the names or identifying information of individual children.

The Department of Health shall not be held civilly liable for the release of information on any findings, recommendations or actions taken pursuant to investigations of abuse that have been conducted under Section 43-21-353(8).



Miss. Code Ann. §43-21-259

§43-21-259. Confidentiality of other records involving children.

All other records involving children and the contents thereof shall be kept confidential and shall not be disclosed except as provided in section 43-21-261.

Miss. Code Ann. §43-21-261

§43-21-261. Disclosure of records

(1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff of the youth court, except pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court and then only to the following persons:

- (a) The judge of another youth court or member of another youth court staff;
- (b) The court of the parties in a child custody or adoption cause in another court;
- (c) A judge of any other court or members of another court staff, including the chancery court that ordered a forensic interview;
- (d) Representatives of a public or private agency providing supervision or having custody of the child under order of the youth court;
- (e) Any person engaged in a bona fide research purpose, provided that no information identifying the subject of the records shall be made available to the researcher unless it is absolutely essential to the research purpose and the judge gives prior written approval, and the child, through his or her representative, gives permission to release the information;
- (f) The Mississippi Department of Employment Security, or its duly authorized representatives, for the purpose of a child's enrollment into the Job Corps Training Program as authorized by Title IV of the Comprehensive Employment Training Act of 1973 (29 USCS Section 923 et seq.). However, no records, reports, investigations or information derived therefrom pertaining to child abuse or neglect shall be disclosed;
- (g) To any person pursuant to a finding by a judge of the youth court of compelling circumstances affecting the health, safety or well-being of a child and that such disclosure is in the best interests of the child or an adult who was formerly the subject of a youth court delinquency proceeding.
- (h) A person who was the subject of a knowingly made false allegation of child abuse or neglect which has resulted in a conviction of a perpetrator in accordance with Section 97-35-47 or which allegation was referred by the Department of Child Protection Services to a prosecutor or law enforcement official in accordance with the provisions of Section 43-21-353(4).

Law enforcement agencies may disclose information to the public concerning the taking of a child

into custody for the commission of a delinquent act without the necessity of an order from the youth court. The information released shall not identify the child or his address unless the information involves a child convicted as an adult.

(2) Any records involving children which are disclosed under an order of the youth court or pursuant to the terms of this section and the contents thereof shall be kept confidential by the person or agency to whom the record is disclosed unless otherwise disclosure of any records involving children shall be made only under an order of the youth court as provided in this section.

(3) Upon request, the parent, guardian or custodian of the child who is the subject of a youth court cause or any attorney for such parent, guardian or custodian, shall have the right to inspect any record, report or investigation relevant to a matter to be heard by a youth court, except that the identity of the reporter shall not be released, nor the name of any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person. The attorney for the parent, guardian or custodian of the child, upon request, shall be provided a copy of any record, report or investigation relevant to a matter to be heard by a youth court, but the identity of the reporter must be redacted and the name of any other person must also be redacted if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life, safety or well-being of the person. A record provided to the attorney under this section must remain in the attorney's control and the attorney may not provide copies or access to another person or entity without prior consent of a court with appropriate jurisdiction

(4) Upon request, the child who is the subject of a youth court cause shall have the right to have his counsel inspect and copy any record, report or investigation which is filed with the youth court or which is to be considered by the youth court at a hearing.

(5)(a) The youth court prosecutor or prosecutors, the county attorney, the district attorney, the youth court defender or defenders, or any attorney representing a child shall have the right to inspect and copy any law enforcement record involving children.

(b) The Department of Child Protection Services shall disclose to a county prosecuting attorney or district attorney any and all records resulting from an investigation into suspected child abuse or neglect when the case has been referred by the Department of Child Protection Services to the county prosecuting attorney or district attorney for criminal prosecution.

(c) Agency records made confidential under the provisions of this section may be disclosed to a court of competent jurisdiction.

(d) Records involving children shall be disclosed to the Division of Victim Compensation of the Office of the Attorney General upon the division's request without order of the youth court for purposes of determination of eligibility for victim compensation benefits.

(6) Information concerning an investigation into a report of child abuse or child neglect may be disclosed by the Department of Child Protection Services without order of the youth court to any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, or a public or private school employee making that report pursuant to Section 43-21-353(1) if the reporter has a continuing professional relationship with the child and a need for such information in order to protect

or treat the child.

(7) Information concerning an investigation into a report of child abuse or child neglect may be disclosed without further order of the youth court to any interagency child abuse task force established in any county or municipality by order of the youth court of that county or municipality.

(8) Names and addresses of juveniles twice adjudicated as delinquent for an act which would be a felony if committed by an adult or for the unlawful possession of a firearm shall not be held confidential and shall be made available to the public.

(9) Names and addresses of juveniles adjudicated as delinquent for murder, manslaughter, burglary, arson, armed robbery, aggravated assault, any sex offense as defined in Section 45-33-23, for any violation of Section 4 J -29-1 39(a)(1) or for any violation of Section 63-11 -30, shall not be held confidential and shall be made available to the public.

(10) The judges of the circuit and county courts, and presentence investigators for the circuit courts, as provided in Section 47-7-9, shall have the right to inspect any youth court records of a person convicted of a crime for sentencing purposes only.

(11) The victim of an offense committed by a child who is the subject of a youth court cause shall have the right to be informed of the child's disposition by the youth court.

(12) A classification hearing officer of the State Department of Corrections, as provided in Section 47-5-103, shall have the right to inspect any youth court records, excluding abuse and neglect records, of any offender in the custody of the department who as a child or minor was a juvenile offender or was the subject of a youth court cause of action, and the State Parole Board, as provided in Section 47-7-17, shall have the right to inspect such records when the offender becomes eligible for parole.

(13) The youth court shall notify the Department of Public Safety of the name, and any other identifying information such department may require, of any child who is adjudicated delinquent as a result of a violation of the Uniform Controlled Substances Law.

(14) The Administrative Office of Courts shall have the right to inspect any youth court records in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth court and adult justice system, and to utilize tracking forms for such purpose.

(15) Upon a request by a youth court, the Administrative Office of Courts shall disclose all information at its disposal concerning any previous youth court intakes alleging that a child was a delinquent child, child in need of supervision, child in need of special care, truant child, abused child or neglected child, as well as any previous youth court adjudications for the same and all dispositional information concerning a child who at the time of such request comes under the jurisdiction of the youth court making such request.

(16) The Administrative Office of Courts may, in its discretion, disclose to the Department of Public Safety any or all of the information involving children contained in the office's youth court data management system known as Mississippi Youth Court Information Delivery System or "MYCIDS."

(17) The youth courts of the state shall disclose to the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER) any youth court records in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth

court and adult justice system, and to utilize tracking forms for such purpose. The disclosure prescribed in this subsection shall not require a court order and shall be made in sortable, electronic format where possible. The PEER Committee may seek the assistance of the Administrative Office of Courts in seeking this information. The PEER Committee shall not disclose the identities of any youth who have been adjudicated in the youth courts of the state and shall only use the disclosed information for the purpose of monitoring the effectiveness and efficiency of programs established to assist adjudicated youth, and to ascertain the incidence of adjudicated youth who become adult offenders.

(18) In every case where an abuse or neglect allegation has been made, the confidentiality provisions of this section shall not apply to prohibit access to a child's records by any state regulatory agency, any state or local prosecutorial agency or law enforcement agency; however, no identifying information concerning the child in question may be released to the public by such agency except as otherwise provided herein.

(19) In every case of child abuse or neglect, if a child's physical condition is medically labeled as medically "serious" or "critical" or a child dies, the confidentiality provisions of this section shall not apply. In such cases, the following information may be released by the Mississippi Department of Child Protection Services: the cause of the circumstances regarding the fatality or medically serious or critical physical condition; the age and gender of the child; information describing any previous reports of child abuse or neglect investigations that are pertinent to the child abuse or neglect that led to the fatality or medically serious or critical physical condition; the result of any such investigations; and the services provided by and actions of the state on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or medically serious or critical physical condition.

(20) Any member of a foster care review board designated by the Department of Child Protection Services shall have the right to inspect youth court records relating to the abuse, neglect or child in need of supervision cases assigned to such member for review.

(21) Information concerning an investigation into a report of child abuse or child neglect may be disclosed without further order of the youth court in any administrative or due process hearing held, pursuant to Section 43-21-257, by the Department of Child Protection Services for individuals whose names will be placed on the central registry as substantiated perpetrators.

(22) The Department of Child Protection Services may disclose records involving children to the following:

(a) A foster home, residential child-caring agency or child-placing agency to the extent necessary to provide such care and services to a child;

(b) An individual, agency or organization that provides services to a child or the child's family in furtherance of the child's permanency plan to the extent necessary in providing those services;

(c) Health and mental health care providers of a child to the extent necessary for the provider to properly treat and care for the child;

(d) An educational institution or educational services provider where the child is enrolled or where enrollment is anticipated to the extent necessary for the school to provide appropriate services to the child; and

(e) Any other state agency if the disclosure is necessary to the department in fulfilling its statutory responsibilities in protecting the best interests of the child.

§43-21-301. Custody orders.

(1) No court other than the youth court shall issue an arrest warrant or custody order for a child in a matter in which the youth court has exclusive original jurisdiction but shall refer the matter to the youth court.

(2) Except as otherwise provided, no child in a matter in which the youth court has exclusive original jurisdiction shall be taken into custody by a law enforcement officer, the Department of Human Services, or any other person unless the judge or his designee has issued a custody order to take the child into custody.

(3) The judge or his designee may require a law enforcement officer, the Department of Human Services, or any suitable person to take a child into custody for a period not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays.

(a) Custody orders under this subsection may be issued if it appears that there is probable cause to believe that:

(i) The child is within the jurisdiction of the court;

(ii) Custody is necessary because of any of the following reasons: the child is endangered, any person would be endangered by the child, to ensure the child's attendance in court at such time as required, or a parent, guardian or custodian is not available to provide for the care and supervision of the child; and

(iii) There is no reasonable alternative to custody.

A finding of probable cause under this subsection (3)(a) shall not be based solely upon a positive drug test of a newborn or parent for marijuana; however, a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause for unlawful use of any controlled substance, except as otherwise provided in this subsection (3)(a) for marijuana, may be based: 1. upon a parent's positive drug test for unlawful use of a controlled substance only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody.

(b) Custody orders under this subsection shall be written. In emergency cases, a judge or his designee may issue an oral custody order, but the order shall be reduced to writing within forty-eight (48) hours of its issuance.

(c) Each youth court judge shall develop and make available to law enforcement a list of designees who are available after hours, on weekends and on holidays.

(4) The judge or his designee may order, orally or in writing, the immediate release of any child in the custody of any person or agency. Except as otherwise provided in subsection (3) of this section, custody orders as provided by this chapter and authorizations of temporary custody may be written or oral, but, if oral, reduced to writing within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays. The written order shall:

(a) Specify the name and address of the child, or, if unknown, designate him or her by any name or

description by which he or she can be identified with reasonable certainty;

(b) Specify the age of the child, or, if unknown, that he or she is believed to be of an age subject to the jurisdiction of the youth court;

(c) Except in cases where the child is alleged to be a delinquent child or a child in need of supervision, state that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), also state that (i) reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or (ii) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody. If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made toward the reunification of the child with his or her family;

(d) State that the child shall be brought immediately before the youth court or be taken to a place designated by the order to be held pending review of the order;

(e) State the date issued and the youth court by which the order is issued; and

(f) Be signed by the judge or his designee with the title of his office.

(5) The taking of a child into custody shall not be considered an arrest except for evidentiary purposes.

(6)(a) No child who has been accused or adjudicated of any offense that would not be a crime if committed by an adult shall be placed in an adult jail or lockup. An accused status offender shall not be held in secure detention longer than twenty-four (24) hours prior to and twenty-four (24) hours after an initial court appearance, excluding Saturdays, Sundays and statutory state holidays, except under the following circumstances: a status offender may be held in secure detention for violating a valid court order pursuant to the criteria as established by the federal Juvenile Justice and Delinquency Prevention Act of 2002, and any subsequent amendments thereto, and out-of-state runaways may be detained pending return to their home state.

(b) No accused or adjudicated juvenile offender, except for an accused or adjudicated juvenile offender in cases where jurisdiction is waived to the adult criminal court, shall be detained or placed into custody of any adult jail or lockup for a period in excess of six (6) hours.

(c) If any county violates the provisions of paragraph (a) or (b) of this subsection, the state agency authorized to allocate federal funds received pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in scattered Sections of 5, 18, 42 USCS), shall withhold the county's share of such funds. Any county that does not have a facility in which to detain its juvenile offenders in compliance with the provisions of paragraphs (a) and (b) of this subsection may enter into a contractual agreement to detain or place into custody the juvenile offenders of that county with any county or municipality that does have such a facility, or with the State of Mississippi, or with any private entity that maintains a juvenile correctional facility.

(d) Notwithstanding the provisions of paragraphs (a), (b), (c) and (d) of this subsection, all counties shall be allowed a one-year grace period from March 27, 1993, to comply with the provisions of this subsection.



**§43-21-303. Taking into custody without a custody order.**

(1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken in custody by any person without a custody order except that:

(a) a law enforcement officer may take a child in custody if:

- (i) grounds exist for the arrest of an adult in identical circumstances; and
- (ii) such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301; and
- (iii) such law enforcement officer can find no reasonable alternative to custody; or

(b) a law enforcement officer or an agent of the department of Child Protection Services or the Department of Human Services may take a child into immediate custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm; however, probable cause shall not be based solely upon a positive drug test of a newborn or parent for marijuana, but a finding of probable cause may be based upon an evidence-based finding of harm to the child or a parent's inability to provide for the care and supervision of the child due to the parent's use of marijuana. Probable cause for unlawful use of any controlled substance, except as otherwise provided in this subparagraph (i) for marijuana, may be based: 1. upon a parent's positive drug test for unlawful use of a controlled substance only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and 2. upon a newborn's positive drug screen for a controlled substance that was used unlawfully only if the child is in danger of a significant risk of harm or the parent is unable to provide proper care or supervision of the child because of the unlawful use and there is no reasonable alternative to custody; and such law enforcement officer or agent has probable cause to believe that immediate custody is necessary as defined in Section 43-21-301(3)(b); and

(ii) There is probable cause to believe that immediate custody is necessary as set forth in Section 43-21-301(3); and

(iii) There is no reasonable alternative to custody; and Any other person may take a child in custody if grounds exist for the arrest of an adult in identical circumstances. Such other person shall immediately surrender custody of the child to the proper law enforcement officer who shall thereupon continue custody only as provided in subsection (1)(a) of this section.

(2) When it is necessary to take a child into custody, the least restrictive custody should be selected.

(3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. A person taking a child into custody shall also make continuing reasonable efforts to notify the child's parent, guardian or custodian and invite the parent, guardian or custodian to be present during any questioning.



(4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody.

Miss. Code Ann. § 43-21-305

§43-21-305. Noncustodial interrogation.

A law enforcement officer may stop any child abroad in a public place whom the officer has probable cause to believe is within the jurisdiction of the youth court and may question the child as to his name, address and explanation of his actions.

Miss. Code Ann. §43-21-353

§ 43-21-353. Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations

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

Upon receiving a report that a child has been sexually abused, is a victim of commercial sexual exploitation or human trafficking or has been burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Child Protection Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred. Within forty-eight (48) hours, the department must notify the appropriate prosecutor and the Statewide Human Trafficking Coordinator. The department shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the department shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The department shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available. In addition, if the Department of Child Protection Services determines that a parent or other person responsible for the care or welfare of an abused or neglected child maintains active duty status within the military, the department shall notify the applicable military installation family advocacy program that there is an allegation of abuse or

neglect that relates to that child.

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

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

(4) Reports of abuse, neglect and commercial sexual exploitation or human trafficking made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261 shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267. Notwithstanding the confidentiality of the reporter's identity under this section, the Department of Child Protection Services may disclose a reporter's identity to the appropriate law enforcement agency or prosecutor if the department has reason to suspect the reporter has made a fraudulent report, and the Department of Child Protection Services must provide to the subject of the alleged fraudulent report written notification of the disclosure.

(5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Child Protection Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Child Protection Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:

(a) The name and address of the child;

(b) The names and addresses of the parents;

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

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

(e) A brief statement of the facts indicating that the child has been abused, including whether the child experienced commercial sexual exploitation or human trafficking, and any other information from the agency files or known to the family protection worker or family protection specialist making the

investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and

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

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

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

(8) If a report is made directly to the Department of Child Protection Services that a child has been abused or neglected or experienced commercial sexual exploitation or human trafficking in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office and the Statewide Human Trafficking Coordinator within forty-eight (48) hours of such report. The Department of Child Protection Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Child Protection Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Child Protection Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

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

#### Miss. Code Ann. § 43-21-603

##### § 43-21-603. Disposition hearing procedure.

(1) At the beginning of each disposition hearing, the judge shall inform the parties of the purpose of the hearing.

(2) All testimony shall be under oath unless waived by all parties and may be in narrative form. The court may consider any evidence that is material and relevant to the disposition of the cause, including hearsay and opinion evidence. At the conclusion of the evidence, the youth court shall give the parties an opportunity to present oral argument.

(3) If the child has been adjudicated a delinquent child, before entering a disposition order, the youth court should consider, among others, the following relevant factors:

- (a) The nature of the offense;
- (b) The manner in which the offense was committed;
- (c) The nature and number of a child's prior adjudicated offenses;
- (d) The child's need for care and assistance;
- (e) The child's current medical history, including medication and diagnosis;
- (f) The child's mental health history, which may include, but not be limited to, the Massachusetts Youth Screening Instrument version 2 (MAYSI-2);
- (g) Copies of the child's cumulative record from the last school of record, including special education records, if applicable;
- (h) Recommendation from the school of record based on areas of remediation needed;
- (i) Disciplinary records from the school of record; and
- (j) Records of disciplinary actions outside of the school setting.

(4) If the child has been adjudicated a child in need of supervision, before entering a disposition order, the youth court should consider, among others, the following relevant factors:

- (a) The nature and history of the child's conduct;
- (b) The family and home situation; and
- (c) The child's need of care and assistance.

(5) If the child has been adjudicated a neglected child or an abused child, before entering a disposition order, the youth court shall consider, among others, the following relevant factors:

- (a) The child's physical and mental conditions;
- (b) The child's need of assistance;
- (c) The manner in which the parent, guardian or custodian participated in, tolerated or condoned the abuse, neglect or abandonment of the child;
- (d) The ability of a child's parent, guardian or custodian to provide proper supervision and care of a child; and
- (e) Relevant testimony and recommendations, where available, from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.

(6) After consideration of all the evidence and the relevant factors, the youth court shall enter a disposition order that shall not recite any of the facts or circumstances upon which the disposition is based, nor shall it recite that a child has been found guilty; but it shall recite that a child is found to be a delinquent child, a child in need of supervision, a neglected child or an abused child.

(7) If the youth court orders that the custody or supervision of a child who has been adjudicated

abused or neglected be placed with the Department of Human Services or any other person or public or private agency, other than the child's parent, guardian or custodian, the youth court shall find and the disposition order shall recite that:

(a)

(i) Reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or

(ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody; and

(b) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that the placement of the child in foster care is in the best interests of the child; or

(c) Reasonable efforts to maintain the child within his home shall not be required if the court determines that:

(i) The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse and sexual abuse; or

(ii) The parent has been convicted of murder of another child of that parent, voluntary manslaughter of another child of that parent, aided or abetted, attempted, conspired or solicited to commit that murder or voluntary manslaughter, or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or

(iii) The parental rights of the parent to a sibling have been terminated involuntarily; and

(iv) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that placement of the child in foster care is in the best interests of the child.

Once the reasonable efforts requirement is bypassed, the court shall have a permanency hearing under Section 43-21-613 within thirty (30) days of the finding

(8) Upon a written motion by a party, the youth court shall make written findings of fact and conclusions of law upon which it relies for the disposition order. If the disposition ordered by the youth court includes placing the child in the custody of a training school, an admission packet shall be prepared for the child that contains the information:

(a) The child's current medical history, including medications and diagnosis;

(b) The child's mental health history;

(c) Copies of the child's cumulative record from the last school of record, including special education records, if reasonably available;

(d) Recommendation from the school of record based on areas of remediation needed;

(e) Disciplinary records from the school of record; and

(t) Records of disciplinary actions outside of the school setting, if reasonably available.

