HOUSE BILL NO. 1258

AN ACT TO CREATE THE BIRTH GENDER PRIVACY ACT; TO BRING FORWARD SECTIONS 97-29-31, 97-29-61, 97-29-45 AND 97-29-63, MISSISSIPPI CODE OF 1972, WHICH DESCRIBE CERTAIN CRIMES AGAINST PUBLIC MORALS AND DECENCY, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) Except as otherwise provided in this section, it shall be unlawful for a person to knowingly and intentionally enter into restroom facilities or other bath facilities that were designed for use by the gender opposite the person's gender at birth.

(2) No public or private business entity, school or jail shall be required to construct gender neutral restrooms or bath facilities. However, nothing in this section shall prevent a public or private business entity, school or jail from constructing gender neutral restrooms or bath facilities.

(3) Any person who has been consuming, for a period of not less than twelve (12) months, hormone pills or supplements prescribed by a licensed medical doctor for the purpose of
transitioning to a gender other than the gender he or she was assigned at birth may use the restroom or bath facilities of the gender he or she is transitioning to provided that he or she can provide written proof from his or her doctor regarding the hormone pill or supplement transition plan.

(4) Anyone found to be in violation of the provisions of this section shall be prosecuted under the provisions stated in Sections 97-29-31, 97-29-61, 97-29-45 or 97-29-63.

(5) The provisions of this section shall not apply to the following:

(a) A minor child who accompanies his or her parent into restroom facilities or other bath facilities that were designed for use by the gender opposite that person's gender at birth;

(b) The parent accompanying the minor child described in paragraph (a) of this subsection (5); and

(c) Restroom or bath facilities that can only accommodate one (1) person at a time.

SECTION 2. Section 97-29-31, Mississippi Code of 1972, is brought forward as follows:

97-29-31. 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.

SECTION 3. Section 97-29-61, Mississippi Code of 1972, is brought forward as follows:

97-29-61. (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.

SECTION 4. Section 97-29-45, Mississippi Code of 1972, is brought forward as follows:

97-29-45. (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 or cause the telephone of another repeatedly or continuously to ring, with intent to 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.

SECTION 5. Section 97-29-63, Mississippi Code of 1972, is
brought forward as follows:

97-29-63. (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.

(b) 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.
SECTION 6. This act shall take effect and be in force from and after July 1, 2016.