

APPENDIX A

STATUTES IN THE MISSISSIPPI CODE RELATING TO SEX EDUCATION (in effect as of January 1, 2012)

1. Miss. Code Ann. § 37-13-171. Abstinence-only or Abstinence-plus Education. The State Department of Education must approve the sex-related education curriculum for each public school district. Each local school board must adopt a policy to implement abstinence-only or abstinence-plus curriculum pursuant to teaching standards and instructional components that are described in the law. A discussion on contraceptives may be excluded from sex-related education taught in public schools, provided that the instruction does not include anything that would be contradictory to a discussion on contraceptives or any other instructional components as described in the law. See, Attorney General Opinion No. 2009-0141 (Thompson, April 13, 2009); Attorney General Opinion No. 2009-0276 (Thompson, June 12, 2009).
2. Miss. Code Ann. § 41-79-5. School Nurse Intervention Program. Miss. Code Ann. § 37-14-3, effective July 1, 2007, transferred administration of School Nurse Intervention Program to the Office of Healthy Schools in the Department of Education. Among the various services provided by each public school district, specific health-related preventive services may include reproductive health education and referral, but abortion counseling is prohibited. After sending notices to parents, the school district may proceed with reproductive health education based on the principles of specific consent or implied parental consent.
3. Miss. Code Ann. §§ 41-42-5, 41-42-7. Family Planning Programs and Contraceptives. The Board of Health is authorized to conduct family planning programs and provide funding to organizations providing family planning services. Contraceptive supplies and information may be provided to minors, and consistent with the medical principle of informed consent, the Board has authority to educate minors concerning the risks and benefits of the use of particular contraceptive methods. Miss. Code Ann. § 41-79-5(10) prohibits school nurses from dispensing birth control pills or contraceptive devices, which responsibility is reserved to the Department of Health on a referral basis only.
4. Miss. Code Ann. §§ 41-23-27 through 41-23-31, 41-41-13. Treatment of Sexually Transmitted Disease. The Board of Health is authorized to impose restrictions such as isolation or quarantine of individuals, including minors, afflicted with sexually transmitted disease. The Board may examine and treat any person suspected of having an STD. Due to the medical principle of informed consent, the Board has authority to educate minors concerning treatment and prevention of STD's. Treatment for STD may be provided to a minor without notifying a parent and without the need for parental consent.
5. Miss. Code Ann. § 41-79-51. Teen Pregnancy Prevention Task Force (enacted 2009). A task force composed of 17 members was created concerning the implementation of sex-related

educational courses and the coordination of services by state agencies to reduce teen pregnancy and train teen parents. Annual reports are required to be made to the Legislature.

6. Miss. Code Ann. § 41-79-53. MDHS, MSDH Prevention Programs (enacted 2011). The Department of Human Services and the Department of Health each must develop programs to educate young people about unintended teen pregnancies and to provide services for the prevention of pregnancy and disease. School nurses are responsible to carry out the functions of various state-supported programs.
7. Miss. Code Ann. § 41-79-55. Prevention Pilot Program (enacted 2011). A local school district in each of nine counties throughout the state with high teen pregnancies rates will receive special educational services from the Department of Health and the Department of Education designed to reduce pregnancy rates in those pilot districts.
8. Miss. Code Ann. §§ 43-51-3(d), 41-53-5. Family Preservation Act of 1994. The Department of Human Services is responsible, through a federally funded program and in conjunction with the Department of Education, for the implementation of programs which provide family support services that may include preventive community-based activities, including health education for youth.

**APPLICABILITY OF MISSISSIPPI STATUTES
RELATING TO SEXUAL OFFENSES, BY AGE**

AGE OF VICTIM	AGE OF PERPETRATOR		
	< 17	17 +	18 +
< 14	SR*, SB**: If the perpetrator is 24 months or more older than the victim	SR, SB	SR, SB, TC***
14 or 15		SR, SB: If the perpetrator is 36 months or more older than the victim	SR, SB, TC
under 18			SB, TC: If the perpetrator is in a position of authority

*SR - Statutory Rape (§ 97-3-65, see 1. below), Sexual intercourse with the victim, consent of the victim is not a defense

**SB - Sexual Battery (§ 97-3-95, see 2. below), Sexual penetration of the victim

***TC - Touching/Handling of a Child (§ 97-5-23, see 3. below), touching for the purpose of gratifying lust, with or without child's consent

1. Miss. Code Ann. § 97-3-65. Statutory Rape. It is a crime for any person seventeen (17) years of age or older to have 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 when 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.

The victim's consent is not a defense. Penalties are based upon conviction and age and include imprisonment from five (5) years to life, and possible fines from five thousand (\$5,000.00) to ten thousand dollars (\$10,000.00). The use or administration of a substance that reduces resistance in the victim enhances the penalty for imprisonment to life.

2. Miss. Code Ann. § 97-3-65(4). Forcible Rape. It is a crime when a person has forcible sexual intercourse with any person without that person's consent. It is a crime whether the perpetrator is married to the victim or not.