Only individuals who are permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall have access to a child's medical records which are contained in an admission packet. The youth court shall provide the admission packet to the training school at or before the child's arrival at the training school. The admittance of any child to a training school shall take place between the hours of 8:00 a.m. and 3:00 p.m. on designated admission days.

(9) When a child in the jurisdiction of the Youth Court is committed to the custody of the Mississippi Department of Human Services and is believed to be in need of treatment for a mental or emotional disability or infirmity, the Department of Human Services shall file an affidavit alleging that the child is in need of mental health services with the Youth Court. The Youth Court shall refer the child to the appropriate community mental health center for evaluation pursuant to Section 41-21-67. If the prescreening evaluation recommends residential care, the Youth Court shall proceed with civil commitment pursuant to Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of Mental Health, once commitment is ordered, shall provide appropriate care, treatment and services for at least as many adolescents as were provided services in fiscal year 2004 in its facilities.

(10) Any screening and assessment examinations ordered by the court may aid in dispositions related to delinquency, but no statements or admissions made during the course thereof may be admitted into evidence against the child on the issue of whether the child committed a delinquent act.

Miss. Code Ann. §43-21-605

§43-21-605. Disposition alternatives in delinquency cases.

(1) In delinquency cases, the disposition order may include any of the following alternatives:

(a) Release the child without further action;

(b) Place the child in the custody of the parents, a relative or other persons subject to any conditions and limitations, including restitution, as the youth court may prescribe;

(c) Place the child on probation subject to any reasonable and appropriate conditions and limitations, including restitution, as the youth court may prescribe;

(d) Order terms of treatment calculated to assist the child and the child's parents or guardian which are within the ability of the parent or guardian to perform and which are not in conflict with a provider's determination of medical necessity;

(e) Order terms of supervision which may include participation in a constructive program of service or education or civil fines not in excess of Five Hundred Dollars (\$500.00), or restitution not in excess of actual damages caused by the child to be paid out of his own assets or by performance of services acceptable to the victims and approved by the youth court and reasonably capable of performance within one (1) year;

(t) Suspend the child's driver's license by taking and keeping it in custody of the court for not more than one (1) year;

(g) Give legal custody of the child to any of the following:



- (i) The Department of Human Services for appropriate placement; or
- (ii) Any public or private organization, preferably community-based, able to assume the education, care and maintenance of the child, which has been found suitable by the court; or
- (iii) The Division of Youth Services for placement in the least restrictive environment, except that no child under the age of ten (10) years shall be committed to the state training school. Only a child who has been adjudicated delinquent for a felony may be committed to the training school. In the event a child is committed to the Oakley Youth Development Center by the court, the child shall be deemed to be committed to the custody of the Department of Human Services which may place the child in the Oakley Youth Development Center or another appropriate facility.

The training school may retain custody of the child until the child's twentieth birthday but for no longer. When the child is committed to the training school, the child shall remain in the legal custody of the training school until the child has made sufficient progress in treatment and rehabilitation and it is in the best interest of the child to release the child. However, the superintendent of the state training school, in consultation with the treatment team, may parole a child at any time he or she may deem it in the best interest and welfare of such child. Ten (10) business days before the parole, the training school shall notify the committing court of the pending release. This notice may be made in less than ten (10) days if Oakley Youth Development Center needs to manage population limitations. The youth court may then arrange subsequent placement after a reconvened disposition hearing, except that the youth court may not recommit the child to the training school or any other secure facility without an adjudication of a new offense or probation or parole violation. The Department of Human Services shall ensure that staffs create transition planning for youth leaving the facilities. Plans shall include providing the youth and his or her parents or guardian with copies of the youth's training school education and health records, information regarding the youth's home community, referrals to mental and counseling services when appropriate, and providing assistance in making initial appointments with community service providers. Before assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child. No child shall be placed in the custody of the state training school for a status offense or for contempt of or revocation of a status offense adjudication unless the child is contemporaneously adjudicated for having committed an act of delinquency that is not a status offense. A disposition order rendered under this subparagraph shall meet the following requirements:

1. The disposition is the least restrictive alternative appropriate to the best interest of the child and the community;
2. The disposition allows the child to be in reasonable proximity to the family home community of each child given the dispositional alternatives available and the best interest of the child and the state; and
3. The disposition order provides that the court has considered the medical, educational, vocational, social and psychological guidance, training, social education, counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court;

(h) Recommend to the child and the child's parents or guardian that the child attend and participate in the Youth Challenge Program under the Mississippi National Guard, as created in Section 43-27-203, subject to the selection of the child for the program by the National Guard; however, the child must volunteer to participate in the program. The youth court shall not order any child to apply for or attend the program;



(i) Adjudicate the juvenile to the Statewide Juvenile Work Program if the program is established in the court's jurisdiction. The juvenile and his or her parents or guardians must sign a waiver of liability in order to participate in the work program. The judge will coordinate with the youth services counselors as to placing participants in the work program as follows:

(i) The severity of the crime, whether or not the juvenile is a repeat offender or is a felony offender will be taken into consideration by the judge when adjudicating a juvenile to the work program. The juveniles adjudicated to the work program will be supervised by police officers or reserve officers. The term of service will be from twenty-four (24) to one hundred twenty (120) hours of community service. A juvenile will work the hours to which he or she was adjudicated on the weekends during school and weekdays during the summer. Parents are responsible for a juvenile reporting for work. Noncompliance with an order to perform community service will result in a heavier adjudication. A juvenile may be adjudicated to the community service program only two (2) times;

(ii) The judge shall assess an additional fine on the juvenile which will be used to pay the costs of implementation of the program and to pay for supervision by police officers and reserve officers. The amount of the fine will be based on the number of hours to which the juvenile has been adjudicated;

(j) Order the child to participate in a youth court work program as provided in Section 43-21-627;

(k) Order terms of house arrest under the intensive supervision program as created in Sections 47-5-1001 through 47-5-1015. The Department of Human Services shall take bids for the placement of juveniles in the intensive supervision program. The Department of Human Services shall promulgate rules regarding the supervision of juveniles placed in the intensive supervision program. For each county there shall be seventy-five (75) slots created in the intensive supervision program for juveniles. Any youth ordered into the intensive home-based supervision program shall receive comprehensive strength-based needs assessments and individualized treatment plans. Based on the assessment, an individualized treatment plan shall be developed that defines the supervision and programming that is needed by a youth. The treatment plan shall be developed by a multidisciplinary team that includes the family of the youth whenever possible. The juvenile shall pay Ten Dollars (\$10.00) to offset the cost of administering the alcohol and drug test. The juvenile must attend school, alternative school or be in the process of working toward a High School Equivalency Diploma certificate;

(l)(i) Order the child into a juvenile detention center operated by the county or into a juvenile detention center operated by any county with which the county in which the court is located has entered into a contract for the purpose of housing delinquents. The time period for detention cannot exceed ninety (90) days, and any detention exceeding forty-five (45) days shall be administratively reviewed by the youth court no later than forty-five (45) days after the entry of the order. At that time the youth court counselor shall review the status of the youth in detention and shall report any concerns to the court. The youth court judge may order that the number of days specified in the detention order be served either throughout the week or on weekends only. No first-time nonviolent youth offender shall be committed to a detention center for a period in excess of ninety (90) days until all other options provided for in this section have been considered and the court makes a specific finding of fact by a preponderance of the evidence by assessing what is in the best rehabilitative interest of the child and the public safety of communities and that there is no reasonable alternative to a nonsecure setting and therefore commitment to a detention center is appropriate.

(ii) If a child is committed to a detention center for ninety (90) days, the disposition order shall meet the following requirements:

1. The disposition order is the least restrictive alternative appropriate to the best interest of the child

and the community;

2. The disposition order allows the child to be in reasonable proximity to the family home community of each child given the dispositional alternatives available and the best interest of the child and the state; and

3. The disposition order provides that the court has considered the medical, educational, vocational, social and psychological guidance, training, social education, counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court;

(m) The judge may consider house arrest in an intensive supervision program as a reasonable prospect of rehabilitation within the juvenile justice system. The Department of Human Services shall promulgate rules regarding the supervision of juveniles placed in the intensive supervision program;

(n) Referral to A-team provided system of care services; or

(o) Place the child on electronic monitoring subject to any conditions and limitations as the youth court may prescribe.

(2) If a disposition order requires that a child miss school due to other placement, the youth court shall notify a child's school while maintaining the confidentiality of the youth court process. If a disposition order requires placement of a child in a juvenile detention facility, the facility shall comply with the educational services and notification requirements of Section 43-21-321.

(3) In addition to any of the disposition alternatives authorized under subsection (1) of this section, the disposition order in any case in which the child is adjudicated delinquent for an offense under Section 63-11-30 shall include an order denying the driver's license and driving privileges of the child as required under Section 63-11-30(9).

(4) If the youth court places a child in a state-supported training school, the court may order the parents or guardians of the child and other persons living in the child's household to receive counseling and parenting classes for rehabilitative purposes while the child is in the legal custody of the training school. A youth court entering an order under this subsection (4) shall utilize appropriate services offered either at no cost or for a fee calculated on a sliding scale according to income unless the person ordered to participate elects to receive other counseling and classes acceptable to the court at the person's sole expense.

(5) Fines levied under this chapter shall be paid into the general fund of the county but, in those counties wherein the youth court is a branch of the municipal government, it shall be paid into the municipal treasury.

(6) Any institution or agency to which a child has been committed shall give to the youth court any information concerning the child as the youth court may at any time require.

(7) The youth court shall not place a child in another school district who has been expelled from a school district for the commission of a violent act. For the purpose of this subsection, "violent act" means any action which results in death or physical harm to another or an attempt to cause death or physical harm to another.

(8) The youth court may require drug testing as part of a disposition order. If a child tests positive, the court may require treatment, counseling and random testing, as it deems appropriate. The costs of such tests shall be paid by the parent, guardian or custodian of the child unless the court specifically

finds that the parent, guardian or custodian is unable to pay.

(9) The Mississippi Department of Human Services, Division of Youth Services, shall operate and maintain services for youth adjudicated delinquent at the Oakley Youth Development Center. The program shall be designed for children committed to the training schools by the youth courts. The purpose of the program is to promote good citizenship, self-reliance, leadership and respect for constituted authority, teamwork, cognitive abilities and appreciation of our national heritage. The program must use evidenced-based practices and gender-specific programming and must develop an individualized and specific treatment plan for each youth. The Division of Youth Services shall issue credit towards academic promotions and high school completion. The Division of Youth Services may award credits to each student who meets the requirements for a general education development certification. The Division of Youth Services must also provide to each special education eligible youth the services required by that youth's individualized education plan.

#### Miss. Code Ann. §43-21-619

§43-21-619. Power to order parents to pay child's expenses and restitution or to participate in counseling or family treatment program; orders to constitute civil judgment.

(1) The youth court may order financially able parents to pay for court ordered medical and other examinations and treatment of a child; for reasonable attorney's fees and court costs; and for other expenses found necessary or appropriate in the best interest of the child as determined by the youth court. The youth court is authorized to enforce payments ordered under this subsection.

(2) The youth court may order the parents, guardians or custodians who exercise parental custody and control of a child who is under the jurisdiction of the youth court and who has willfully or maliciously caused personal injury or damaged or destroyed property, to pay such damages or restitution through the court to the victim in an amount not to exceed the actual loss and to enforce payment thereof. Restitution ordered by the youth court under this section shall not preclude recovery of damages by the victim from such child or parent, guardian or custodian or other person who would otherwise be liable. The youth court also may order the parents, guardians or custodians of a child who is under the jurisdiction of the youth court and who willfully or maliciously has caused personal injury or damaged or destroyed property to participate in a counseling program or other suitable family treatment program for the purpose of preventing future occurrences of malicious destruction of property or personal injury.

(3) Such orders under this section shall constitute a civil judgment and may be enrolled on the judgment rolls in the office of the circuit clerk of the county where such order was entered, and further, such order may be enforced in any manner provided by law for civil judgments.

Miss. Code Ann. § 43-21-621

§43-21-621. Power to order public school to enroll child; placement in alternative school program; school-related conditions of probation; notification of principal.

(1) The youth court may, in compliance with the laws governing education of children, order any state-supported public school in its jurisdiction after notice and hearing to enroll or reenroll any compulsory-school-age child in school, and further order appropriate educational services. Provided, however, that the youth court shall not order the enrollment or reenrollment of a student that has been suspended or expelled by a public school pursuant to Section 37-9-71 or 37-7-301 for possession of a weapon on school grounds, for an offense involving a threat to the safety of other persons or for the commission of a violent act. For the purpose of this section “violent act” means any action which results in death or physical harm to another or an attempt to cause death or physical harm to another. The superintendent of the school district to which such child is ordered may, in his discretion, assign such child to the alternative school program of such school established pursuant to Section 37-13-92, Mississippi Code of 1972. The court shall have jurisdiction to enforce school and education laws. Nothing in this section shall be construed to affect the attendance of a child in a legitimate home instruction program.

(2) The youth court may specify the following conditions of probation related to any juvenile ordered to enroll or reenroll in school: That the juvenile maintain passing grades in up to four (4) courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades.

(3) If the adjudication of delinquency was for an offense involving a threat to the safety of the juvenile or others and school attendance is a condition of probation, the youth court judge shall make a finding that the principal of the juvenile's school should be notified. If the judge orders that the principal be notified, the youth court counselor shall within five (5) days or before the juvenile begins to attend school, whichever occurs first, notify the principal of the juvenile's school in writing of the nature of the offense and the probation requirements related to school attendance. A principal notified by a juvenile court counselor shall handle the report according to the guidelines and rules adopted by the State Board of Education.

(4) The Administrative Office of the Courts shall report to the Legislature on the number of juveniles reported to principals in accordance with this section no later than January 1, 1996.

Miss. Code Ann. § 43-21-753

§43-21-753. Establishment; teen court program.

The youth court of any county in the state may establish a teen court program for the diversion of certain offenders who have waived all right of confidentiality and privilege against self-incrimination. The youth court of Rankin County may extend its teen court program within the city limits of Pearl. The offenders eligible to participate shall be those offenders who in the discretion of the youth court are suitable and compulsory-school-age children who have come into the jurisdiction of the youth court as a result of not attending school. The teen court shall be a preventive program for juveniles comprised of youth who are not less than thirteen (13) nor more than seventeen (17) years of age, which students shall serve as prosecutor, defense counsel, bailiff, court clerk and jurors. The program is to administer the “sentencing” or disposition phase of the proceedings against offenders who elect to participate, shall be under the guidance of the local youth court, and shall be approved by the local youth court. The youth court judge, or his designee who is a licensed attorney, shall preside. The teen court is authorized to require eligible offenders who choose to go to teen court in lieu of youth court to

perform up to one hundred twelve (112) hours of community service, require offenders to make a personal apology to a victim, require offenders to submit a research paper on any relevant subject, attend counseling and make restitution or any other disposition authorized by the youth court. The youth court shall establish rules and regulations, including sentencing guidelines, for the operation of a teen court. The teen court is authorized to accept monies from any available public or private source, including public or private donations, grants, gifts and appropriated funds for funding expenses of operating the court.

Teen court may be held at whatever location the youth court selects at whatever time or times. Eligible offenders shall be only those children who agree to participate in the teen court and to abide by the teen court's rulings, whose parents or legal guardian shall also so agree, and who are otherwise qualified to participate.

The youth court judge may require an offender who elects to participate in the teen court to pay a fee not to exceed Five Dollars (\$5.00); any such fees shall be used in administering this article, and the fee shall not be refunded, regardless of whether the child successfully completes the teen court program.

Miss. Code Ann. §45-33-21

§45-33-21. Legislative findings and declaration of purpose

The Legislature finds that the danger of recidivism posed by criminal sex offenders and the protection of the public from these offenders is of paramount concern and interest to government. The Legislature further finds that law enforcement agencies' efforts to protect their communities, conduct investigations, and quickly apprehend criminal sex offenders are impaired by the lack of information shared with the public, which lack of information may result in the failure of the criminal justice system to identify, investigate, apprehend, and prosecute criminal sex offenders.

The Legislature further finds that the system of registering criminal sex offenders is a proper exercise of the state's police power regulating present and ongoing conduct. Comprehensive registration and periodic address verification will provide law enforcement with additional information critical to preventing sexual victimization and to resolving promptly incidents involving sexual abuse and exploitation. It will allow law enforcement agencies to alert the public when necessary for the continued protection of the community.

Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in safety and in the effective operation of government. In balancing offenders' due process and other rights, and the interests of public security, the Legislature finds that releasing such information about criminal sex offenders to the general public will further the primary governmental interest of protecting vulnerable populations and, in some instances the public, from potential harm.

Therefore, the state's policy is to assist local law enforcement agencies' efforts to protect their communities by requiring criminal sex offenders to register, to record their addresses of residence, to be photographed and fingerprinted, and to authorize the release of necessary and relevant information about criminal sex offenders to the public as provided in this chapter, which may be referred to as the Mississippi Sex Offenders Registration Law.

§ 45-33-23. Definitions

For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

- (a) "Conviction" means that, regarding the person's offense, there has been a determination or judgment of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere regardless of whether adjudication is withheld. "Conviction of similar offenses" includes, but is not limited to, a conviction by a federal or military tribunal, including a court-martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian Reservation or other federal property, a conviction in any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianna Islands or the United States Virgin Islands, and a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) Public Law 109-248. "Department" means the Mississippi Department of Public Safety unless otherwise specified.
- (b) "Department" means the Mississippi Department of Public Safety unless otherwise specified.
- (c) "Jurisdiction" means any court or locality including any state court, federal court, military court, Indian tribunal or foreign court, the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Marianna Islands or the United States Virgin Islands, and Indian tribes that elect to function as registration jurisdictions under Title 1, SORNA Section 127 of the Adam Walsh Child Safety Act.
- (d) "Permanent residence" means a place where the person abides, lodges, or resides for a period of fourteen (14) or more consecutive days.
- (e) "Registration" means providing information to the appropriate agency within the time frame specified as required by this chapter.
- (f) "Registration duties" means obtaining the registration information required on the form specified by the department as well as the photograph, fingerprints and biological sample of the registrant. Biological samples are to be forwarded to the Mississippi Forensics Laboratory pursuant to Section 45-33-37; the photograph, fingerprints and other registration information are to be forwarded to the Department of Public Safety immediately.
- (g) "Responsible agency" is defined as the person or government entity whose duty it is to obtain information from a criminal sex offender upon conviction and to transmit that information to the Mississippi Department of Public Safety.
- (i) For a criminal sex offender being released from the custody of the Department of Corrections, the responsible agency is the Department of Corrections.
- (ii) For a criminal sex offender being released from a county jail, the responsible agency is the sheriff of that county.



(iii) For a criminal sex offender being released from a municipal jail, the responsible agency is the police department of that municipality.

(iv) For a sex offender in the custody of the youth court, the responsible agency is the youth court.

(v) For a criminal sex offender who is being placed on probation, including conditional discharge or unconditional discharge, without any sentence of incarceration, the responsible agency is the sentencing court.

(vi) For an offender who has been committed to a mental institution following an acquittal by reason of insanity, the responsible agency is the facility from which the offender is released. Specifically, the director of the facility shall notify the Department of Public Safety before the offender's release.

(vii) For a criminal sex offender who is being released from a jurisdiction outside this state or who has a prior conviction in another jurisdiction and who is to reside, work or attend school in this state, the responsible agency is both the sheriff of the proposed county of residence and the department.

