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Chapter No. 557
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SENATE BILL NO. 2376

Originated in Senate _____ Secretary

SENATE BILL NO. 2376

AN ACT TO AMEND SECTION 97-29-61, MISSISSIPPI CODE OF 1972, TO CREATE A FELONY LEVEL OF THE OFFENSE OF VOYEURISM WHEN THE VICTIM IS A CHILD UNDER A CERTAIN AGE; TO AMEND SECTION 97-29-63, MISSISSIPPI CODE OF 1972, TO CREATE A FELONY LEVEL OF THE OFFENSE OF PHOTOGRAPHING OR FILMING ANOTHER WITHOUT PERMISSION WHEN THE VICTIM IS A CHILD UNDER A CERTAIN AGE; TO AMEND SECTION 45-33-23, MISSISSIPPI CODE OF 1972, TO CONFORM THE DEFINITION OF SEX OFFENSE UNDER THE SEX OFFENDER REGISTRATION LAW FOR THE PURPOSES OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 97-29-61, Mississippi Code of 1972, is amended as follows:

97-29-61. (1) 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, and upon conviction shall be imprisoned in the custody of the Department of Corrections not more than five (5) years.

(2) When one or more occupants spied upon is a child under sixteen (16) years of age, a person who violates subsection (1) of this section shall be guilty of felonious trespass, and upon conviction shall be imprisoned in the custody of the Department of Corrections not more than ten (10) years.

SECTION 2. Section 97-29-63, Mississippi Code of 1972, is amended as follows:

97-29-63. (1) Any person who with lewd, licentious or indecent intent secretly photographs, films, videotapes, records or otherwise reproduces the image of another person without the

permission of such person when such a 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 and upon conviction 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.

(2) Where the person who is secretly photographed, filmed, videotaped or otherwise reproduced is a child under sixteen (16) years of age, a person who violates subsection (1) of this section shall be guilty of a felony and upon conviction 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.

SECTION 3. Section 45-33-23, Mississippi Code of 1972, is amended as follows:

45-33-23. For the purposes of this chapter, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Conviction" shall mean 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.

(b) "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.

(c) "Permanent residence" is defined as a place where the person abides, lodges, or resides for a period of fourteen (14) or more consecutive days.

(d) "Registration" means providing information to the appropriate agency within the time frame specified as required by this chapter.

(e) "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 State Crime 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.

(f) "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 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 said facility shall notify the Department of Public Safety prior to 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.

(g) "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 97-29-59 relating to unnatural intercourse;

(xi) Section 97-1-7 relating to attempt to commit any of the above-referenced offenses;

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

(xiii) Section 97-3-54.1(1)(c) relating to procuring sexual servitude of a minor;

(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 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)(c) 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) 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;

(xx) Any offense resulting in a conviction in another jurisdiction for which registration is required in the jurisdiction where the conviction was had;

(xxi) Any conviction of conspiracy to commit, accessory to commission, or attempt to commit any offense listed in this section;

(xxii) Capital murder when one (1) of the above-described offenses is the underlying crime.

(h) "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.

(i) "Department" unless otherwise specified is defined as the Mississippi Department of Public Safety.

SECTION 4. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE SENATE
May 2, 2012

Terry Reeves
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
April 29, 2012

Philip Gunn
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant
GOVERNOR
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