

MISSISSIPPI LEGISLATURE
2017 Regular Session
To: Technology; Judiciary A
By: Representatives Burnett, Hale

House Bill 352

AN ACT TO AMEND SECTION 97-45-17, MISSISSIPPI CODE OF 1972, TO PROHIBIT ANY PERSON FROM POSTING A PHOTOGRAPH, ELECTRONIC PICTURE OR IMAGE OF ANY KIND FOR THE PURPOSE OF INJURING ANOTHER PERSON; TO PROHIBIT A PERSON FROM OBTAINING THE PERSONAL IDENTITY INFORMATION OF ANOTHER PERSON AND USING THAT INFORMATION TO POST A NUDE OR PARTIALLY NUDE PHOTOGRAPH, ELECTRONIC PICTURE OR IMAGE OF ANOTHER PERSON WITHOUT THE CONSENT OF THE PERSON IN THE PHOTOGRAPH, ELECTRONIC PICTURE OR IMAGE; TO BRING FORWARD SECTIONS 97-45-19 AND 97-5-33, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI

SECTION 1. Section 97-45-17, Mississippi Code of 1972, is amended as follows:

97-45-17. (1) (a) A person shall not post a message, photograph, electronic picture or image 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.

(b) A person who violates * * * paragraph (a) of this subsection (1), 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.

(2) (a) A person shall not obtain the personal identity information of another person and use that information to post a nude or partially nude photograph, electronic picture or image of another person without the consent of the person in the photograph, electronic picture or image.

(b) A person who violates paragraph (a) of this subsection (2), 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.

SECTION 2. Section 97-45-19, Mississippi Code of 1972, is brought forward as follows:

97-45-19. (1) A person shall not obtain or attempt to obtain personal identity information of another person with the intent to unlawfully use that information for any of the following purposes without that person's authorization:

(a) To obtain financial credit.

(b) To purchase or otherwise obtain or lease any real or personal property.

(c) To obtain employment.

(d) To obtain access to medical records or information contained in medical records.

(e) To commit any illegal act.

(2) (a) A person who violates this section is guilty of a felony punishable by imprisonment for not less than two (2) nor more than fifteen (15) years or a fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the violation involves an amount of less than Two Hundred Fifty Dollars (\$250.00), a person who violates this section may be found guilty of a misdemeanor punishable by imprisonment in the county jail for a term of not more than six (6) months, or by a fine of not more than One Thousand Dollars (\$1,000.00), or both, in the discretion of the court.

(c) For purposes of determining the amount of the violation, the value of all goods, property, services and other things of value obtained or attempted to be obtained by the use of an individual's identity information shall be aggregated.

(3) This section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by that person using information obtained in violation of this section.

(4) This section does not apply to a person who obtains or attempts to obtain personal identity information of another person pursuant to the

discovery process of a civil action, an administrative proceeding or an arbitration proceeding.

(5) Upon the request of a person whose identifying information was appropriated, the Attorney General may provide assistance to the victim in obtaining information to correct inaccuracies or errors in the person's credit report or other identifying information; however, no legal representation shall be afforded such person by the Office of the Attorney General.

(6) A person convicted under this section or under Section 97-19-85 shall be ordered to pay restitution as provided in Section 99-37-1 et seq., and any legal interest in addition to any other fine or imprisonment which may be imposed.

SECTION 3. Section 97-5-33, Mississippi Code of 1972, is brought forward as follows:

97-5-33. (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.

SECTION 4. This act shall take effect and be in force from and after July 1, 2017.