(h) "Sex offense" or "registrable offense" means any of the following offenses:

(i) Section 97-3-53 relating to kidnapping, if the victim was below the age of eighteen (18);

(ii) Section 97-3-65 relating to rape; however, conviction or adjudication under Section 97-3-65(1)(a) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

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

(iv) Section 97-3-95 relating to sexual battery; however, conviction or adjudication under Section 97-3-95(1)(c) when the offender was eighteen (18) years of age or younger at the time of the alleged offense, shall not be a registrable sex offense;

(v) Section 97-5-5 relating to enticing a child for concealment, prostitution or marriage;

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

(vii) Section 97-5-27 relating to the dissemination of sexually oriented material to children;

(viii) Section 97-5-33 relating to the exploitation of children;

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

(x) Section 97-29-3 relating to sexual intercourse between teacher and student;

(xi) Section 97-29-59 relating to unnatural intercourse;

(xii) Section 43-47-18 relating to sexual abuse of a vulnerable person;

(xiii) Section 7-3-54.1(1)(c) relating to procuring sexual servitude of a minor and Section 97-3-54.3 relating to aiding, abetting or conspiring to violate Section 97-3-54.1 (1)(c);



- (xiv) Section 97-29-61(2) relating to voyeurism when the victim is a child under sixteen (16) years of age;
  - (xv) Section 97-29-63 relating to filming another without permission where there is an expectation of privacy;
  - (xvi) Section 97-29-45(1)(a) relating to obscene electronic communication;
  - (xvii) Section 97-3-104 relating to the crime of sexual activity between law enforcement, correctional or custodial personnel and prisoners;
  - (xviii) Section 97-5-39(1)(e) relating to contributing to the neglect or delinquency of a child, felonious abuse or battery of a child, if the victim was sexually abused;
  - (xix) Section 97-29-51 relating to procuring or promoting prostitution when the victim is a child under eighteen (18) years of age;
  - (xx) Section 97-1-7 relating to attempt to commit any of the offenses referenced in this paragraph (h);
  - (xxi) Any other offense resulting in a conviction in another jurisdiction which, if committed in this state, would be deemed to be such a crime without regard to its designation elsewhere;
  - (xxii) Any offense resulting in a conviction in another jurisdiction for which registration is required in the jurisdiction where the conviction was had;
  - (xxiii) Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this section;
  - (xxiv) Capital murder when one (1) of the above-described offenses is the underlying crime.
- (i) "Temporary residence" is defined as any place where the person abides, lodges, or resides for a period of seven (7) or more consecutive days which is not the person's permanent residence.
  - (j) "Address" means the actual physical street address of a person's permanent or temporary residence. For a person who is homeless but is subject to registration under this chapter, the address information must provide a specific description of where the person habitually lives; the term "homeless" or similar description does not constitute an address within the contemplation of this chapter.

#### Miss. Code Ann. §45-33-25

§ 45-33-25. Registration with Mississippi Department of Public Safety of persons convicted of or acquitted by reason of insanity of registrable offenses residing, employed or attending school in Mississippi; registration information; prohibition against registered sex offenders living within specified distance of schools, certain child care facilities or agencies or playgrounds or other recreational facilities utilized by children.

(1)(a) Any person having a permanent or temporary residence in this state or who is employed or attending school in this state who has been convicted of a registrable offense in this state or another jurisdiction or who has been acquitted by reason of insanity of a registrable offense in this state or another jurisdiction shall register with the responsible agency and the Mississippi Department of Public Safety. Registration shall not be required for an offense that is not a registrable sex offense or for an offender who is under fourteen (14) years of age. The department shall provide the initial registration information as well as every change of name, change of address, change of status at a school, or other change of information as

required by the department to the sheriff of the county of the residence address of the registrant, the sheriff of the county of the employment address, and the sheriff of the county of the school address, if applicable, and any other jurisdiction of the registrant through either written notice, electronic or telephone transmissions, or online access to registration information. Further, the department shall provide this information to the Federal Bureau of Investigation. Additionally, upon notification by the registrant that he intends to reside outside the State of Mississippi, the department shall notify the appropriate state law enforcement agency of any state to which a registrant is moving or has moved.

(b) Any person having a permanent or temporary residence or who is employed or attending school in this state who has been adjudicated delinquent for a registrable sex offense listed in this paragraph that involved use of force against the victim shall register as a sex offender with the responsible agency and shall personally appear at a facility designated by the Mississippi Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) business days of registering with the responsible agency:

(i) Sectim197-3-71 relating to rape and assault with intent to ravish;

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

(iii) Section 97-3-65 relating to statutory rape; or

(iv) Conspiracy to commit, accessory to the commission of, or attempt to commit any offense listed in this paragraph.

(2) Any person required to register under this chapter shall submit the following information at the time of registration:

(a) Name, including a former name which has been legally changed;

(b) Street address of all current permanent and temporary residences within state or out of state at which the sex offender resides or habitually lives, including dates of temporary lodgings. There is a presumption that a registrant owes a duty of updating registration information if:

(i) The registrant remains away from a registered address for seven (7) or more consecutive days; or

(ii) If the registrant remains at another address between the hours of 10:00 p.m. and 6:00 a.m. for more than seven (7) consecutive days;

(c) Date, place and address of employment, including as a volunteer or unpaid intern or as a transient or day laborer;

(d) Crime for which charged, arrested or convicted;

(e) Date and place of conviction, adjudication or acquittal by reason of insanity;

(f) Aliases used or nicknames, ethnic or tribal names by which commonly known;

(g) Social security number and any purported social security number or numbers;

(h) Date and place of birth and any purported date and place of birth;

(i) Age, race, sex, height, weight, hair and eye colors, and any other physical description or identifying factors;

(j) A brief description of the offense or offenses for which the registration is required;

(k) Driver's license or state or other jurisdiction identification card number, which license or card may be electronically accessed by the Department of Public Safety;

(l) Anticipated future residence;

(m) If the registrant's residence is a motor vehicle, trailer, mobile home or manufactured home, the registrant shall also provide vehicle identification number, license tag number, registration number and a description, including color scheme, of the motor vehicle, trailer, mobile home or manufactured home; if the registrant's place of residence is a vessel or houseboat, the registrant shall also provide the hull identification number, manufacturer's serial number, name of the vessel or houseboat, registration number and a description, including color scheme, of the vessel or houseboat, including permanent or frequent locations where the motor vehicle, trailer, mobile home, manufactured home, vessel or houseboat is kept;

(n) Vehicle make, model, color and license tag number for all vehicles owned or operated by the sex offender, whether for work or personal use, and the permanent or frequent locations where a vehicle is kept;

(o) Offense history;

(p) Photograph;

(q) Fingerprints and palm prints;

(r) Documentation of any treatment received for any mental abnormality or personality disorder of the person;

(s) Biological sample;

(t) Name of any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education at which the offender is employed, carries on a vocation (with or without compensation) or is enrolled as a student, or will be enrolled as a student, and the registrant's status;

(u) Copy of conviction or sentencing order for the sex offense for which registration is required;

(v) The offender's parole, probation or supervised release status and the existence of any outstanding arrest warrants;

(w) Every online identity, screen name or username used, registered or created by a registrant;

(x) Professional licensing information which authorizes the registrant to engage in an occupation or carry out a trade or occupation;

(y) Information from passport and immigration documents;

(z) All telephone numbers, including, but not limited to, permanent residence, temporary residence, cell phone and employment phone numbers, whether landlines or cell phones; and

(aa) Any other information deemed necessary.

(3) For purposes of this chapter, a person is considered to be residing in this state if he maintains a permanent or temporary residence as defined in Section 45-33-23, including students, temporary employees and military personnel on assignment.

(4)(a) A person required to register under this chapter shall not reside within three thousand (3,000) feet of the real property comprising a public or nonpublic elementary or secondary school, a child care facility, a residential child-caring agency, a children's group care home or any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years.

(b) A person residing within three thousand (3,000) feet of the real property comprising a public or nonpublic elementary or secondary school or a child care facility does not commit a violation of this subsection if any of the following apply:

(i) The person is serving a sentence at a jail, prison, juvenile facility or other correctional institution or facility.

(ii) The person is subject to an order of commitment under Title 41, Mississippi Code of 1972.

(iii) The person established the subject residence before July 1, 2006.

(iv) The school or child care facility is established within three thousand (3,000) feet of the person's residence subsequent to the date the person established residency.

(v) The person established the subject residence between July 1, 2006, and January 1, 2014, in a location at least one thousand five hundred (1,500) feet from the school or child care facility.

(vi) The person is a minor or a ward under a guardianship.

(c) A person residing within three thousand (3,000) feet of the real property comprising a residential child-caring agency, a children's group care home or any playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years does not commit a violation of this subsection if any of the following apply:

(i) The person established the subject residence before July 1, 2008.

(ii) The residential child-caring agency, children's group care home, playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years is established within three thousand (3,000) feet of the person's residence subsequent to the date the person established residency.

(iii) The person established the subject residence between July 1, 2008, and January 1, 2014, in a location at least one thousand five hundred (1,500) feet from the residential child-caring agency, children's group care home, playground, ballpark or other recreational facility utilized by persons under the age of eighteen (18) years.

(iv) Any of the conditions described in subsection (4)(b)(i), (ii) or (vi) exist.

(5) The Department of Public Safety is required to obtain the text of the law defining the offense or offenses for which the registration is required.

#### Miss. Code Ann. §45-33-26

§ 45-33-26 Prohibition against sex offender being present in or within a certain distance of school building or school property or in or about any public beach or public campground where minor children congregate; exemptions; penalties.

(1)(a) Unless exempted under subsection (2), it is unlawful for a person required to register as a sex offender under Section 45-33-25:

(i) To be present in any school building, on real property comprising any school, or in any conveyance

owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the building, on the grounds or in the conveyance; or

(ii) To loiter within five hundred (500) feet of a school building or real property comprising any school while persons under the age of eighteen (18) are present in the building or on the grounds.

(b) It is unlawful for a person required to register as a sex offender under Section 45-33-25 to visit or be in or about any public beach or public campground where minor children congregate without advance approval from the Director of the Department of Public Safety Sex Offender Registry, and the registrant is required to immediately report any incidental contact with minor children to the director.

(2)(a) A person required to register as a sex offender who is a parent or guardian of a student attending the school and who complies with subsection (3) may be present on school property if the parent or guardian is:

(i) Attending a conference at the school with school personnel to discuss the progress of the sex offender's child academically or socially;

(ii) Participating in child review conferences in which evaluation and placement decisions may be made with respect to the sex offender's child regarding special education services;

(iii) Attending conferences to discuss other student issues concerning the sex offender's child such as retention and promotion;

(iv) Transporting the sex offender's child to and from school; or

(v) Present at the school because the presence of the sex offender has been requested by the principal for any other reason relating to the welfare of the child.

(b) Subsection (1) of this section shall not apply to a sex offender who is legally enrolled in a particular school or is participating in a school-sponsored educational program located at a particular school when the sex offender is present at that school.

(3)(a) In order to exercise the exemption under subsection (2), a parent or guardian who is required to register as a sex offender must notify the principal of the school of the sex offender's presence at the school unless the offender: (i) has permission to be present from the superintendent or the school board, or (ii) the principal has granted ongoing permission for regular visits of a routine nature.

(b) If permission is granted by the superintendent or the school board, the superintendent or school board president must inform the principal of the school where the sex offender will be present. Notification includes the nature of the sex offender's visit and the hours when the sex offender will be present in the school, and the sex offender is responsible for notifying the principal's office upon arrival and upon departure. If the sex offender is to be present in the vicinity of children, the sex offender has the duty to remain under the direct supervision of a school official.

(4) For the purposes of this section, the following terms shall have the meanings ascribed unless the context clearly requires otherwise:

(a) "School" means a public or private preschool, elementary school or secondary school.

(b) "Loiter" means standing or sitting idly, whether in or out of a vehicle, or remaining in or around school property without a legitimate reason.

(c) "School official" means the principal, a teacher, any other certified employee of the school, the superintendent of schools, or a member of the school board.

(5) A sex offender who violates this section is guilty of a misdemeanor and subject to a fine not to exceed One Thousand Dollars (\$1,000.00), incarceration not to exceed six (6) months in jail, or both.

(6) It is a defense to prosecution under this section that the sex offender did not know and could not reasonably know that the property or conveyance fell within the proscription of this section.

(7) Nothing in this section shall be construed to infringe upon the constitutional right of a sex offender to be present in a school building that is used as a polling place for the purpose of voting.

#### Miss. Code Ann. §45-33-32

##### §45-33-32. Disclosure by sex offenders volunteering for organizations serving minors under the age of 18.

(1) A person convicted of a sex offense who volunteers for an organization in which volunteers have direct, private and unsupervised contact with minors shall notify the organization of the person's conviction at the time of volunteering. Such notification must be in writing to the organization. Any organization which accepts volunteers must notify volunteers of this disclosure requirement upon application of the volunteer to serve or prior to acceptance of any of the volunteer's service, whichever occurs first.

(2) If the organization, after notification by the offender as provided in subsection (1), accepts the offender as a volunteer, the organization must notify the parents or guardians of any minors involved in the organization of the offender's criminal record.

(3) This section applies to all registered sex offenders regardless of the date of conviction.

(4) Any person previously registered as a sex offender and who has a continuing obligation to be registered as a sex offender shall be notified of the person's duty under this section with the first reregistration form to be sent to the person after July 1, 2004.

(5) If the registered sex offender is currently volunteering for such an organization, the sex offender must resign or notify the organization immediately upon receipt of notice or be subject to the penalties of this chapter.

(6) An organization acting in good faith in making the notification to parents or guardians under this section, or who fails in good faith to make such notification, shall not be liable in any civil or criminal action as a result of the notification or failure to notify.

#### Miss. Code Ann. §45-33-35

##### §45-33-35. Central registry of offenders; duties of agencies to provide information

(1) The Mississippi Department of Public Safety shall maintain a central registry of sex offender information as defined in Section 45-33-25 and shall adopt rules and regulations necessary to carry out this section. The responsible agencies shall provide the information required in Section 45-33-25 on a form developed by the department to ensure accurate information is maintained.



(2) Upon conviction, adjudication or acquittal by reason of insanity of any sex offender, if the sex offender is not immediately confined or not sentenced to a term of imprisonment, the clerk of the court which convicted and sentenced the sex offender shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the department.

(3) Before release from prison or placement on parole, supervised release or in a work center or restitution center, the Department of Corrections shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(4) Before release from a community regional mental health center or from confinement in a mental institution following an acquittal by reason of insanity, the director of the facility shall inform the offender of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(5) Before release from a youthful offender facility, the director of the facility shall inform the person of the duty to register, including the duty to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, and shall perform the registration duties as described in Section 45-33-23 and forward the information to the Department of Public Safety.

(6) In addition to performing the registration duties, the responsible agency shall:

Inform the person having a duty to register that:

(i) The person is required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, at least ten (10) days before changing address.

(ii) Any change of address to another jurisdiction shall be reported to the department by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, not less than ten (10) days before the change of address. The offender shall comply with any registration requirement in the new jurisdiction.

(iii) The person must register in any jurisdiction where the person is employed, carries on a vocation, is stationed in the military or is a student.

(iv) Address verifications shall be made by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within the required time period.

(v) Notification or verification of a change in status of a registrant's enrollment, employment or vocation at any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education shall be reported to the department by personally appearing at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing,

including by electronic means, within three (3) business days of the change.

(vi) If the person has been convicted of a sex offense, the person shall notify any organization for which the person volunteers in which volunteers have direct, private or unsupervised contact with minors that the person has been convicted of a sex offense as provided in Section 45-33-32(1).

(vii) Upon any change of name or employment, a registrant is required to personally appear at a facility designated by the Department of Public Safety, or in a manner of the Department of Public Safety's choosing, including by electronic means, within three (3) business days of the change.

(viii) Upon any change of vehicle information, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(ix) Upon any change of e-mail address or addresses, instant message address or addresses or any other designation used in Internet communications, postings or telephone communications, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(x) Upon any change of information deemed to be necessary to the state's policy to assist local law enforcement agencies' efforts to protect their communities, a registrant is required to report the change on an appropriate form supplied by the department within three (3) business days of the change.

(b) Require the person to read and sign a form stating that the duty of the person to register under this chapter has been explained.

(c) Obtain or facilitate the obtaining of a biological sample from every registrant as required by this chapter if such biological sample has not already been provided to the Mississippi Forensics Laboratory.

(d) Provide a copy of the order of conviction or sentencing order to the department at the time of registration.

#### Miss. Code Ann. §45-33-41

##### §45-33-41. Notification to inmates and offenders by Department of Corrections, county or municipal jails, and juvenile detention facilities; victim notification

(1) The Department of Corrections or any person having charge of a county or municipal jail or any juvenile detention facility shall provide written notification to an inmate or offender in the custody of the jail or other facility due to a conviction of or adjudication for a sex offense of the registration and notification requirements of Sections 45-33-25, 45-33-31, 45-33-32 and 45-33-59 at the time of the inmate's or offender's confinement and release from confinement, and shall receive a signed acknowledgment of receipt on both occasions.

(2) At least fifteen (15) days prior to the inmate's release from confinement, the Department of Corrections shall notify the victim of the offense or a designee of the immediate family of the victim regarding the date when the offender's release shall occur, provided a current address of the victim or designated family member has been furnished in writing to the Director of Records for such purpose.

# Criminal Law

Miss. Code Ann. § 67-1-81

## § 67-1-81. Sales to minors prohibited; penalties.

(1)

(a) Any permittee or other person who shall sell, furnish, dispose of, give, or cause to be sold, furnished, disposed of, or given, any alcoholic beverage to any person under the age of twenty-one (21) years shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00) for a first offense. For a second or subsequent offense, such permittee or other person shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Two Thousand Dollars (\$2,000.00), or by imprisonment for not more than one (1) year, or by both such fine and imprisonment in the discretion of the court.

(b)

(i) If a permittee, or any employee of a permittee, violates paragraph (a) of this subsection (1), then, in addition to any other penalty provided for by law, the commissioner may impose the following penalties against the permittee on whose premises the alcoholic beverages were sold, given or furnished:

1. For the first offense on the licensed premises, suspension of the permit for not more than one (1) week.
2. For a second offense occurring on the licensed premises within a twelve-month period, suspension of the permit for not more than two (2) weeks.
3. For a third offense occurring on the licensed premises within a twelve-month period, suspension of the permit for not more than three (3) weeks or revocation of the permit.
4. For a fourth or subsequent offense occurring on the licensed premises within a twelve-month period, revocation of the permit.

A violation of paragraph (a) of this subsection (1) shall be sufficient to impose the administrative penalties authorized under this paragraph (b), and any expunction of conviction shall have no effect on any administrative penalty imposed against a permittee under this paragraph (b).

(2) Any person under the age of twenty-one (21) years who purchases, receives, or has in his or her possession in any public place, any alcoholic beverages, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00). Provided, that clearing or busing tables that have glasses or other containers that contain or did contain alcoholic beverages, or stocking, bagging or otherwise handling purchases of alcoholic beverages shall not be deemed possession of alcoholic beverages for the purposes of this section. Provided further, that a person who is at least eighteen (18) years of age but under the age of twenty-one (21) years who waits on tables by taking orders for or delivering orders of alcoholic beverages shall not be deemed to unlawfully possess or furnish alcoholic beverages if in the scope of his employment by the holder of an on-premises retailer's permit. This exception shall not authorize a person under the age of twenty-one (21) to tend bar or act in the capacity of bartender. Any person under the age of twenty-one (21) who knowingly makes a false

statement to the effect that he or she is twenty-one (21) years old or older or presents any document that indicates he or she is twenty-one (21) years of age or older for the purpose of purchasing alcoholic beverages from any person engaged in the sale of alcoholic beverages shall be guilty of a misdemeanor and shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Hundred Dollars (\$500.00), and a sentence to not more than thirty (30) days' community service.

(3) The term "community service" as used in this section shall mean work, projects or services for the benefit of the community assigned, supervised and recorded by appropriate public officials.

(4) If a person under the age of twenty-one (21) years is convicted or enters a plea of guilty of purchasing, receiving or having in his or her possession in any public place any alcoholic beverages in violation of subsection (2) of this section, the trial judge, in lieu of the penalties otherwise provided under subsection (2) of this section, shall suspend the minor's driver's license by taking and keeping it in the custody of the court for a period of time not to exceed ninety (90) days. The judge so ordering the suspension shall enter upon his docket "DEFENDANT'S DRIVER'S LICENSE SUSPENDED FOR \_\_\_\_ DAYS IN LIEU OF CONVICTION" and such action by the trial judge shall not constitute a conviction. During the period that the minor's driver's license is suspended, the trial judge shall suspend the imposition of any fines or penalties that may be imposed under subsection (2) of this section and may place the minor on probation subject to such conditions as the judge deems appropriate. If the minor violates any of the conditions of probation, then the trial judge shall return the driver's license to the minor and impose the fines, penalties or both, that he would have otherwise imposed, and such action shall constitute a conviction.

