

By: Senator(s) Wiggins, Simmons (12th),  
Jackson (15th)

To: Judiciary, Division B

SENATE BILL NO. 2360  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-29-31, MISSISSIPPI CODE OF 1972,  
2 TO CREATE THE CRIME OF LEWD OR LASCIVIOUS EXHIBITION; TO AMEND  
3 SECTION 97-29-45, MISSISSIPPI CODE OF 1972, TO PROHIBIT OBSCENE  
4 ELECTRONIC COMMUNICATION TO CERTAIN MINORS; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 97-29-31, Mississippi Code of 1972, is  
8 amended as follows:

9 97-29-31. (1) A person who willfully and lewdly exposes his  
10 person, or private parts thereof, in any public place, or in any  
11 place where others are present, or procures another to so expose  
12 himself, is guilty of a misdemeanor and, on conviction, shall be  
13 punished by a fine not exceeding Five Hundred Dollars (\$500.00) or  
14 be imprisoned not exceeding six (6) months, or both.

15 (2) (a) It is unlawful for a person who is twenty-one (21)  
16 years of age or older in the presence of another person who is  
17 less than sixteen (16) years of age to intentionally masturbate or  
18 to intentionally expose the genitals in a lewd or lascivious  
19 manner.

20 (b) The fact that an undercover operative or law  
21 enforcement officer was involved in the detection and  
22 investigation of an offense under this subsection (2) shall not  
23 constitute a defense to a prosecution under this subsection.

24 (c) A person convicted under this subsection shall be  
25 imprisoned in the custody of the Department of Corrections for not  
26 more than five (5) years, or subject to a fine of not more than  
27 Five Thousand Dollars (\$5,000.00), or both.



28       (3) It is not a violation of this statute for a woman to  
29 breast-feed.

30       **SECTION 2.** Section 97-29-45, Mississippi Code of 1972, is  
31 amended as follows:

32       97-29-45. (1) It is unlawful for any person or persons:

33           (a) To make any comment, request, suggestion or  
34 proposal by means of telecommunication or electronic communication  
35 which is obscene, lewd or lascivious with intent to abuse,  
36 threaten or harass any party to a telephone conversation,  
37 telecommunication or electronic communication;

38           (b) To make a telecommunication or electronic  
39 communication with intent to terrify, intimidate or harass, and  
40 threaten to inflict injury or physical harm to any person or to  
41 his property;

42           (c) To make a telephone call, whether or not  
43 conversation ensues, without disclosing his identity and with  
44 intent to annoy, abuse, threaten or harass any person at the  
45 called number;

46           (d) To make or cause the telephone of another  
47 repeatedly or continuously to ring, with intent to harass any  
48 person at the called number;

49           (e) To make repeated telephone calls, during which  
50 conversation ensues, solely to harass any person at the called  
51 number; or

52           (f) Knowingly to permit a computer or a telephone of  
53 any type under his control to be used for any purpose prohibited  
54 by this section.

55       (2) It is unlawful for a person who is twenty-one (21) years  
56 of age or older to intentionally or knowingly transmit or send to  
57 a person under the age of sixteen (16) years by means of  
58 electronic mail, personal messaging or any other Internet  
59 communication any communication or other item that constitutes  
60 obscene material as described in Section 97-29-103, with knowledge



61 of the character of the communication or item, when the person  
62 knows or believes at the time of the transmission that a person  
63 under the age of sixteen (16) years will receive the communication  
64 or item.

65       (3) Upon conviction of any person for the first offense of  
66 violating subsection (1) or (2) of this section, such person shall  
67 be fined not more than Five Hundred Dollars (\$500.00) or  
68 imprisoned in the county jail for not more than six (6) months, or  
69 both.

70       (4) Upon conviction of any person for the second offense of  
71 violating subsection (1) or (2) of this section, the offenses  
72 being committed within a period of five (5) years, such person  
73 shall be fined not more than One Thousand Dollars (\$1,000.00) or  
74 imprisoned in the county jail for not more than one (1) year, or  
75 both.

76       (5) For any third or subsequent conviction of any person  
77 violating subsection (1) or (2) of this section, the offenses  
78 being committed within a period of five (5) years, such person  
79 shall be guilty of a felony and fined not more than Two Thousand  
80 Dollars (\$2,000.00) and/or imprisoned in the State Penitentiary  
81 for not more than two (2) years, or both.

82       (6) The provisions of this section do not apply to a person  
83 or persons who make a telephone call that would be covered by the  
84 provisions of the federal Fair Debt Collection Practices Act, 15  
85 USCS Section 1692 et seq.

86       (7) Any person violating this section may be prosecuted in  
87 the county where the telephone call, conversation or language  
88 originates in case such call, conversation or language originates  
89 in the State of Mississippi. In case the call, conversation or  
90 language originates outside of the State of Mississippi then such  
91 person shall be prosecuted in the county to which it is  
92 transmitted.



93           (8) For the purposes of this section, "telecommunication"  
94 and "electronic communication" mean and include any type of  
95 telephonic, electronic or radio communications, or transmission of  
96 signs, signals, data, writings, images and sounds or intelligence  
97 of any nature by telephone, including cellular telephones, wire,  
98 cable, radio, electromagnetic, photoelectronic or photo-optical  
99 system or the creation, display, management, storage, processing,  
100 transmission or distribution of images, text, voice, video or data  
101 by wire, cable or wireless means, including the Internet.

102           (9) (a) No person shall be held to have violated this  
103 section solely for providing access or connection to  
104 telecommunications or electronic communications services where the  
105 services do not include the creation of the content of the  
106 communication. Companies organized to do business as commercial  
107 broadcast radio stations, television stations, telecommunications  
108 service providers, Internet service providers, cable service  
109 providers or news organizations shall not be criminally liable  
110 under this section.

111           (b) The fact that an undercover operative or law  
112 enforcement officer was involved in the detection and  
113 investigation of an offense under this section shall not  
114 constitute a defense to prosecution under this section.

115           **SECTION 3.** This act shall take effect and be in force from  
116 and after July 1, 2012.