#### Miss. Code Ann. § 97-1-1

##### § 97-1-1. Conspiracy

(1) If two (2) or more persons conspire either:

(a) To commit a crime; or

(b) Falsely and maliciously to indict another for a crime, or to procure to be complained of or arrested for a crime; or

(c) Falsely to institute or maintain an action or suit of any kind; or

(d) To cheat and defraud another out of property by any means which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property or thing by false pretense; or

(e) To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use of employment thereof; or

(f) To commit any act injurious to the public health, to public morals, trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws; or

(g) To overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise; or

(h) To accomplish any unlawful purpose, or a lawful purpose by any unlawful means; such persons, and each of them, shall be guilty of a felony and upon conviction may be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not

more than five (5) years, or by both. (2) Where one (1) or more of the conspirators is a law enforcement officer engaged in the performance of official duty or a person acting at the direction of a law enforcement officer in the performance of official duty, any remaining conspirator may be charged under this section if the alleged conspirator acted voluntarily and willfully and was not entrapped by the law enforcement officer or person acting at the direction of a law enforcement officer.

(2) Where one (1) or more of the conspirators is a law enforcement officer engaged in the performance of official duty or a person acting at the direction of a law enforcement officer in the performance of official duty, any remaining conspirator may be charged under this section if the alleged conspirator acted voluntarily and willfully and was not entrapped by the law enforcement officer or person acting at the direction of a law enforcement officer.

(3) Where the crime conspired to be committed is capital murder or murder as defined by law or is a violation of Section 41-29-139(b)(1), Section 41-29-139(c)(2)(D) or Section 41-29-313(1), being provisions of the Uniform Controlled Substances Law, the offense shall be punishable by a fine of not more than Five Hundred Thousand Dollars (\$500,000.00) or by imprisonment for not more than twenty (20) years, or by both.

(4) Where the crime conspired to be committed is a misdemeanor, then upon conviction said crime shall be punished as a misdemeanor as provided by law.

#### Miss. Code Ann. § 97-1-6

§ 97-1-6. Directing or causing felony to be committed by person under age of seventeen years.

In addition to any other penalty and provision of law, any person over the age of seventeen (17) who shall direct or cause any person under the age of seventeen (17) to commit any crime which would be a felony if committed by an adult shall be guilty of a felony and upon conviction shall be fined not more than Ten Thousand Dollars (\$10,000.00) or imprisoned for not more than twenty (20) years, or both.

#### Miss. Code Ann. § 97-3-7

§ 97-3-7. S Simple assault; aggravated assault; simple domestic violence; simple domestic violence third; aggravated domestic violence; aggravated domestic violence third.

(1)(a) A person is guilty of simple assault if he or she (i) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; (ii) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) attempts by physical menace to put another in fear of imminent serious bodily harm; and, upon conviction, he or she shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(b) However, a person convicted of simple assault upon any of the persons listed in subsection (14) of this section under the circumstances enumerated in subsection (14) shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than five (5) years, or both.

(2)(a) A person is guilty of aggravated assault if he or she (i) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; (ii) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) causes any injury to a child who is in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615; and, upon conviction, he or she shall be punished by imprisonment in the county jail for

not more than one (1) year or sentenced to the custody of the Department of Corrections for not more than twenty (20) years.

(b) However, a person convicted of aggravated assault upon any of the persons listed in subsection (14) of this section under the circumstances enumerated in subsection (14) shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than thirty (30) years, or both.

(3)(a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of simple domestic violence who:

- (i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another;
- (ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or
- (iii) Attempts by physical menace to put another in fear of imminent serious bodily harm.

Upon conviction, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(b) **Simple domestic violence; third.** A person is guilty of the felony of simple domestic violence third who commits simple domestic violence as defined in this subsection (3) and who, at the time of the commission of the offense in question, has two (2) prior convictions, whether against the same or another victim, within seven (7) years, for any combination of simple domestic violence under this subsection (3) or aggravated domestic violence as defined in subsection (4) of this section or substantially similar offenses under the law of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction, the defendant shall be sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years.

(4)(a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of aggravated domestic violence who:

- (i) Attempts to cause serious bodily injury to another, or causes such an injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;
- (ii) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or
- (iii) Strangles, or attempts to strangle another.

Upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not less than two (2) nor more than twenty (20) years.

(b) **Aggravated domestic violence; third.** A person is guilty of aggravated domestic violence third who, at the time of the commission of that offense, commits aggravated domestic violence as defined in this subsection (4) and who has two (2) prior convictions within the past seven (7) years, whether against the same or another victim, for any combination of aggravated domestic violence under this subsection (4) or simple domestic violence third as defined in subsection (3) of this



section, or substantially similar offenses under the laws of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction for aggravated domestic violence third, the defendant shall be sentenced to a term of imprisonment of not less than ten (10) nor more than twenty (20) years.

- (5) **Sentencing for fourth or subsequent domestic violence offense.** Any person who commits an offense defined in subsection (3) or (4) of this section, and who, at the time of the commission of that offense, has at least three (3) previous convictions, whether against the same or different victims, for any combination of offenses defined in subsections (3) and (4) of this section or substantially similar offenses under the law of another state, of the United States, or of a federally recognized Native American tribe, shall, upon conviction, be sentenced to imprisonment for not less than fifteen (15) years nor more than twenty (20) years.
- (6) In sentencing under subsections (3), (4) and (5) of this section, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.
- (7) Reasonable discipline of a child, such as spanking, is not an offense under subsections (3) and (4) of this section.
- (8) A person convicted under subsection (4) or (5) of this section shall not be eligible for parole under the provisions of Section 47-7-3(1)(c) until he or she shall have served one (1) year of his or her sentence.
- (9) For the purposes of this section:
- (a) "Strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck, throat or chest of another person by any means or to intentionally block the nose or mouth of another person by any means.
  - (b) "Dating relationship" means a social relationship as defined in Section 93-21-3.
- (10) Every conviction under subsection (3), (4) or (5) of this section may require as a condition of any suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.
- (11)(a) Upon conviction under subsection (3), (4) or (5) of this section, the court shall be empowered to issue a criminal protection order prohibiting the defendant from any contact with the victim. The court may include in a criminal protection order any other condition available under Section 93-21-15. The duration of a criminal protection order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the continued safety of the victim or another person. However, municipal and justice courts may issue criminal protection orders for a maximum period of time not to exceed one (1) year. Circuit and county courts may issue a criminal protection order for any period of time deemed necessary. Upon issuance of a criminal protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays, pursuant to Section 93-21-25.
- (b) A criminal protection order shall not be issued against the defendant if the victim of the offense, or the victim's lawful representative where the victim is a minor or incompetent person, objects to its issuance, except in circumstances where the court, in its discretion, finds that a criminal protection order is necessary for the safety and well-being of a victim who is a minor child or incompetent adult.

(c) Criminal protection orders shall be issued on the standardized form developed by the Office of the Attorney General and a copy provided to both the victim and the defendant.

(d) It shall be a misdemeanor to knowingly violate any condition of a criminal protection order. Upon conviction for a violation, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(12) When investigating allegations of a violation of subsection (3), (4), (5) or (11) of this section, whether or not an arrest results, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged under this section. The uniform offense report shall not be required if, upon investigation, the offense does not involve persons in the relationships specified in subsections (3) and (4) of this section.

(13) In any conviction under subsection (3), (4), (5) or (11) of this section, the sentencing order shall include the designation "domestic violence." The court clerk shall enter the disposition of the matter into the corresponding uniform offense report.

(14) Assault upon any of the following listed persons is an aggravating circumstance for charging under subsections (1)(b) and (2)(b) of this section:

(a) When acting within the scope of his or her duty, office or employment at the time of the assault: a statewide elected official; law enforcement officer; fireman; emergency medical personnel; health care provider; employees of a health care provider or health care facility; social worker, family protection specialist or family protection worker employed by the Department of Human Services or another agency; Division of Youth Services personnel; any county or municipal jail officer; superintendent, principal, teacher or other instructional personnel, school attendance officer or school bus driver; any member of the Mississippi National Guard or United States Armed Forces; a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court; district attorney or legal assistant to a district attorney; county prosecutor or municipal prosecutor; court reporter employed by a court, court administrator, clerk or deputy clerk of the court; public defender; or utility worker;

(b) A legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his or her duty, office or employment; or

(c) A person who is sixty-five (65) years of age or older or a person who is a vulnerable person, as defined in Section 43-47-5.

#### Miss. Code Ann. § 97-3-51

§ 97-3-51. Interstate removal of child under age fourteen by noncustodial parent or relative.

(1) For the purposes of this section, the following terms shall have the meaning herein ascribed unless the context otherwise clearly requires:

(a) "Child" means a person under the age of fourteen (14) years at the time a violation of this section is alleged to have occurred.

(b) "Court order" means an order, decree or judgment of any court of this state which is competent

to decide child custody matters.

(2) It shall be unlawful for any noncustodial parent or relative with intent to violate a court order awarding custody of a child to another to remove the child from this state or to hold the child out of state after the entry of a court order.

(3) Any person convicted of a violation of subsection (2) of this section shall be guilty of a felony and may be punished by a fine of not more than Two Thousand Dollars (\$2,000.00), or by imprisonment in the state penitentiary for a term not to exceed three (3) years, or by both such fine and imprisonment.

(4) The provisions of this section shall not be construed to repeal, modify or amend any other criminal statute of this state.

Miss. Code Ann. §97-3-53

§97-3-53. Kidnapping, punishment

Any person who, without lawful authority and with or without intent to secretly confine, shall forcibly seize and confine any other person, or shall inveigle or kidnap any other person with intent to cause such person to be confined or imprisoned against his or her will, or without lawful authority shall forcibly seize, inveigle or kidnap any vulnerable person as defined in Section 43-47-5 or any child under the age of sixteen (16) years against the will of the parents or guardian or person having the lawful custody of the child, upon conviction, shall be imprisoned for life in the custody of the Department of Corrections if the punishment is so fixed by the jury in its verdict. If the jury fails to agree on fixing the penalty at imprisonment for life, the court shall fix the penalty at not less than one (1) year nor more than thirty (30) years in the custody of the Department of Corrections.

This section shall not be held to repeal, modify or amend any other criminal statute of this state.

Miss. Code Ann. §97-3-54.1

§97-3-54.1. Human Trafficking Act; prohibited conduct; penalty.

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

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

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

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

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

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

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

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

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

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

(4) In addition to the mandatory reporting provisions contained in Sections 43-21-353 and 97-5-51, any person who has reasonable cause to suspect that a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Child Protection Services and to the Statewide Human Trafficking Coordinator. The Department of Child Protection Services or the Statewide Human Trafficking Coordinator, whichever is applicable, shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse, neglect or trafficking occurred as required in Section 43-21-353, and the department that received the report shall also commence an initial investigation into the suspected abuse or neglect as required in Section 43-21-353. The department that received such report shall provide an annual report to the Speaker of the Mississippi House of Representatives, the Lieutenant Governor, the Chairpersons of the House and Senate Judiciary Committees that includes the number of reports received, the number of cases screened in or out, the number of cases in which care and services were provided as a result of the report, and the type of care and services that were provided. A minor who has been identified as a victim of trafficking shall not be liable for criminal activity in violation of this section.

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

(a) Is a victim; and

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

Miss. Code Ann. § 97-3-65

§97-3-65. Statutory rape; enhanced penalty for forcible sexual intercourse or statutory rape by administering certain substances; criminal sexual assault protection order.

(1) The crime of statutory rape is committed when:

(a) Any person seventeen (17) years of age or older has sexual intercourse with a child who:

(i) Is at least fourteen (14) but under sixteen (16) years of age;

(ii) Is thirty-six (36) or more months younger than the person; and

(iii) Is not the person's spouse; or

(b) A person of any age has sexual intercourse with a child who:

(i) Is under the age of fourteen (14) years;

(ii) Is twenty-four (24) or more months younger than the person; and

(iii) Is not the person's spouse.

(2) Neither the victim's consent nor the victim's lack of chastity is a defense to a charge of statutory rape.

(3) Upon conviction for statutory rape, the defendant shall be sentenced as follows:

(a) If eighteen (18) years of age or older, but under twenty-one (21) years of age, and convicted under subsection (1)(a) of this section, to imprisonment for not more than five (5) years in the State Penitentiary or a fine of not more than Five Thousand Dollars (\$5,000.00), or both;

(b) If twenty-one (21) years of age or older and convicted under subsection (1)(a) of this section, to imprisonment of not more than thirty (30) years in the State Penitentiary or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense;

(c) If eighteen (18) years of age or older and convicted under subsection (1)(b) of this section, to imprisonment for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years;

(d) If thirteen (13) years of age or older but under eighteen (18) years of age and convicted under subsection (1)(a) or (1)(b) of this section, such imprisonment, fine or other sentence as the court, in its discretion, may determine.

(4)(a) Every person who shall have forcible sexual intercourse with any person, or who shall have sexual intercourse not constituting forcible sexual intercourse or statutory rape with any person without that person's consent by administering to such person any substance or liquid which shall

produce such stupor or such imbecility of mind or weakness of body as to prevent effectual resistance, upon conviction, shall be imprisoned for life in the State Penitentiary if the jury by its verdict so prescribes; and in cases where the jury fails to fix the penalty at life imprisonment, the court shall fix the penalty at imprisonment in the State Penitentiary for any term as the court, in its discretion, may determine.

- (b) This subsection (4) shall apply whether the perpetrator is married to the victim or not.
- (5) In all cases where a victim is under the age of sixteen (16) years, it shall not be necessary to prove penetration where it is shown the genitals, anus or perineum of the child have been lacerated or torn in the attempt to have sexual intercourse with the child.
- (6) (a) Upon conviction under this section, the court may issue a criminal sexual assault protection order prohibiting the offender from any contact with the victim, without regard to the relationship between the victim and offender. The court may include in a criminal sexual assault protection order any relief available under Section 93-21-15. The term of a criminal sexual assault protection order shall be for a time period determined by the court, but all orders shall, at a minimum, remain in effect for a period of two (2) years after the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole. Upon issuance of a criminal sexual assault protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance, with no exceptions for weekends or holidays as provided in Section 93-21-25, and a copy must be provided to both the victim and offender.
- (6) (b) Criminal sexual assault protection orders shall be issued on the standardized form developed by the Office of the Attorney General.
- (6) (c) It is a misdemeanor to knowingly violate any condition of a criminal sexual assault protection order. Upon conviction for a violation, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than six (6) months, or both. Any sentence imposed for the violation of a criminal sexual assault protection order shall run consecutively to any other sentences imposed on the offender. The court shall also be empowered to extend the criminal sexual assault protection order for a period of one (1) year for each violation. The incarceration of a person at the time of the violation is not a bar to prosecution under this section. Nothing in this subsection shall be construed to prohibit the imposition of any other penalties or disciplinary action otherwise allowed by law or policy.
- (7) For the purposes of this section, “sexual intercourse” shall mean a joining of the sexual organs of a male and female human being in which the penis of the male is inserted into the vagina of the female or the penetration of the sexual organs of a male or female human being in which the penis or an object is inserted into the genitals, anus or perineum of a male or female. Miss. Code Ann. § 97-3-73

§97-3-73. Robbery definition.

Every person who shall feloniously take the personal property of another, in his presence or from his person and against his will, by violence to his person or by putting such person in fear of some immediate injury to his person, shall be guilty of robbery.



Miss. Code Ann. §97-3-77

§97-3-77. Robbery; threat to injure person or relative at another time.

Every person who shall feloniously take the personal property of another, in his presence or from his person, which shall have been delivered or suffered to be taken through fear of some injury threatened to be inflicted at some different time to his person or property, or to the person of any member of his family or relative, which fear shall have been produced by the threats of the person so receiving or taking such property, shall be guilty of robbery.

Miss. Code Ann. §97-3-79

§97-3-79. Robbery use of deadly weapon.

Every person who shall feloniously take or attempt to take from the person or from the presence the personal property of another and against his will by violence to his person or by putting such person in fear of immediate injury to his person by the exhibition of a deadly weapon shall be guilty of robbery and, upon conviction, shall be imprisoned for life in the state penitentiary if the penalty is so fixed by the jury; and in cases where the jury fails to fix the penalty at imprisonment for life in the state penitentiary the court shall fix the penalty at imprisonment in the state penitentiary for any term not less than three (3) years.

Miss. Code Ann. §97-3-85

§97-3-85. Threats and intimidation; by letter or notice.

If any person shall post, mail, deliver, or drop a threatening letter or notice to another, whether such other be named or indicated therein or not, with intent to terrorize or to intimidate such other, he shall, upon conviction, be punished by imprisonment in the county jail not more than six months, or by fine not more than five hundred dollars, or both.

Miss. Code Ann. §97-3-87

§97-3-87. Threats and intimidation; whitecapping.

Any person or persons who shall, by placards, or other writing, or verbally, attempt by threats, direct or implied, of injury to the person or property of another, to intimidate such other person into an abandonment or change of home or employment, shall, upon conviction, be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or in the penitentiary not exceeding five years, as the court, in its discretion may determine.

Miss. Code Ann. §97-3-95

§97-3-95. Sexual battery.

(1) A person is guilty of sexual battery if he or she engages in sexual penetration with:

- (a) Another person without his or her consent;
- (b) A mentally defective, mentally incapacitated or physically helpless person;
- (c) A child at least fourteen (14) but under sixteen (16) years of age, if the

person is thirty-six (36) or more months older than the child; or

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

(2) A person is guilty of sexual battery if he or she engages in sexual penetration with a child under the age of eighteen (18) years if the person is in a position of trust or authority over the child including without limitation the child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

Miss. Code Ann. §97-3-97

§97-3-97. Sexual battery; definitions

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

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

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

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

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

Miss. Code Ann. §97-3-105

§97-3-105. Hazing; initiation into organization.

(1) A person is guilty of hazing in the first degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury.

(2) Any person violating the provisions of subsection (1) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00) or imprisonment in the county jail for not more than six (6) months, or both.

(3) A person is guilty of hazing in the second degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct which creates a substantial risk of physical injury to such other person or a third person.

(4) Any person violating the provisions of subsection (3) of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00).

(5) The provisions of this section shall be in addition to other criminal laws, and actions taken

pursuant to this section shall not bar prosecutions for other violations of criminal law.

Miss. Code Ann. §97-3-107

§97-3-107. Stalking; aggravated stalking; penalties; definitions.

(1)(a) Any person who purposefully engages in a course of conduct directed at a specific person, or who makes a credible threat, and who knows or should know that the conduct would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person, or to fear damage or destruction of his or her property, is guilty of the crime of stalking.

(b) A person who is convicted of the crime of stalking under this section shall be punished by imprisonment in the county jail for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

(c) Any person who is convicted of a violation of this section when there is in effect at the time of the commission of the offense a valid temporary restraining order, ex parte protective order, protective order after hearing, court approved consent agreement, or an injunction issued by a municipal, justice, county, circuit or chancery court, federal or tribal court or by a foreign court of competent jurisdiction prohibiting the behavior described in this section against the same party, shall be punished by imprisonment in the county jail for not more than one (1) year and by a fine of not more than One Thousand Five Hundred Dollars (\$1,500.00).

(2)(a) A person who commits acts that would constitute the crime of stalking as defined in this section is guilty of the crime of aggravated stalking if any of the following circumstances exist:

(i) At least one (1) of the actions constituting the offense involved the use or display of a deadly weapon with the intent to place the victim of the stalking in reasonable fear of death or great bodily injury to self or a third person;

(ii) Within the past seven (7) years, the perpetrator has been previously convicted of stalking or aggravated stalking under this section or a substantially similar law of another state, political subdivision of another state, of the United States, or of a federally recognized Indian tribe, whether against the same or another victim; or

(iii) At the time of the offense, the perpetrator was a person required to register as a sex offender pursuant to state, federal, military or tribal law and the victim was under the age of eighteen (18) years.

(b) Aggravated stalking is a felony punishable as follows:

(i) Except as provided in subparagraph (ii), by imprisonment in the custody of the Department of Corrections for not more than five (5) years and a fine of not more than Three Thousand Dollars (\$3,000.00).

(ii) If, at the time of the offense, the perpetrator was required to register as a sex offender pursuant to state, federal, military or tribal law, and the victim was under the age of eighteen (18) years, by imprisonment for not more than six (6) years in the custody of the Department of Corrections and a fine of Four Thousand Dollars (\$4,000.00).

(3) Upon conviction, the sentencing court shall consider issuance of an order prohibiting the perpetrator from any contact with the victim. The duration of any order prohibiting contact with the victim shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim or another person.

(4) Every conviction of stalking or aggravated stalking may require as a condition of any suspended sentence or sentence of probation that the defendant, at his own expense, submit to psychiatric or psychological counseling or other such treatment or behavioral modification program deemed appropriate by the court.

(5) In any prosecution under this section, it shall not be a defense that the perpetrator was not given actual notice that the course of conduct was unwanted or that the perpetrator did not intend to cause the victim fear.

(6) When investigating allegations of a violation of this section, law enforcement officers shall utilize the Uniform Offense Report prescribed by the Office of the Attorney General in consultation with the sheriffs' and police chiefs' associations. However, failure of law enforcement to utilize the Uniform Offense Report shall in no way invalidate the crime charged under this section.

(7) For purposes of venue, any violation of this section shall be considered to have been committed in any county in which any single act was performed in furtherance of a violation of this section. An electronic communication shall be deemed to have been committed in any county from which the electronic communication is generated or in which it is received.

(8) For the purposes of this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of two (2) or more acts over a period of time, however short, evidencing a continuity of purpose and that would cause a reasonable person to fear for his or her own safety, to fear for the safety of another person, or to fear damage or destruction of his or her property. Such acts may include, but are not limited to, the following or any combination thereof, whether done directly or indirectly: (i) following or confronting the other person in a public place or on private property against the other person's will; (ii) contacting the other person by telephone or mail, or by electronic mail or communication as defined in Section 97-45-1; or (iii) threatening or causing harm to the other person or a third party.

(b) "Credible threat" means a verbal or written threat to cause harm to a specific person or to cause damage to property that would cause a reasonable person to fear for the safety of that person or damage to the property.

(c) "Reasonable person" means a reasonable person in the victim's circumstances.

(9) The incarceration of a person at the time the threat is made shall not be a bar to prosecution under this section. Constitutionally protected activity is not prohibited by this section.

Miss. Code Ann. § 97-3-109

§97-3-109. Drive-by shootings and bombings; penalties; arrest power

(1) A person is guilty of a drive-by shooting if he attempts, other than for lawful self-defense, to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life by discharging a firearm while in or on a vehicle.

(2) A person is guilty of a drive-by bombing if he attempts to cause serious bodily injury to another or attempts to cause damage to the property of another, or causes such injury or damage purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life by throwing or ejecting any bomb or explosive device from a vehicle while in or on the vehicle.

- (3) A person convicted of violating subsection (1) or (2) of this section shall be punished by commitment to the custody of the State Department of Corrections for a term not to exceed thirty (30) years and a fine not to exceed Ten Thousand Dollars (\$10,000.00). A drive-by shooting or a drive-by bombing shall be a felony.
- (4) This section shall not be construed to restrict the power to apprehend or arrest a person committing an offense if such apprehension or arrest is otherwise lawful.

Miss. Code Ann. §97-3-110

§97-3-110. Seizure and forfeiture of firearms unlawfully possessed by juveniles and of motor vehicles used in drive-by shootings or bombings.

- (1) Whenever a person under eighteen (18) years of age is unlawfully in possession of a firearm, the firearm shall be seized and, after an adjudication of delinquency or conviction, shall be subject to forfeiture.
- (2) Whenever a person under eighteen (18) years of age unlawfully discharges a firearm in or throws or ejects a bomb from a motor vehicle in violation of Section 97-3-109, Mississippi Code of 1972, the motor vehicle shall be subject to seizure and, after an adjudication of delinquency or conviction, be subject to forfeiture pursuant to the procedures set forth in Section 97-3-111, Mississippi Code of 1972.

Miss. Code Ann. §97-5-5

§ 97-5-5. Enticing child for concealment, prostitution or marriage.

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

Miss. Code Ann. § 97-5-7

§97-5-7. Enticing child for employment.

Any person who shall persuade, entice or decoy away from its father or mother with whom it resides any child under the age of eighteen (18) years, being unmarried, for the purpose of employing such child without the consent of its parents, or one of them, shall upon conviction be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail not more than one (1) year, or both. Investigation and prosecution of a defendant under this section does not preclude prosecution of the defendant for a violation of other applicable criminal laws, including, but not limited to, the Mississippi Human Trafficking Act, Section 97-3-54 et seq.

Miss. Code Ann. §97-5-23

§97-5-23. Touching, handling, etc., child, mentally defective or incapacitated person or physically helpless person.

- (1) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any

part of his or her body or any member thereof, or with any object, any child under the age of sixteen (16) years, with or without the child's consent, or a mentally defective, mentally incapacitated or physically helpless person as defined in Section 97-3-97, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court.

(2) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any part of his or her body or any member thereof, any child younger than himself or herself and under the age of eighteen (18) years who is not such person's spouse, with or without the child's consent, when the person occupies a position of trust or authority over the child shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court. A person in a position of trust or authority over a child includes without limitation a child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

(3) Upon a second conviction for an offense under this section or a substantially similar offense under the laws of another state, the person so convicted shall be punished by commitment to the State Department of Corrections for a term not to exceed twenty (20) years.

Miss. Code Ann. §97-5-24

§97-5-24. Sexual involvement of school employee with student; duty to report; penalties for failure to report; immunity from civil liability for report made in good faith.

If any person eighteen (18) years or older who is employed by any public school district or private school in this state is accused of fondling or having any type of sexual involvement with any child under the age of eighteen (18) years who is enrolled in such school, the principal of such school and the superintendent of such school district shall timely notify the district attorney with jurisdiction where the school is located of such accusation, the Mississippi Department of Education and the Department of Human Services, provided that such accusation is reported to the principal and to the school superintendent and that there is a reasonable basis to believe that such accusation is true.

Any superintendent, or his designee, who fails to make a report required by this section shall be subject to the penalties provided in Section 37-1 1-35. Any superintendent, principal, teacher or other school personnel participating in the making of a required report pursuant to this section or participating in any judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed.

Miss. Code Ann. § 97-5-27

§97-5-27. Dissemination of sexually oriented material to persons under eighteen years of age; use of computer for purpose of luring or inducing persons under eighteen years of age to engage in sexual contact.

(1) Any person who intentionally and knowingly disseminates sexually oriented material to any person under eighteen (18) years of age shall be guilty of a misdemeanor and, upon conviction, shall be fined for each offense not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars



(\$5,000.00) or be imprisoned for not more than one (1) year in the county jail, or be punished by both such fine and imprisonment. A person disseminates sexually oriented material within the meaning of this section if he:

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

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

(c) Exhibits, presents, rents, sells, delivers or provides, or offers or agrees to exhibit, present, rent or to provide any sexually oriented still or motion picture, film, filmstrip or projection slide, or sound recording, sound tape or sound track or any matter or material of whatever form which is a representation, embodiment, performance or publication that is sexually oriented.

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

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

(i) Knowing the character and content of any communication of sexually oriented material, he intentionally uses any computer communication system allowing the input, output, examination or transfer of computer data or computer programs from one (1) computer to another, to initiate or engage in such communication with a person under the age of eighteen (18); and

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

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

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

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

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

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

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

(d) In any prosecution for computer luring:

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

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

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

(e) Computer luring is a felony, and any person convicted thereof shall be punished by commitment to the custody of the Department of Corrections for a term not to exceed three (3) years and by a fine not to exceed Ten Thousand Dollars (\$10,000.00).

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

Miss. Code Ann. § 97-5-31

§ 97-5-31. Exploitation of children; definitions.

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

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

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

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

(ii) Bestiality;

(iii) Masturbation;

(iv) Sadistic or masochistic abuse;

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

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

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

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

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

(f) "Simulated" means any depicting of the genitals or rectal areas that gives the appearance of sexual conduct or

incipient sexual conduct.

Miss. Code Ann. § 97-5-33

§ 97-5-33. Exploitation of children; prohibitions.

(1) No person shall, by any means including computer, cause, solicit or knowingly permit any child to engage in sexually explicit conduct or in the simulation of sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) No person shall, by any means including computer, photograph, film, video tape or otherwise depict or record a child engaging in sexually explicit conduct or in the simulation of sexually explicit conduct.

(3) No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(4) No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(5) No person shall, by any means including computer, knowingly possess or knowingly access with intent to view any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(6) No person shall, by any means including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce, or order a child to meet with the defendant or any other person for the purpose of engaging in sexually explicit conduct.

(7) No person shall by any means, including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce or order a child to produce any visual depiction of adult sexual conduct or any sexually explicit conduct.

(8) The fact that an undercover operative or law enforcement officer posed as a child or was involved in any other manner in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(9) For purposes of determining jurisdiction, the offense is committed in this state if all or part of the conduct described in this section occurs in the State of Mississippi or if the transmission that constitutes the offense either originates in this state or is received in this state.

Miss. Code Ann. §97-5-39

§97-5-39. Contributing to the neglect or delinquency of a child; felonious abuse and/or battery of a child.

(1)(a) Except as otherwise provided in this section, any parent, guardian or other person who intentionally, knowingly or recklessly commits any act or omits the performance of any duty, which act or omission contributes to or tends to contribute to the neglect or delinquency of any child or which act or omission results in the abuse of any child, as defined in Section 43-21-105(m) of the Youth Court Law, or who knowingly aids any child in escaping or absented himself from the guardianship or custody of any person, agency or institution, or knowingly harbors or conceals, or aids in harboring or concealing, any child who has absented himself without permission from the guardianship or custody of

any person, agency or institution to which the child shall have been committed by the youth court shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not to exceed one (1) year in jail, or by both such fine and imprisonment.

(b) For the purpose of this section, a child is a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services, or who is married, is not considered a child for the purposes of this statute.

(c) If a child commits one (1) of the proscribed acts in subsection (2)(a), (b) or (c) of this section upon another child, then original jurisdiction of all such offenses shall be in youth court.

(d) If the child's deprivation of necessary clothing, shelter, health care or supervision appropriate to the child's age results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment in custody of the Department of Corrections for not more than five (5) years or to payment of a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

(e) A parent, legal guardian or other person who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment in the custody of the Department of Corrections for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(2) Any person shall be guilty of felonious child abuse in the following circumstances:

(a) Whether bodily harm results or not, if the person shall intentionally, knowingly or recklessly:

(i) Burn any child

(ii) Physically torture any child;

(iii) Strangle, choke, smother or in any way interfere with any child's breathing;

(iv) Poison a child;

(v) Starve a child of nourishments needed to sustain life or growth;

(vi) Use any type of deadly weapon upon any child;

(b) If some bodily harm to any child actually occurs, and if the person shall intentionally, knowingly, or recklessly:

(i) Throw, kick, bite, or cut any child;

(ii) Strike a child under the age of fourteen (14) about the face or head with a closed fist;

(iii) Strike a child under the age of five (5) in the face or head;

(iv) Kick, bite, cut or strike a child's genitals; circumcision of a male child is not a violation under this subparagraph (iv);

(c) If serious bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly:

(i) Strike any child on the face or head;

(ii) Disfigure or scar any child;

(iii) Whip, strike, or otherwise abuse any child;

(d) Any person, upon conviction under paragraph (a) or (c) of this subsection, shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than five (5) years and up to life, as determined by the court. Any person, upon conviction under paragraph (b) of this subsection shall be sentenced by the court to imprisonment in the custody of the Department of Corrections for a term of not less than two (2) years nor more than ten (10) years, as determined by the court. For any second or subsequent conviction under this subsection (2), the person shall be sentenced to imprisonment for life.

(e) For the purposes of this subsection (2), "bodily harm" means any bodily injury to a child and includes, but is not limited to, bruising, bleeding, lacerations, soft tissue swelling, and external or internal swelling of any body organ.

(f) For the purposes of this subsection (2), "serious bodily harm" means any serious bodily injury to a child and includes, but is not limited to, the fracture of a bone, permanent disfigurement, permanent scarring, or any internal bleeding or internal trauma to any organ, any brain damage, any injury to the eye or ear of a child or other vital organ, and impairment of any bodily function.

(g) Nothing contained in paragraph (c) of this subsection shall preclude a parent or guardian from disciplining a child of that parent or guardian, or shall preclude a person in loco parentis to a child from disciplining that child, if done in a reasonable manner, and reasonable corporal punishment or reasonable discipline as to that parent or guardian's child or child to whom a person stands in loco

(h) Reasonable discipline and reasonable corporal punishment shall not be a defense to acts described in paragraphs (a) and (b) of this subsection or if a child suffers serious bodily harm as a result of any act prohibited under paragraph (c) of this subsection.

(3) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(4)(a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars (\$20,000.00), or both.

(5) Nothing contained in this section shall prevent proceedings against the parent, guardian or other person under any statute of this state or any municipal ordinance defining any act as a crime or misdemeanor. Nothing in the provisions of this section shall preclude any person from having a right to trial by jury when charged with having violated the provisions of this section.

(6) After consultation with the Department of Human Services, a regional mental health center or an appropriate professional person, a judge may suspend imposition or execution of a sentence provided in subsections (1) and (2) of this section and in lieu thereof require treatment over a

specified period of time at any approved public or private treatment facility. A person may be eligible for treatment in lieu of criminal penalties no more than one (1) time.

(7) In any proceeding resulting from a report made pursuant to Section 43-21-353 of the Youth Court Law, the testimony of the physician making the report regarding the child's injuries or condition or cause thereof shall not be excluded on the ground that the physician's testimony violates the physician-patient privilege or similar privilege or rule against disclosure. The physician's report shall not be considered as evidence unless introduced as an exhibit to his testimony.

(8) Any criminal prosecution arising from a violation of this section shall be tried in the circuit, county, justice or municipal court having jurisdiction; provided, however, that nothing herein shall abridge or dilute the contempt powers of the youth court.

Miss. Code Ann. § 97-5-40

§97-5-40. Condoning child abuse.

(1) Any parent, guardian, custodian, stepparent or any other person who lives in the household with a child, who knowingly condones an incident of felonious child abuse of that child, which consists of one or more violations of (a) subsection (2) of Section 97-5-39 or (b) felonious sexual battery of that child, which consists of one or more violations of Section 97-3-95 shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment for not more than one (1) year or by a fine of not more than One Thousand Dollars (\$1,000.00), or both.

(2) A person shall not be considered to have condoned child abuse merely because such person does not report an act of child abuse.

(3) The provisions of this section shall be in addition to any other criminal law.

Miss. Code Ann. § 97-5-41

§97-5-41. Carnal knowledge of certain children

(1) Any person who shall have carnal knowledge of his or her unmarried stepchild or adopted child younger than himself or herself and over fourteen (14) and under eighteen (18) years of age, upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding ten (10) years.

(2) Any person who shall have carnal knowledge of an unmarried child younger than himself or herself and over fourteen (14) and under eighteen (18) years of age, with whose parent he or she is cohabiting or living together as husband and wife, upon conviction, shall be punished by imprisonment in the penitentiary for a term not exceeding ten (10) years.

Miss. Code Ann. §97-5-51

§97-5-51. Mandatory reporting of sex crimes against minors;  
definitions; procedure; report contents; forensic samples; penalties.

(1) Definitions. For the purposes of this section:

(a) "Sex crime against a minor" means any offense under at least one (1) of the following statutes



when committed by an adult against a minor who is under the age of sixteen (16):

- (i) Section 97-3-65 relating to rape;
- (ii) Section 97-3-71 relating to rape and assault with intent to ravish;
- (iii) Section 97-3-95 relating to sexual battery;
- (iv) Section 97-5-23 relating to the touching of a child, mentally defective or incapacitated person or physically helpless person for lustful purposes;
- (v) Section 97-5-41 relating to the carnal knowledge of a stepchild, adopted child or child of a cohabiting partner;
- (vi) Section 97-5-33 relating to exploitation of children;
- (vii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor;
- (viii) Section 43-47-18 relating to sexual abuse of a vulnerable person;
- (ix) Section 97-1-7 relating to the attempt to commit any of the offenses listed in this subsection.
- (x) Section 97-29-51 relating to procuring sexual services of a minor; and

(xi) Section 43-47-18 and Section 43-47-19 relating to sexual battery abuse of a vulnerable person who is a minor.

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

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

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

(e) "Teaching or child care provider" means anyone who provides training or supervision of a minor under the age of sixteen (16), including a teacher, teacher's aide, principal or staff member of a public or private school, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider.

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

(g) "Caretaker" means any person legally obligated to provide or secure adequate care for a minor

under the age of sixteen (16), including a parent, guardian, tutor, legal custodian or foster home parent.

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

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

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

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

(3)(a) Mandatory reporting procedure. A report required under subsection (2) must be made immediately to the law enforcement agency in whose jurisdiction the reporter believes the sex crime against the minor occurred. Except as otherwise provided in this subsection (3), a mandatory reporter may not delegate to any other person the responsibility to report, but shall make the report personally.

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

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

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

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

- (i) The name and address of the minor victim;
- (ii) The name and address of the minor's caretaker;
- (iii) Any other pertinent information known to the reporter.

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

offender has committed a sex crime against a minor.

(5a) Collection of forensic samples.

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

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

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

1. The mother of the infant will not identify the father of the infant;
2. The mother of the infant lists the father of the infant as unknown;
3. The person the mother identifies as the father of the infant disputes his fatherhood;
4. The person the mother identifies as the father of the infant is twenty-one (21) years of age or older; or
5. The person the mother identifies as the father is deceased.

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

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

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

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

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

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

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

**(6) Penalties.**

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

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

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

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

Miss. Code Ann. §97-17-3

§97-17-3. Arson; first degree; place of worship; failure to report accidental fires; juvenile offenders.

(1) Any person who willfully and maliciously sets fire to, or burns, or causes to be burned, or who is a party to destruction by explosion from combustible material, who aids, counsels, or procures the burning or destruction of any church, temple, synagogue or other established place of worship, whether in use or vacant, shall be guilty of arson in the first degree and, upon conviction therefor, shall be sentenced to the penitentiary for not less than five (5) nor more than thirty (30) years and shall pay restitution for any damage caused.

(2) Any person observing or witnessing the destruction by fire of any state-supported school building or any church, temple, synagogue or other established place of worship, whether occupied or vacant, which fire was the result of his or her act of an accidental nature, and who willfully fails to sound the general alarm or report such fire to the local fire department or other local authorities, shall be guilty of a felony and, upon conviction therefor, shall be sentenced to the penitentiary for not less than two (2) nor more than ten (10) years and shall pay restitution for any damage caused.

(3) Any person, who by reason of his age comes under the jurisdiction of juvenile authorities and who is found guilty under subsection (1) of this section, shall not be eligible for probation unless and until at least six (6) months' confinement has been served in a state reform school.

(4) Any person convicted under this section shall be subject to treble damages for any damage caused by such person.

(5) Any property used in the commission of arson in the first degree shall be subject to forfeiture as provided in Section 97-17-4.

Miss. Code Ann. § 97-17-33

§ 97-17-33. Burglary; breaking and entering building other than dwelling; railroad car; vessels; automobiles.

(1) Every person who shall be convicted of breaking and entering, in the day or night, any shop, store, booth, tent, warehouse, or other building or private room or office therein, water vessel, commercial or pleasure craft, ship, steamboat, flatboat, railroad car, automobile, truck or trailer in which any goods, merchandise, equipment or valuable thing shall be kept for use, sale, deposit, or transportation, with intent to steal therein, or to commit any felony, or who shall be convicted of breaking and entering in the day or night time, any building within the curtilage of a dwelling house, not joined to, immediately connected with or forming a part thereof, shall be guilty of burglary, and imprisoned in the penitentiary not more than seven (7) years.

(2) Any person who shall be convicted of breaking and entering a church, synagogue, temple or other established place of worship with intent to commit some crime therein shall be punished by imprisonment in the penitentiary not more than fourteen (14) years.

Miss. Code Ann. § 97-17-39

§ 97-17-39. Penalties for injuring, destroying or defacing certain cemetery property, public buildings, schools or churches, or property thereof.

If any person, by any means whatever, shall willfully or mischievously injure or destroy any of the burial vaults, urns, memorials, vases, foundations, bases or other similar items in a cemetery, or injure or destroy any of the work, materials, or furniture of any courthouse or jail, or other public building, or schoolhouse or church, or deface any of the walls or other parts thereof, or shall write, or make any drawings or character, or do any other act, either on or in said building or the walls thereof, or shall deface or injure the trees, fences, pavements, or soil, on the grounds belonging thereto, or an ornamental or shade tree on any public road or street leading thereto, such person, upon conviction, for such offense,

shall be punished as follows:

(a) If the damage caused by the destruction or defacement of such property has a value of less than Five Hundred Dollars (\$500.00), any person who is convicted of this offense may be fined not more than One Thousand Dollars (\$1,000.00) or be imprisoned in the county jail for not more than one

(1) year, or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding Two Thousand Dollars (\$2,000.00), or both.

(b) If the damage caused by the destruction or defacement of such property has a value equal to or exceeding Five Hundred Dollars (\$500.00) or more but less than Five Thousand Dollars (\$5,000.00), any person who is convicted of this offense shall be fined not more than Five Thousand Dollars (\$5,000.00) or be imprisoned in the State Penitentiary for up to five (5) years, or both.

(c) If the damage caused by the destruction or defacement of such property has a value of Five Thousand Dollars (\$5,000.00) or more but less than Twenty-five Thousand Dollars (\$25,000.00), any person who is convicted of this offense shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned in the Penitentiary for up to ten (10) years, or both.

(d) If the damage caused by the destruction or defacement of such property has a value of Twenty-five Thousand Dollars (\$25,000.00) or more, any person who is convicted of this offense shall be fined not more than Ten Thousand Dollars (\$10,000.00) or be imprisoned in the Penitentiary for up to twenty (20) years, or both.

Miss. Code Ann. §97-17-41

§97-17-41. Grand larceny; felonious taking of personal property; felonious taking of property of established place of worship; penalties.

(1) Any person who shall be convicted of taking and carrying away, feloniously, the personal property of another, of the value of One Thousand Dollars (\$1,000.00) or more, but less than Five Thousand Dollars (\$5,000.00), shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding five (5) years; or shall be fined not more than Ten Thousand Dollars (\$10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.

(2) Any person who shall be convicted of taking and carrying away, feloniously, the personal property of another, of the value of Five Thousand Dollars (\$5,000.00) or more, but less than Twenty-five Thousand Dollars (\$25,000.00), shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding ten (10) years; or shall be fined not more than Ten Thousand Dollars (\$10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.

(3) Any person who shall be convicted of taking and carrying away, feloniously, the personal property of another, of the value of Twenty-five Thousand Dollars (\$25,000.00) or more, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding twenty (20) years; or shall be fined not more than Ten Thousand Dollars (\$10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining

the gravity of the offense.

(4)(a) Any person who shall be convicted of taking and carrying away, feloniously, the property of a church, synagogue, temple or other established place of worship, of the value of One Thousand Dollars (\$1,000.00) or more, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding ten (10) years, or shall be fined not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) Any person who shall be convicted of taking and carrying away, feloniously, the property of a church, synagogue, temple or other established place of worship, of the value of Twenty-five Thousand Dollars (\$25,000.00) or more, shall be guilty of grand larceny, and shall be imprisoned in the Penitentiary for a term not exceeding twenty (20) years, or shall be fined not more than Ten Thousand Dollars (\$10,000.00), or both. The total value of property taken and carried away by the person from a single victim shall be aggregated in determining the gravity of the offense.

Miss. Code Ann. §97-17-43

§ 97-17-43. Petit larceny defined; penalty.

(1) If any person shall feloniously take, steal and carry away any personal property of another under the value of One Thousand Dollars (\$1,000.00), he shall be guilty of petit larceny and, upon conviction, may be punished by imprisonment in the county jail not exceeding six (6) months or by a fine not exceeding One Thousand Dollars (\$1,000.00), or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine not exceeding One Thousand Dollars (\$1,000.00), or both. The total value of property taken, stolen or carried away by the person from a single victim shall be aggregated in determining the gravity of the offense. Any person convicted of a third or subsequent offense under this section where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding One Thousand Dollars (\$1,000.00), or both.

(2) If any person shall feloniously take, steal and carry away any property of a church, synagogue, temple or other established place of worship under the value of One Thousand Dollars (\$1,000.00), he shall be guilty of petit larceny and, upon conviction, may be punished by imprisonment in the county jail not exceeding one (1) year or by fine not exceeding Two Thousand Dollars (\$2,000.00), or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable-to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine not exceeding Two Thousand Dollars (\$2,000.00), or both. Any person convicted of a third or subsequent offense under this section where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding Two Thousand Dollars (\$2,000.00), or both.

(3) Any person who leaves the premises of an establishment at which motor fuel offered for retail sale was dispensed into the fuel tank of a motor vehicle by driving away in that motor vehicle without having made due payment or authorized charge for the motor fuel so dispensed, with intent to defraud the retail establishment, shall be guilty of petit larceny and punished as provided in subsection (1) of this section and, upon any second or subsequent such offense, the driver's license of the person shall be



suspended as follows:

(a) The person shall submit the driver's license to the court upon conviction and the court shall forward the driver's license to the Department of Public Safety.

(b) The first suspension of a driver's license under this subsection shall be for a period of six (6) months.

(c) A second or subsequent suspension of a driver's license under this subsection shall be for a period of one (1) year.

(d) At the expiration of the suspension period, and upon payment of a restoration fee of Twenty-five Dollars (\$25.00), the suspension shall terminate and the Department of Public Safety shall return the person's driver's license to the person. The restoration fee shall be in addition to the fees provided for in Title 63, Chapter 1, and shall be deposited into the State General Fund in accordance with Section 45-1-23.

Miss. Code Ann. § 97-17-67

§97-17-67. Malicious mischief

(1) Every person who shall maliciously or mischievously destroy, disfigure, or injure, or cause to be destroyed, disfigured, or injured, any property of another, either real or personal, shall be guilty of malicious mischief.

(2) If the value of the property destroyed, disfigured or injured is One Thousand Dollars (\$1,000.00) or less, it shall be a misdemeanor and may be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment in the county jail not exceeding twelve (12) months, or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding One Thousand Dollars (\$1,000.00), or both.

(3) If the value of the property destroyed, disfigured or injured is in excess of One Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars (\$5,000.00), it shall be a felony punishable by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding five (5) years, or both.

(4) If the value of the property is Five Thousand Dollars (\$5,000.00) or more but less than Twenty-five Thousand Dollars (\$25,000.00), it shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding ten (10) years, or both.

(5) If the value of the property is Twenty-five Thousand Dollars (\$25,000.00) or more, it shall be punishable by a fine of not more than Ten Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary not exceeding twenty (20) years, or both.

(6) In all cases restitution to the victim for all damages shall be ordered. The value of property destroyed, disfigured or injured by the same party as part of a common crime against the same or multiple victims may be aggregated together and if the value exceeds One Thousand Dollars (\$1,000.00), shall be a felony.

(7) For purposes of this statute, value shall be the cost of repair or replacement of the property damaged or destroyed.

(8) Anyone who by any word, deed or act directly or indirectly urges, aids, abets, suggests or otherwise instills in the mind of another the will to so act shall be considered a principal in the commission of said crime and shall be punished in the same manner.

Miss. Code Ann. § 97-17-68

§ 97-17-68. Coin operated devices; description of offenses and imposition of penalties; prosecution under this section does not bar prosecution or punishment under other statutes.

(1) It shall be unlawful for any person: (a) to willfully open, enter, remove, break into or tamper with any parking meter, coin telephone or other coin-operated vending machine dispensing goods or services with the intent to commit a larceny therefrom; (b) to possess a key or device designed and intended by him to aid in the commission of larceny from any parking meter, coin telephone or other coin-operated vending machine dispensing goods or services; (c) to possess a drawing, print or mold of a key or device designed and intended by him to aid in the commission of larceny from any parking meter, coin telephone or other coin-operated vending machine dispensing goods or services; or (d) to break into or enter any parking meter, coin telephone or other coin-operated vending machine dispensing goods or services with the intent to steal therefrom.

(2) Any person who violates any provision of this section shall be punished upon the first conviction by imprisonment in the county jail or sentenced to hard labor for the county for a period of not more than thirty (30) days, or by a fine of not more than Two Hundred Dollars (\$200.00), or by both such fine and imprisonment. Upon any subsequent conviction, such person shall be punished by imprisonment in the county jail for a period of not less than six (6) months nor more than one (1) year, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such fine and imprisonment.

(3) The fact that a person may be subject to prosecution under this section shall not bar his prosecution or punishment under Section 97-17-67 relating to malicious mischief, under the statutes relating to larceny, or under any other statute or ordinance to the extent that such would otherwise be permitted in the absence of this section.

Miss. Code Ann. §97-29-3

§97-29-3. Adultery and fornication; between teacher and pupil.

If any teacher and any pupil under eighteen (18) years of age of such teacher, not being married to each other, shall have sexual intercourse, each with the other, they shall, for every such offense, be fined in any sum, not more than five hundred dollars (\$500.00) each, and the teacher may be imprisoned not less than three (3) months nor more than six (6) months.

Miss. Code Ann. §97-29-17

§97-29-17. Bribery; participant in professional or amateur games or other athletic contests; wrestling excepted.

(1) Whoever gives, promises, or offers to any professional or amateur baseball, football, basketball, or tennis player, or any player who participates in or expects to participate in any professional or amateur game or sport, or any person participating or expecting to participate in any other athletic contest or any coach, manager, or trainer of any team or participant or prospective participant in any such game, contest, or sport, anything of value with the intent to influence such participant to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in any baseball, football, basketball or tennis game, boxing, or other athletic contest in which such player or participant is taking part or expects to take part or has any duty in connection therewith shall be guilty of a felony and upon conviction shall be punished by imprisonment in the county jail for not less than six (6) months nor more than five (5) years in the penitentiary, or by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by both such fine and imprisonment.

(2) Any professional or amateur baseball, football, basketball, or tennis player or any boxer or participant or prospective participant in any sport or game or a manager, coach, or trainer of any team or individual participant or prospective participant in such game, contest, or sport who solicits or accepts anything of value to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in any baseball, football, basketball, tennis or boxing contest or any other game or sport in which he is taking part or expects to take part or has any duties in connection therewith shall be guilty of a felony and upon conviction shall be punished by imprisonment in the county jail for not less than six (6) months nor more than five (5) years in the penitentiary, or by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by both such fine and imprisonment.

(3) The provisions of this section shall not be deemed to include any wrestling matches, it being expressly provided hereby that wrestling matches shall be deemed to be shows or exhibitions and not athletic contests.

Miss. Code Ann. §97-29-31

§97-29-31. Indecent exposure

A person who willfully and lewdly exposes his person, or private parts thereof, in any public place, or in any place where others are present, or procures another to so expose himself, is guilty of a misdemeanor and, on conviction for a first offense, shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or be imprisoned not exceeding six (6) months, or both. Upon conviction for a second offense within five (5) years, such person shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or shall be imprisoned not exceeding one (1) year, or both. Upon conviction of a third or subsequent offense within five (5) years, such person shall be guilty of a felony and shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or shall be imprisoned for not more than five (5) years in the State Penitentiary, or both. It is not a violation of this statute for a woman to breast-feed.

Miss. Code Ann. §97-29-45

§97-29-45. Obscene electronic and communications

(1) It shall be unlawful for any person or persons:

- (a) To make any comment, request, suggestion or proposal by means of telecommunication or electronic communication which is obscene, lewd or lascivious with intent to abuse, threaten or harass any party to a telephone conversation, telecommunication or electronic communication;
- (b) To make a telecommunication or electronic communication with intent to terrify, intimidate or harass, and threaten to inflict injury or physical harm to any person or to his property;
- (c) To make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at the called number;
- (d) To make a telephone call, whether or not conversation ensues, without disclosing his identity and with intent to annoy, abuse, threaten or harass any person at the called number;
- (e) To make repeated telephone calls, during which conversation ensues, solely to harass any person at the called number; or
- (f) Knowingly to permit a computer or a telephone of any type under his control to be used for any purpose prohibited by this section.

(2) Upon conviction of any person for the first offense of violating subsection (1) of this section, such person shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned in the county jail for not more than six (6) months, or both.

(3) Upon conviction of any person for the second offense of violating subsection (1) of this section, the offenses being committed within a period of five (5) years, such person shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned in the county jail for not more than one (1) year, or both.

(4) For any third or subsequent conviction of any person violating subsection (1) of this section, the offenses being committed within a period of five (5) years, such person shall be guilty of a felony and fined not more than Two Thousand Dollars (\$2,000.00) and/or imprisoned in the State Penitentiary for not more than two (2) years, or both.

(5) The provisions of this section do not apply to a person or persons who make a telephone call that would be covered by the provisions of the federal Fair Debt Collection Practices Act, 15 USCS Section 1692 et seq.

(6) Any person violating this section may be prosecuted in the county where the telephone call, conversation or language originates in case such call, conversation or language originates in the State of Mississippi. In case the call, conversation or language originates outside of the State of Mississippi then such person shall be prosecuted in the county to which it is transmitted.

(7) For the purposes of this section, telecommunication and electronic communication mean and include any type of telephonic, electronic or radio communications, or transmission of signs, signals, data, writings, images and sounds or intelligence of any nature by telephone, including cellular telephones, wire, cable, radio, electromagnetic, photoelectronic or photo-optical system or the creation, display, management, storage, processing, transmission or distribution of images, text, voice, video or data by wire, cable or wireless means, including the Internet.

(8) No person shall be held to have violated this section solely for providing access or connection to telecommunications or electronic communications services where the services do not include the creation of the content of the communication. Companies organized to do business as commercial broadcast radio stations, television stations, telecommunications service providers, Internet service providers, cable service providers or news organizations shall not be criminally liable under this section.

Miss. Code Ann. §97-29-47

§97-29-47. Profanity or drunkenness in public place.

If any person shall profanely swear or curse, or use vulgar and indecent language, or be drunk in any public place, in the presence of two (2) or more persons, he shall, on conviction thereof, he fined not more than one hundred dollars (\$100.00) or be imprisoned in the county jail not more than thirty (30) days or both.

Miss. Code Ann. § 97-29-49

§97-29-49. Prostitution; report to Department of Child Protection Services for suspected child sexual abuse or neglect if minor involved; immunity from prosecution if trafficked person involved.

(1) A person who is eighteen (18) years of age or older commits the misdemeanor of prostitution if the person knowingly or intentionally performs, or offers or agrees to perform, sexual intercourse or sexual conduct for money or other property. "Sexual conduct" includes cunnilingus, fellatio, masturbation of another, anal intercourse or the causing of penetration to any extent and with any object or body part of the genital or anal opening of another.

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

(3) In addition to the mandatory reporting provisions contained in Section 97-5-51, any law enforcement

officer who encounters a minor under eighteen (18) years of age and has reasonable cause to suspect that the minor has engaged in acts described in this section may take the minor into emergency custody in accordance with the requirements of the Youth Court Act for the purpose of obtaining an order of removal of the minor, and shall contact and make a report to the Department of Child Protection Services as required in Section 43-21-353 for suspected child sexual abuse or neglect, and the department shall commence an initial investigation into suspected child sexual abuse or neglect as required in Section 43-21-353.

(4) If it is determined that a person suspected of or charged with engaging in prostitution is engaging in those acts as a direct result of being a trafficked person, as defined by Section 97-3-54.4, that person shall be immune from prosecution for prostitution as an adult. If the person suspected of engaging in acts that would constitute prostitution is under the age of eighteen (18) the provisions of Section 97-3-54.1(4) shall be applicable.

Miss. Code Ann. §97-29-61

§97-29-61. Voyeurism; trespass by “peeping Tom”; when victim is adult; when victim is child under sixteen.

(1)(a) Any person who enters upon real property, whether the original entry is legal or not, and thereafter pries or peeps through a window or other opening in a dwelling or other building structure for the lewd, licentious and indecent purpose of spying upon the occupants thereof, shall be guilty of a felonious trespass.

(b) Any person who looks through a window, hole or opening, or otherwise views by means of any instrumentality, including, but not limited to, a periscope, telescope, binoculars, drones, camera, motion-picture camera, camcorder or mobile phone, into the interior of a bedroom, bathroom, changing room, fitting room, dressing room, spa, massage room or therapy room or tanning booth, or the interior of any other area in which the occupant has a reasonable expectation of privacy, with the intent to invade the privacy of a person or persons inside and without the consent or knowledge of every person present, for the lewd, licentious and indecent purpose of spying upon the occupant or occupants thereof, shall be guilty of a felony.

(2)(a) Except as provided in paragraph (b) of this subsection, a person who was over the age of twenty-one (21) at the time of the offense who is convicted of a violation of subsection (1) of this section shall be imprisoned in the custody of the Department of Corrections not more than five (5) years.

(b) When one or more occupants spied upon is a child under sixteen (16) years of age, a person who was over the age of twenty-one (21) at the time of the offense who is convicted of a violation of subsection (1) of this section shall be imprisoned in the custody of the Department of Corrections not more than ten (10) years.

Miss. Code Ann. §97-29-63

§97-29-63. Photographing or filming another without permission where there is expectation of privacy; when victim is adult; when victim is child under sixteen.

(1)(a) It is a felony for any person with lewd, licentious or indecent intent to photograph, film, videotape, record or otherwise reproduces the image of another person without the permission of the other person when the other person is located in a place where a person would intend to be in a state of undress and have a reasonable expectation of privacy, including, but not limited to, private dwellings or any facility, public or private, used as a restroom, bathroom, shower room, tanning booth, locker room, fitting room, dressing room



or bedroom shall be guilty of a felony.

(b) It is a felony for any person to invade the privacy of another person and with lewd, licentious or indecent intent to photograph, film, videotape, record or otherwise reproduce the image of another, identifiable person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, the other person without the consent or knowledge of the other person and under circumstances in which the other person has a reasonable expectation that the other person's body or undergarments would not be viewed or would not be the subject of a reproduced image.

(2)(a) Except as provided in paragraph (b) of this subsection, a person who was over the age of twenty-one (21) at the time of the offense who is convicted of a violation of subsection (1) of this section shall be punished by a fine of Five Thousand Dollars (\$5,000.00) or by imprisonment of not more than five (5) years in the custody of the Department of Corrections, or both.

(c) Where the person who is secretly photographed, filmed, videotaped or otherwise reproduced is a child under sixteen (16) years of age, a person who was over the age of twenty-one (21) at the time of the offense who is convicted of a violation of subsection (1) of this section shall be punished by a fine of Five Thousand Dollars (\$5,000.00) or by imprisonment of not more than ten (10) years in the custody of the Department of Corrections, or both.

Miss. Code Ann. § 97-29-101

§ 97-29-101. Distribution or wholesale distribution of obscene materials or performances; character and reputation as evidence; prosecutor's bond.

A person commits the offense of distributing obscene materials or obscene performances when he sells, rents, leases, advertises, publishes or exhibits to any person any obscene material or obscene performance of any description knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so. A person commits the offense of wholesale distributing obscene materials or obscene performances when he distributes for the purpose of resale any obscene material or obscene performance of any description knowing the obscene nature thereof, or offers to do so, or possesses such material with the intent to do so. The word "knowing" as used in this section means either actual or constructive knowledge of the obscene contents of the subject matter, and a person has constructive knowledge of the obscene contents if he has knowledge of facts which would put a reasonable and prudent person on notice as to the suspect nature of the material. The character and reputation of an individual charged with an offense under Sections 97- 29-101 through 97-29-109 and, if a commercial dissemination of obscene material or an obscene performance is involved, the character and reputation of the business establishment involved, may be placed in evidence by the defendant on the question of intent to violate Sections 97-29-101 through 97-29-109.

Any person, other than a city attorney, county prosecuting attorney or district attorney, who shall sign an affidavit charging an offense prescribed by this section shall file a bond in the amount of five hundred dollars (\$500.00) at the time such affidavit is lodged. Such bond shall be conditioned that the affidavit was not filed frivolously, maliciously or out of ill will.

Miss. Code Ann. §97-29-103

§ 97-29-103 Definitions.

(1) Material or performance is obscene if:

(a) To the average person, applying contemporary community standards, taken as a whole, it appeals to the prurient interest, that is, a lustful, erotic, shameful, or morbid interest in nudity, sex or excretion; and

(b) The material taken as a whole lacks serious literary, artistic, political or scientific value; and

(c) The material depicts or describes in a patently offensive way, sexual conduct specifically defined in subparagraphs (i) through (v) below:

(i) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

(ii) Acts of masturbation;

(iii) Acts involving excretory functions or lewd exhibition of the genitals;

(iv) Acts of bestiality or the fondling of sex organs of animals; or

(v) Sexual acts of flagellation, torture or other violence indicating a sadomasochistic sexual relationship.

(2) Undeveloped photographs, molds, printing plates and the like shall be deemed obscene material, notwithstanding that processing or other acts may be required to make the obscenity patent or to distribute it.

(3) "Performance" means a play, motion picture, dance or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Wholesale distributes" means to distribute for the purpose of resale.

(6) "Material" means any book, magazine, newspaper, advertisement, pamphlet, poster, print, picture, figure, image, drawing, description, motion picture film, phonographic record, recording tape, video tape, or other tangible thing producing, reproducing or capable of producing or reproducing an image, picture, sound or sensation through sight, sound or touch, but it does not include an actual three-dimensional sexual device as defined in Section 97-29-105.

Miss. Code Ann. §97-32-9

§97-32-9. Juvenile purchase, possession and consumption of tobacco or alternative nicotine product; penalties.

No person under eighteen (18) years of age shall purchase any tobacco product. No student of any high school, junior high school or elementary school shall possess tobacco on any educational property as defined in Section 97-37-17.

(a) If a person under eighteen (18) years of age is found by a court to be in violation of any other statute and is also found to be in possession of a tobacco product, the court may order the minor to perform up to three (3) hours of community service, in addition to any other punishment imposed by the court.

(i) For a first offense, pay a fine of One Hundred Dollars (\$100.00), and perform no more than fifteen (15) hours of community service;

(ii) For a second offense, a fine of Three Hundred Dollars (\$300.00), and no more than twenty-five (25) hours of community service;

(iii) For a third offense or subsequent offense, a fine of Five Hundred Dollars (\$500.00), and no more than forty (40) hours of community service.

(b) A violation under this section is not to be recorded on the criminal history of the minor and, upon proof of satisfaction of the court's order, the record shall be expunged from any records other than youth court records.

Miss. Code Ann. §97-35-11

§97-35-11. Disturbance by abusive language or indecent exposure; exception.

Any person who enters the dwelling house of another, or the yard or curtilage thereof, or upon the public highway, or any other place near such premises, and in the presence or hearing of the family or the possessor or occupant thereof, or of any member thereof, makes use of abusive, profane, vulgar or indecent language, or is guilty of any indecent exposure of his or her person at such place, shall be punished for a misdemeanor. The act of breast-feeding shall not constitute indecent exposure.

Miss. Code Ann. §97-35-13

§97-35-13. Disturbance in public place

Any person who shall enter any public place of business of any kind whatsoever, or upon the premises of such public place of business, or any other public place whatsoever, in the State of Mississippi, and while therein or thereon shall create a disturbance, or a breach of the peace, in any way whatsoever, including, but not restricted to, loud and offensive talk, the making of threats or attempting to intimidate, or any other conduct which causes a disturbance or breach of the peace or threatened breach of the peace, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than five hundred dollars (\$500.00) or imprisoned in jail not more than six (6) months, or both such fine and imprisonment.

Miss. Code Ann. §97-35-45

§97-35-45. False alarm of fire.

It shall be unlawful for any person to report a fire to another by any means, knowing that such report is false. Any violation of this section shall be punishable by imprisonment in the county jail not to exceed one (1) year or by fine not to exceed five hundred dollars (\$500.00), or both.

Miss. Code Ann. §97-35-47

§97-35-47. False reporting of crime.

It shall be unlawful for any person to report a crime or any element of a crime to any law enforcement or any officer of any court, by any means, knowing that such report is false. A violation of this section shall be punishable by imprisonment in the county jail not to exceed one (1) year or by fine not to exceed Five Thousand Dollars (\$5,000.00), or both. In addition to any fine and imprisonment, and upon proper showing made to the court, the defendant shall be ordered to pay as restitution to the law enforcement agency reimbursement for any reasonable costs directly related to the investigation of the falsely reported crime and the prosecution of any person convicted under this section.

A report is false under this section when it is unsupported by any credible evidence and the person intentionally submitted the report knowing it was false.

Miss. Code Ann. §97-35-49

§97-35-49. Focusing laser beam at law enforcement officer, fire fighter or other emergency personnel; penalties.

(1) It shall be unlawful for a person intentionally and without legal justification to focus, point or aim a laser beam directly or indirectly at a law enforcement officer, fire fighter or any emergency personnel who is in uniform and engaged in the performance of official duty in such a manner as to harass, annoy or injure such law enforcement officer, fire fighter or emergency personnel.

(2) A person who violates this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00).

Miss. Code Ann. §97-37-1

§97-37-1. Deadly weapons; carrying while concealed; use or attempt to use; penalties; "concealed" defined.

(1) Except as otherwise provided in Section 45-9-101, any person who carries, concealed on or about one's person, any bowie knife, dirk knife, butcher knife, switchblade knife, metallic knuckles, blackjack, slingshot, pistol, revolver, or any rifle with a barrel of less than sixteen (16) inches in length, or any shotgun with a barrel of less than eighteen (18) inches in length, machine gun or any fully automatic firearm or deadly weapon, or any muffler or silencer for any firearm, whether or not it is accompanied by a firearm, or uses or attempts to use against another person any imitation firearm, shall, upon conviction, be punished as follows:

(a) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or both, in the discretion of the court, for the first conviction under this section.

(b) By a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars

(\$500.00), and imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, for the second conviction under this section.

(c) By confinement in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, for the third or subsequent conviction under this section.

(d) By confinement in the custody of the Department of Corrections for not less than one (1) year nor more than ten (10) years for any person previously convicted of any felony who is convicted under this section.

(2) It shall not be a violation of this section for any person over the age of eighteen (18) years to carry a firearm or deadly weapon concealed within the confines of his own home or his place of business, or any real property associated with his home or business or within any motor vehicle.

(3) It shall not be a violation of this section for any person to carry a firearm or deadly weapon concealed if the possessor of the weapon is then engaged in a legitimate weapon-related sports activity or is going to or returning from such activity. For purposes of this subsection, "legitimate weapon-related sports activity" means hunting, fishing, target shooting or any other legal activity which normally involves the use of a firearm or other weapon.

(4) For the purposes of this section, "concealed" means hidden or obscured from common observation and shall not include any weapon listed in subsection (1) of this section, including, but not limited to, a loaded or unloaded pistol carried upon the person in a sheath, belt holster or shoulder holster that is wholly or partially visible, or carried upon the person in a scabbard or case for carrying the weapon that is wholly or partially visible.

#### Miss. Code Ann. §97-37-7

#### §97-37-7. Deadly weapons; persons permitted to carry weapons; bond; permit to carry weapon; grounds for denying application for permit; required weapons training course; reciprocal agreements.

(1)(a) It shall not be a violation of Section 97-37-1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by duly constituted bank guards, company guards, watchmen, railroad special agents or duly authorized representatives who are not sworn law enforcement officers, agents or employees of a patrol service, guard service, or a company engaged in the business of transporting money, securities or other valuables, while actually engaged in the performance of their duties as such, provided that such persons have made a written application and paid a nonrefundable permit fee of One Hundred Dollars (\$100.00) to the Department of Public Safety

(b) No permit shall be issued to any person who has ever been convicted of a felony under the laws of this or any other state or of the United States. To determine an applicant's eligibility for a permit, the person shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. The department shall charge a fee which includes the amounts required by the Federal Bureau of Investigation and the department for the national and state criminal history record checks and any necessary costs incurred by the department for the handling and administration of the criminal history background checks. In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of three (3) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted

by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety

(c) A person may obtain a duplicate of a lost or destroyed permit upon payment of a Fifteen Dollar (\$15.00) replacement fee to the Department of Public Safety, if he furnishes a notarized statement to the department that the permit has been lost or destroyed.

(d)(i) No less than ninety (90) days prior to the expiration date of a permit, the Department of Public Safety shall mail to the permit holder written notice of expiration together with the renewal form prescribed by the department. The permit holder shall renew the permit on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the permit holder remains qualified, and the renewal fee of Fifty Dollars (\$50.00); honorably retired law enforcement officers shall be exempt from payment of the renewal fee. A permit holder who fails to file a renewal application on or before its expiration date shall pay a late fee of Fifteen Dollars (\$15.00).

(ii) Renewal of the permit shall be required every four (4) years. The permit of a qualified renewal applicant shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.

(iii) A permit cannot be renewed six (6) months or more after its expiration date, and such permit shall be deemed to be permanently expired; the holder may reapply for an original permit as provided in this section.

(2) It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by Department of Wildlife, Fisheries and Parks law enforcement officers, railroad special agents who are sworn law enforcement officers, investigators employed by the Attorney General, criminal investigators employed by the district attorneys, all prosecutors, public defenders, investigators or probation officers employed by the Department of Corrections, employees of the State Auditor who are authorized by the State Auditor to perform investigative functions, or any deputy fire marshal or investigator employed by the State Fire Marshal, while engaged in the performance of their duties as such, or by fraud investigators with the Department of Human Services, or by judges of the Mississippi Supreme Court, Court of Appeals, circuit, chancery, county, justice and municipal courts, or by coroners. Before any person shall be authorized under this subsection to carry a weapon, he shall complete a weapons training course approved by the Board of Law Enforcement Officer Standards and Training. Before any criminal investigator employed by a district attorney shall be authorized under this section to carry a pistol, firearm or other weapon, he shall have complied with Section 45-6-11 or any training program required for employment as an agent of the Federal Bureau of Investigation. A law enforcement officer, as defined in Section 45-6-3, shall be authorized to carry weapons in courthouses in performance of his official duties. A person licensed under Section 45-9-101 to carry a concealed pistol, who (a) has voluntarily completed an instructional course in the safe handling and use of firearms offered by an instructor certified by a nationally recognized organization that customarily offers firearms training, or by any other organization approved by the Department of Public Safety, (b) is a member or veteran of any active or reserve component branch of the United States of America Armed Forces having completed law enforcement or combat training with pistols or other handguns as recognized by such branch after submitting an affidavit attesting to have read, understand and agree to comply with all provisions of the enhanced carry law, or (c) is an honorably retired law enforcement officer or honorably retired member or veteran of any active or reserve component branch of the United States of America Armed Forces having completed law enforcement or combat training with pistols or other handguns, after submitting an affidavit attesting to have read, understand and agree to comply with all provisions of Mississippi enhanced carry law shall also be authorized to carry weapons in courthouses except in courtrooms during a judicial proceeding, and any



location listed in subsection (13) of Section 45-9-101, except any place of nuisance as defined in Section 95-3-1, any police, sheriff or highway patrol station or any detention facility, prison or jail. For the purposes of this subsection (2), component branch of the United States Armed Forces includes the Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army National Guard, the Army National Guard of the United States, the Air National Guard or the Air National Guard of the United States, as those terms are defined in Section 101, Title 10, United States Code, and any other reserve component of the United States Armed Forces enumerated in Section 10101, Title 10, United States Code. The department shall promulgate rules and regulations allowing concealed pistol permit holders to obtain an endorsement on their permit indicating that they have completed the aforementioned course and have the authority to carry in these locations. This section shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom. It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons, to be carried by any out-of-state, full-time commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification. The provisions of this subsection shall only apply if the state where the out-of-state officer is employed has entered into a reciprocity agreement with the state that allows full-time commissioned law enforcement officers in Mississippi to lawfully carry or possess a weapon in such other states. The Commissioner of Public Safety is authorized to enter into reciprocal agreements with other states to carry out the provisions of this subsection.

For purposes of this subsection (2), the following words shall have the meanings described herein, unless the context otherwise requires:

(i) "Courthouse" means any building in which a circuit court, chancery court, youth court, municipal court, justice court or any appellate court is located, or any building in which a court of law is regularly held.

(ii) "Courtroom" means the actual room in which a judicial proceeding occurs, including any jury room, witness room, judge's chamber, office housing the judge's staff, or similar room. "Courtroom" shall not mean hallways, courtroom entrances, courthouse grounds, lobbies, corridors, or other areas within a courthouse which are generally open to the public for the transaction of business outside of an active judicial proceeding, the grassed areas, cultivated flower beds, sidewalks, parking lots, or other areas contained within the boundaries of the public land upon which the courthouse is located.

(3) It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons, to be carried by any out-of-state, full-time commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification. The provisions of this subsection shall only apply if the state where the out-of-state officer is employed has entered into a reciprocity agreement with the state that allows full-time commissioned law enforcement officers in Mississippi to lawfully carry or possess a weapon in such other states. The Commissioner of Public Safety is authorized to enter into reciprocal agreements with other states to carry out the provisions of this subsection.

#### Miss. Code Ann. § 97-37-13

§ 97-37-13. Deadly weapons; weapons and cartridges not to be given to minor or intoxicated person.

It shall not be lawful for any person to sell, give or lend to any minor under eighteen (18) years of age or person intoxicated, knowing him to be a minor under eighteen (18) years of age or in a state of intoxication, any deadly weapon, or other weapon the carrying of which concealed is prohibited, or

pistol cartridge; and, on conviction thereof, he shall be punished by a fine not more than One Thousand Dollars (\$1,000.00), or imprisoned in the county jail not exceeding one (1) year, or both.

Miss. Code Ann. §97-37-14

§ 97-37-14. Possession of handgun by minor, act of delinquency;  
exceptions

(1) Except as otherwise provided in this section, it is an act of delinquency for any person who has not attained the age of eighteen (18) years knowingly to have any handgun in such person's possession.

(2) This section shall not apply to:

(a) Any person who is:

(i) In attendance at a hunter's safety course or a firearms safety course; or

(ii) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited; or

(iii) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group under 501(c)(3) as determined by the federal internal revenue service which uses firearms as a part of such performance; or

(iv) Hunting or trapping pursuant to a valid license issued to such person by the Department of Wildlife, Fisheries and Parks or as otherwise allowed by law; or

(v) Traveling with any handgun in such person's possession being unloaded to or from any activity described in subparagraph (i), (ii), (iii) or (iv) of this paragraph (a) and paragraph (b).

(b) Any person under the age of eighteen (18) years who is on real property under the control of an adult and who has the permission of such adult to possess a handgun.

(3) This section shall not apply to any person who uses a handgun or other firearm to lawfully defend himself from imminent danger at his home or place of domicile and any such person shall not be held criminally liable for such use of a handgun or other firearm.

(4) For the purposes of this section, "handgun" means a pistol, revolver or other firearm of any description, loaded or unloaded, from which any shot, bullet or other missile can be discharged, the length of the barrel of which, not including any revolving, detachable or magazine breech, is less than sixteen (16) inches.

Miss. Code Ann. §97-37-15

§ 97-37-15. Parent or guardian not to permit minor son to have or carry weapon;  
penalty.

Any parent, guardian or custodian who shall knowingly suffer or permit any child under the age of eighteen (18) years to have or to own, or to carry, any weapon the carrying of which concealed is prohibited by Section 97-37-1, shall be guilty of a misdemeanor, and, on conviction, shall be fined not more than One Thousand Dollars (\$1,000.00), and shall be imprisoned not more than six (6) months in the county jail. The provisions of this section shall not apply to a minor who is exempt from the

provisions of Section 97-37-14.

Miss. Code Ann. § 97-37-17

§ 97-37-17. Possession of weapons by students; aiding or encouraging.

(1) The following definitions apply to this section:

(a) "Educational property" shall mean any public or private school building or bus, public or private school campus, grounds, recreational area, athletic field, or other property owned, used or operated by any local school board, school, college or university board of trustees, or directors for the administration of any public or private educational institution or during a school-related activity, and shall include the facility and property of the Oakley Youth Development Center, operated by the Department of Human Services; provided, however, that the term "educational property" shall not include any sixteenth section school land or lieu land on which is not located a school building, school campus, recreational area or athletic field.

(b) "Student" shall mean a person enrolled in a public or private school, college or university, or a person who has been suspended or expelled within the last five (5) years from a public or private school, college or university, or a person in the custody of the Oakley Youth Development Center, operated by the Department of Human Services, whether the person is an adult or a minor. "Switchblade knife" shall mean a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(c) "Switchblade knife" shall mean a knife containing a blade or blades which open automatically by the release of a spring or a similar contrivance.

(d) "Weapon" shall mean any device enumerated in subsection (2) or (4) of this section.

(2) It shall be a felony for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(3) It shall be a felony for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind, or any dynamite cartridge, bomb, grenade, mine or powerful explosive on educational property. However, this subsection does not apply to a BB gun, air rifle or air pistol. Any person violating this subsection shall be guilty of a felony and, upon conviction thereof, shall be fined not more than Five Thousand Dollars (\$5,000.00), or committed to the custody of the State Department of Corrections for not more than three (3) years, or both.

(4) It shall be a misdemeanor for any person to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving), and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or be imprisoned not

exceeding six (6) months, or both.

(5) It shall be a misdemeanor for any person to cause, encourage or aid a minor who is less than eighteen (18) years old to possess or carry, whether openly or concealed, any BB gun, air rifle, air pistol, bowie knife, dirk, dagger, slingshot, leaded cane, switchblade, knife, blackjack, metallic knuckles, razors and razor blades (except solely for personal shaving) and any sharp-pointed or edged instrument except instructional supplies, unaltered nail files and clips and tools used solely for preparation of food, instruction and maintenance on educational property. Any person violating this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than One Thousand Dollars (\$1,000.00), or be imprisoned not exceeding six (6) months, or both.

(6) It shall not be a violation of this section for any person to possess or carry, whether openly or concealed, any gun, rifle, pistol or other firearm of any kind on educational property if:

- (a) The person is not a student attending school on any educational property;
- (b) The firearm is within a motor vehicle; and
- (c) The person does not brandish, exhibit or display the firearm in any careless, angry or threatening manner.

(7) This section shall not apply to:

(a) weapon used solely for educational or school-sanctioned ceremonial purposes, or used in a school-approved program conducted under the supervision of an adult whose supervision has been approved by the school authority;

(b) Armed Forces personnel of the United States, officers and soldiers of the militia and National Guard, law enforcement personnel, any private police employed by an educational institution, State Militia or Emergency Management Corps and any guard or patrolman in a state or municipal institution, and any law enforcement personnel or guard at a state juvenile training school, when acting in the discharge of their official duties;

(c) Home schools as defined in the compulsory school attendance law, Section 37-13-91;

(d) Competitors while participating in organized shooting events;

(e) Any person as authorized in Section 97-37-7 while in the performance of his official duties;

(f) Any mail carrier while in the performance of his official duties; or

(g) Any weapon not prescribed by Section 97-37-1 which is in a motor vehicle under the control of a parent, guardian or custodian, as defined in Section 43-21-105, which is used to bring or pick up a student at a school building, school property or school function.

(8) All schools shall post in public view a copy of the provisions of this section.

Miss. Code Ann. § 97-37-21

§ 97-37-21. Explosives and weapons of mass destruction; false report of placing.

It shall be unlawful for any person to report to another by any means, including telephone, mail, e-mail, mobile phone, fax or any means of communication, that a bomb or other explosive or chemical, biological or other weapons of mass destruction has been, or is to be, placed or secreted in any public

or private place, knowing that such report is false. Any person who shall be convicted of a violation of this section shall be fined not more than Ten Thousand Dollars (\$10,000.00) or shall be committed to the custody of the Department of Corrections for not more than ten (10) years, or both.

Miss. Code Ann. § 97-37-23

§ 97-37-23. Unlawful possession of explosives; duty of officers to make search and to seize explosives; exception to prohibition.

(1) Except for persons who are engaged in lawful business activities or persons who are engaged in educational activities conducted by educational institutions, it is unlawful for any person to have in his possession:

(a) Dynamite caps, nitroglycerine caps, fuses, detonators, dynamite, nitroglycerine, explosives, gas or stink bombs, or other similar explosives peculiarly possessed and adapted to aid in the commission of a crime; except such person or persons who are engaged in a lawful business which ordinarily requires the use thereof in the ordinary and usual conduct of such business, and who possess said articles for the purpose of use in said business;

(b) Any:

(i) Bomb;

(ii) Grenade;

(iii) Rocket having a propellant charge of more than four (4) ounces;

(iv) Missile having an explosive or incendiary charge of more than one-quarter ( 1/4 ) ounce;

(v) Mine;

(vi) Any combination of parts either designed or intended for use in converting any device into one or more of the destructive devices described in this paragraph (b); or

(vii) Any device which consists of or includes a breakable container including a flammable liquid or compound and a wick composed of any material which, when ignited, is capable of igniting such flammable liquid or compound and can be carried or thrown by one (1) individual acting alone; and

(viii) Or other similar explosives peculiarly possessed and adapted to aid in the commission of a crime; and

(c) Upon conviction of any person thereof, he shall be punished by imprisonment in the penitentiary for a term not to exceed five (5) years. The possession of such explosives by one who does not customarily use same in his regular and ordinary occupational activities shall be prima facie evidence of an intention to use same for such unlawful purposes.

(2) It shall be the duty of any sheriff, constable, marshal, or policeman in a municipality, or any person vested with general police authority, who has reason to believe and does believe that the above described explosives are being transported or possessed for aid in the commission of a crime, forthwith to make a reasonable search of such person or vehicle, and to seize such explosives and to at once arrest the person or persons having possession or control thereof. Such officer or officers proceeding in good faith shall not be liable either civilly or criminally for such a search and seizure without a warrant, so long as said search and seizure is conducted in a reasonable manner, it

appearing that the officer or officers had reason to believe and did believe that the law was being violated at the time such search was instituted. And the officer or officers making such search shall be competent to testify as a witness or witnesses as to all facts ascertained by means of said reasonable search or seizure, and all such explosives seized shall be admitted in evidence. But this section shall not authorize the search of a residence or home, or room, or building, or the premises belonging to or in the possession lawfully of the party suspected, without a search warrant.

(3) In order to invoke the exception provided in subsection (1) for persons who possess explosive articles for business purposes, such person must comply with the provisions of this subsection as follows:

(a) One or more individuals shall be designated by the owner of a business employing explosive articles subject to this section as the custodian for such articles; and

(b) The custodian shall notify the sheriff of any county wherein such articles are utilized or employed by registering with the sheriff in writing prior to such use and including in such registration:

(i) The business name and address of the owner of the articles;

(ii) The name, address and local address of the custodian;

(iii) The location of the job site where such articles shall be employed;

(iv) In the event subject articles will not be in the immediate possession of the custodian, the custodian shall advise the sheriff of the specific location where such articles are left or stored;

(v) Whenever business operations subject to this section or the storage of articles subject to this section occur within an incorporated municipality, the mayor or chief of police shall also be notified as required by this subsection.

(4) Any person who fails to comply with the provisions of subsection (3) of this section shall, upon conviction thereof, be punished by imprisonment in the state penitentiary for a term not to exceed one (1) year or by a fine in an amount not to exceed Ten Thousand Dollars (\$10,000.00), or by both.

(5) The provisions of subsections (3) and (4) of this section are supplemental to any other statutory provision, ordinances of local governments or liabilities or duties otherwise imposed by law.

#### Miss. Code Ann. §97-37-25

#### §97-37-25. Explosives and weapons of mass destruction; unlawful use.

It shall be unlawful for any person at any time to bomb, or to plant or place any bomb, or other explosive matter or chemical, biological or other weapons of mass destruction or thing in, upon or near any building, residence, ship, vessel, boat, railroad station, railroad car or coach, bus station, or depot, bus, truck, aircraft, or other vehicle, gas and oil stations and pipelines, radio station or radio equipment or other means of communication, warehouse or any electric plant or water plant, telephone exchange or any of the lines belonging thereto, wherein a person or persons are located or being transported, or where there is being manufactured, stored, assembled or shipped or in the preparation of shipment any goods, wares, merchandise or anything of value, with the felonious intent to hurt or harm any person or property, and upon conviction thereof shall be imprisoned for life in the State Penitentiary if the penalty

is so fixed by the jury; and in cases where the jury fails to fix the penalty at imprisonment for life in the State Penitentiary the court shall fix the penalty at imprisonment in the State Penitentiary for any term as the court, in its discretion, may determine, but not to be less than five (5) years.

Miss. Code Ann. §97-41-23

§ 97-41-23. Injury and killing of public service animals; penalties.

(1) It is unlawful for any person to willfully and maliciously taunt, torment, tease, beat, strike, or to administer, expose or inject any desensitizing drugs, chemicals or substance to any public service animal. Any person who violates this section is guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Two Hundred Dollars (\$200.00) and be imprisoned not more than five (5) days, or both.

(2) Any person who, without just cause, purposely kills or injures any public service animal is guilty of a felony and upon conviction shall be fined not more than Five Thousand Dollars (\$5,000.00) and be imprisoned not more than five (5) years, or both.

(3) For purposes of this section, the term “public service animal” means any animal trained and used to assist a law enforcement agency, public safety entity or search and rescue agency.

(4) A conviction and imposition of a sentence under this section does not prevent a conviction and imposition of a sentence under Section 97-41-16 pertaining to the offenses of simple or aggravated cruelty to a dog or cat, or under any other applicable provision of law.

(5) Any person guilty of violating subsection (2) of this section shall also be required to make restitution to the law enforcement agency or owner aggrieved thereby.

(6) The provisions of this section shall not apply to the lawful practice of veterinary medicine.

Miss. Code Ann. §97-45-1

§ 97-45-1. Definitions

For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Access" means to program, to execute programs on, to communicate with, store data in, retrieve data from or otherwise make use of any resources, including data or programs, of a computer, computer system or computer network.

(b) "Computer" includes an electronic, magnetic, optical or other high-speed data processing device or system performing logical arithmetic and storage functions and includes any property, data storage facility or communications facility directly related to or operating in conjunction with such device or system. “Computer” shall not include an automated typewriter or typesetter, a machine designed solely for word processing which contains no database intelligence or a portable hand-held calculator nor shall “computer” include any other device which contains components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended unless the thus controlled device is a processor of data or is a storage of intelligence in which case it too is included.



(c) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one (1) computer system with the capability to transmit data through communication facilities.

(d) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(e) "Computer software" means a set of computer programs, procedures and associated documentation concerned with operation of a computer system.

(t) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices or computer software.

(g) "Computer services" means providing access to or service or data from a computer, a computer system or a computer network and includes the actual data processing.

(h) "Credible threat" means a threat made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety.

(i) "Loss or damage" includes any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense, and any revenue lost, cost incurred or other consequential damages incurred because of interruption of service.

(j) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic or other impulses.

(k) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric or photo-optical system. electromagnetic,

(l) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder or other electronic means sent to a person identified by a unique address or address number and received by that person.

(m) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(n) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card as defined in Section 97-19-9(b), Mississippi Code of 1972, or marketable security.

(o) "Financial transaction device" means any of the following:

(i) An electronic funds transfer card

(ii) A credit card.

(iii) A debit card.

- (iv) A point-of-sale card.
- (v) Any instrument, device, card, plate, code, account number, personal identification number, or a record or copy of a code, account number, or personal identification number or other means of access to a credit account or deposit account, or a driver's license or state identification card used to access a proprietary account, other than access originated solely by a paper instrument, that can be used alone or in conjunction with another access device, for any of the following purposes.
  1. Obtaining money, cash refund or credit account credit, goods, services or any other thing of value.
  2. Certifying or guaranteeing to a person or business the availability to the device holder of funds on deposit to honor a draft or check payable to the order of that person or business.
  3. Providing the device holder access to a deposit account for the purpose of making deposits, withdrawing funds, transferring funds between deposit accounts, obtaining information pertaining to a deposit account or making an electronic funds transfer.
- (p) "Intellectual property" includes data, computer programs, computer software, trade secrets, copyrighted materials and confidential or proprietary information in any form or medium when such is stored in, produced by or intended for use or storage with or in a computer, a computer system or a computer network.
- (q) "Internet" means that term as defined in Section 230 of Title II of the Communications Act of 1934, Chapter 652, 110 Stat. 137, 47 USCS 230.
- (r) "Medical records" includes, but is not limited to, medical and mental health histories, reports, summaries, diagnoses and prognoses, treatment and medication information, notes, entries, and x-rays and other imaging records.
- (s) "Personal identity information" means any of the following information of another person:
  - (i) A social security number.
  - (ii) A driver's license number or state personal identification card number.
  - (iii) Employment information.
  - (iv) Information regarding any financial account held by another person including, but not limited to, any of the following:
    1. A savings or checking account number.
    2. A financial transaction device account number.
    3. A stock or other security certificate or account number.
- (t) A personal information number for an account "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating or attempting to transfer, send, post, publish, disseminate or otherwise communicate information, whether truthful or untruthful, about the victim.
- (u) "Property" means property as defined in Section 1-3-45, Mississippi code of 1972, and shall specifically include, but not be limited to, financial instruments, electronically stored or produced

data and computer programs, whether in machine readable or human readable form.

(v) "Proper means" includes:

(i) Discovery by independent invention;

(ii) Discovery by "reverse engineering"; that is, by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means;

(iii) Discovery under license or authority of the owner;

(iv) Observation of the property in public use or on public display; or

(v) Discovery in published literature.

(w) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes any of the following:

(i) Following or appearing within sight of the victim.

(ii) Approaching or confronting the victim in a public place or on private property.

(iii) Appearing at the victim's workplace or residence.

(iv) Entering onto or remaining on property owned, leased or occupied by the victim.

(v) Contacting the victim by telephone.

(vi) Sending mail or electronic communications to the victim through the use of any medium, including the Internet or a computer, computer program, computer system or computer network.

(vii) Placing an object on, or delivering or having delivered an object to, property owned, leased or occupied by the victim.

(x) "Use" means to make use of, to convert to one's service, to avail oneself of or to employ. In the context of this act, "use" includes to instruct, communicate with, store data in or retrieve data from, or otherwise utilize the logical arithmetic or memory functions of a computer.

(y) "Victim" means the individual who is the target of the conduct elicited by the posted message or a member of that individual's immediate family.

### Miss. Code Ann. §97-45-3

#### § 97-45-3. Computer fraud; penalties

(1) Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network or any part thereof with the intent to:

(a) Defraud;

(b) Obtain money, property or services by means of false or fraudulent conduct, practices or

representations; or through the false or fraudulent alteration, deletion or insertion of programs or data; or

(c) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system or computer network.

(2) Whoever commits the offense of computer fraud when the damage or loss or attempted damage or loss amounts to a value of less than One Thousand Dollars (\$1,000.00) may be punished, upon conviction, by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than six (6) months in the county jail, or by both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding Two Thousand Dollars (\$2,000.00), or both. Whoever commits the offense of computer fraud when the damage or loss or attempted damage or loss amounts to a value of One Thousand Dollars (\$1,000.00) or more but less than Five Thousand Dollars (\$5,000.00), may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

(3) Whoever commits the offense of computer fraud when the damage or loss or attempted damage or loss amounts to a value of One Thousand Dollars (\$1,000.00) or more but less than Five Thousand Dollars (\$5,000.00), may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

(4) Whoever commits the offense of computer fraud when the damage or loss or attempted damage or loss amounts to a value of Twenty-five Thousand Dollars (\$25,000.00) or more, may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than twenty (20) years, or by both such fine and imprisonment.

(5) The definition of the term "computer network" includes the Internet, as defined in Section 230 of Title II of the Communications Act of 1934, Chapter 652, 110 Stat. 137, codified at 47 USCS 230.

#### Miss. Code Ann. §97-45-7

#### § 97-45-7. Offense against computer equipment; penalties.

(1) An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system or computer network.

(2) Whoever commits an offense against computer equipment or supplies when the damage or loss or attempted damage or loss amounts to a value of less than One Thousand Dollars (\$1,000.00) may be

punished, upon conviction, by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than six (6) months in the county jail, or both if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars (\$1,000.00), or both. The total value of property taken, stolen or carried away by the person from a single victim shall be aggregated in determining the gravity of the offense. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding One Thousand Dollars (\$1,000.00), or both.

(3)Whoever commits an offense against computer equipment or supplies when the damage or loss amounts to a value of One Thousand Dollars (\$1,000.00) or more but less than Five Thousand Dollars (\$5,000.00), may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

(4)Whoever commits an offense against computer equipment or supplies when the damage or loss amounts to a value of Five Thousand Dollars (\$5,000.00) or more but less than Twenty-five Thousand Dollars (\$25,000.00), may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than ten (10) years, or by both such fine and imprisonment.

(5)Whoever commits an offense against computer equipment or supplies when the damage or loss amounts to a value of Twenty-five Thousand Dollars (\$25,000.00) or more, may be punished, upon conviction, by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment for not more than twenty (20) years, or by both such fine and imprisonment.

Miss. Code Ann. §97-45-15

§97-45-15. “Cyberstalking”; penalties.

(1)It is unlawful for a person to:

(a)Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person’s child, sibling, spouse or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(b)Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying or harassing any person.

(c)Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person’s family or household with the intent to threaten, terrify or harass.

(d)Knowingly permit an electronic communication device under the person’s control to be used for any purpose prohibited by this section.

(2)Whoever commits the offense of cyberstalking shall be punished, upon conviction:

(1) Except as provided herein, the person is guilty of a felony punishable by imprisonment for not more than two (2) years or a fine of not more than Five Thousand Dollars (\$5,000.00), or both.

(2)If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both:

(i)The offense is in violation of a restraining order and the person has received actual notice of that restraining order or posting the message is in violation of an injunction or preliminary injunction.

(ii)The offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release or a condition of release on bond pending appeal.

(iii)The offense results in a credible threat being communicated to the victim, a member of the victim's family, or another individual living in the same household as the victim.

(iv)The person has been previously convicted of violating this section or a substantially similar law of another state, a political subdivision of another state, or of the United States.

3) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest or assembly.

Miss. Code Ann. §97-45-17

§97-45-17. Posting of messages through electronic media for purpose of causing injury to any person; penalties.

(1)A person shall not post a message for the purpose of causing injury to any person through the use of any medium of communication, including the Internet or a computer, computer program, computer system or computer network, or other electronic medium of communication without the victim's consent, for the purpose of causing injury to any person.

(2)A person who violates this section, upon conviction, shall be guilty of a felony punishable by imprisonment for not more than five (5) years or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

Miss. Code Ann. §97-45-25

§97-45-25. Additional penalties for violations under this chapter; funding of expenses of Attorney General's Cyber Crime Central or special fund program; deposit of user charges and fees authorized under this section into State General Fund.

(1) In a proceeding for violations under Title 97, Chapter 45, Section 97-5-33 or Section 97-19-85, the court, in addition to the criminal penalties imposed under this chapter, shall assess against the defendant convicted of such violation double those reasonable costs that are expended by the Office of Attorney General, the district attorney's office, the sheriff s office or police department involved in the investigation of such case, including, but not limited to, the cost of investigators, software and equipment utilized in the investigation, together with costs associated with process service, court reporters and expert witnesses. The Attorney General or district attorney may institute and maintain proceedings in his name for enforcement of payment in the circuit court of the county

of residence of the defendant and, if the defendant is a nonresident, such proceedings shall be in the Circuit Court of the First Judicial District of Hinds County, Mississippi. The Attorney General or district attorney shall distribute the property or interest assessed under this section as follows:

(i) Fifty percent (50%) shall be distributed to the unit of state or local government whose officers or employees conducted the investigation into computer fraud, identity theft or child exploitation which resulted in the arrest or arrests and prosecution. Amounts distributed to units of local government shall be used for training or enforcement purposes relating to detection, investigation or prosecution of computer and financial crimes, including computer fraud or child exploitation. (b) Where the prosecution was maintained by the district attorney, fifty percent (50%) shall be distributed to the county in which the prosecution was instituted by the district attorney and appropriated to the district attorney for use in training or enforcement purposes relating to detection, investigation or prosecution of computer and financial crimes, including computer fraud or child exploitation. Where a prosecution was maintained by the Attorney General, fifty percent (50%) of the proceeds shall be paid or distributed into the Attorney General's Cyber Crime Central or the Attorney General's special fund to be used for consumer fraud education and investigative and enforcement operations of the Office of Consumer Protection. Where the Attorney General and the district attorney have participated jointly in any part of the proceedings, twenty-five percent (25%) of the property forfeited shall be paid to the county in which the prosecution occurred, and twenty-five percent (25%) shall be paid to the Attorney General's Cyber Crime Central or the Attorney General's special fund to be used for the purposes as stated in this paragraph.

(2) From and after July 1, 2016, the expenses of the Attorney General's Cyber Crime Central or Attorney General's special fund program shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law and as determined by the State Fiscal Officer.

(3) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

Miss. Code Ann. §99-3-28

§99-3-28. Teachers or sworn law enforcement officers charged with committing crime while in the performance of duties; certain procedural requirements to be met prior to issuance of arrest warrant.

(1)(a)(i) Except as provided in subsection (2) of this section, before an arrest warrant shall be issued against any teacher who is a licensed public school employee as defined in Section 37-9-1, a certified jail officer as defined in Section 45-4-9, a counselor at an adolescent opportunity program created under Section 43-27-201 et seq., or a sworn law enforcement officer within this state as defined in Section 45-6-3 for a criminal act, whether misdemeanor or felony, which is alleged to have occurred while the teacher, jail officer, counselor at an adolescent opportunity program or law enforcement officer was in the performance of official duties, a probable cause hearing shall be held before a circuit court judge. The purpose of the hearing shall be to determine if adequate probable cause exists for the issuance of a warrant. All parties testifying in these proceedings shall do so under oath. The accused shall have the right to enter an appearance at the hearing, represented by legal counsel at his own expense, to hear the accusations and evidence against him; he may present evidence or testify in his own behalf.

(ii) The authority receiving any such charge or complaint against a teacher, jail officer, counselor at an adolescent offender program or law enforcement officer shall immediately present same to the county prosecuting attorney having jurisdiction who shall immediately present the charge or complaint to a circuit judge in the judicial district where the action arose for disposition



pursuant to this section.

(b) For any person not covered under paragraph (a) of this subsection, before an arrest warrant based on the criminal complaint of a person who is not a law enforcement officer acting in the officer's official capacity may be issued against the person for an alleged criminal act, whether misdemeanor or felony, the appropriate judge must make a determination, with or without a hearing, as to whether the affidavit clearly identifies probable cause to believe that the offense alleged has been committed, at the discretion of the court. If the judge elects to hold a probable cause hearing, parties testifying shall do so under oath and the accused shall have the right to enter an appearance, be represented by legal counsel at his own expense, to hear the accusations and evidence against him, and may present evidence or testify in his own behalf.

(2) Nothing in this section shall prohibit the issuance of an arrest warrant by a circuit court judge upon presentation of probable cause, without the holding of a probable cause hearing, if adequate evidence is presented to satisfy the court that there is a significant risk that the accused will flee the court's jurisdiction or that the accused poses a threat to the safety or wellbeing of the public.

(3) Nothing in this section shall prohibit a law enforcement officer from arresting any person under circumstances in which the law enforcement officer would not be required to seek a warrant from a court.