3. Miss. Code Ann. § 97-3-95. Sexual Battery. It is a crime when a person engages in sexual penetration with 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 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. It is also a crime when a person 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.

4. Miss. Code Ann. § 97-5-23. Touching/Handling of a Child. It is a crime for any person eighteen (18) or above, who, for the purpose of gratifying his or her lust, or indulging their 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 under the age of sixteen (16) years, with or without the child's consent.

It is a crime for any person eighteen (18) or above, 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 themselves 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. 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. A person convicted of this offense is guilty of a felony. Penalties are based upon conviction and age and include imprisonment from not less than two (2) years to not more than fifteen (15) years, and possible fines from not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00) or both. Upon a second conviction, the penalty for imprisonment increases to twenty (20) years, half of which must be served.

**OTHER STATUTES IN THE MISSISSIPPI CODE
RELATING TO SEXUAL OFFENSES INVOLVING MINORS**
(In effect as of January 1, 2012)

1. Miss. Code Ann. § 43-47-18. Sexual Battery or Fondling of a Child. It is a crime for any person in a position of authority over a child to sexually penetrate the child. Examples of people in a position of authority are teachers, ministers, priests, counselors, doctors, parents, stepparents, legal guardians, relatives and caretakers. It is a crime for people in a position of authority and/or trust to gratify their sexual desire of a child by handling, touching, or rubbing with the person's hands or any part of the person's body. A conviction for this offense results in a felony. Penalties are based upon conviction and age and include imprisonment from two (2) years to thirty (30) years to forty (40) years (upon a second conviction), and possible fines from one thousand (\$1,000.00) to five thousand dollars (\$5,000.00).
2. Miss. Code Ann. §43-47-19. Abuse, Neglect or Exploitation of a Child. It is a crime for any person to commit an act, omit a duty, or neglect a child where such act, omission, or neglect contributes to or results in physical pain, injury, mental anguish, or unreasonable confinement. Penalties are based upon conviction and can include being found guilty of a felony. Imprisonment can range from one (1) year to not more than twenty (20) years, and possible fines from one thousand (\$1,000.00) to five thousand dollars (\$5,000.00). Subsequent convictions under this statute enhance the penalties.
3. Miss. Code Ann. § 97-3-53. Kidnapping. It is a crime to inveigle (lure) or kidnap any child under the age of sixteen (16) years against the will of the parents or guardians or person having the lawful custody of the child. Penalties are based upon conviction and include imprisonment from one (1) year to thirty (30) years, and possibly life if determined by a jury.
4. Miss. Code Ann. § 97-3-54.1 Human Trafficking. It is a crime to knowingly subject, or attempt to subject, recruit, entice, harbor, transport, provide or obtain by any means, a minor for commercial sexual activity, sexually-explicit performances, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually-explicit performances, or the production of sexually oriented material. Penalties are based upon conviction and include imprisonment for not more than twenty (20) years.
5. Miss. Code Ann. § 97-5-5. Child Enticement. It is a crime for any person who maliciously, willfully, or fraudulently leads, takes, carries away, decoys or entices 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. Penalties are based upon conviction and include imprisonment in the state penitentiary not exceeding ten (10) years, imprisonment in the

county jail for not more than one (1) year, and a possible fine not exceeding one thousand dollars (\$1,000.00) or both.

6. Miss. Code Ann. § 97-5-24. Sexual Involvement of School Employee/Duty to Report. 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 37-11-35. Any person reporting in good faith shall be immune from any civil liability that might otherwise be incurred or imposed, and any school personnel are presumed under the statute to be reporting in good faith.
7. Miss. Code Ann. § 97-5-27. Disseminating Sexual Material to Children; Computer Luring. It is a crime for any person who intentionally and knowingly disseminates sexually oriented material to any person under eighteen (18) years of age;(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.

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. Penalties are based upon conviction and include imprisonment for not more than one (1) year, and possible fines from five hundred (\$500.00) to five thousand dollars (\$5,000.00) or both.

Computer Luring occurs 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 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.

A person convicted of this offense is guilty of a felony. Penalties are based upon conviction and include imprisonment not to exceed three (3) years, and a possible fine not to exceed ten thousand dollars (\$10,000.00).

8. Miss. Code Ann. § 97-5-33. Child Exploitation. It is a crime to cause or permit any child to be sexually explicit or simulate sexually explicit behavior in order to produce a visual depiction of the child, including by use of a computer, photograph, videotape, film, or any means. It is a crime to send, receive, transport, transmit, ship, mail, receive with the intent to give, sell or intend to sell, or possess images (including photographs, drawings, sketches, films, tapes, or any visual depiction) of an actual child engaging in sexually explicit conduct. It is a crime to get or try to get a child to meet with a person to engage in sexually explicit conduct or to produce an image of adult sexual conduct or any sexually explicit conduct.
9. Miss. Code Ann. § 97-5-39. Child Endangerment, Neglect, or Abuse. It is a crime for any person to intentionally do anything (or fail to do something to prevent) an act that contributes to the neglect, delinquency, or abuse of a child. This includes failure to provide necessary supervision resulting in substantial harm to the child's physical, mental, and/or emotional health. This includes knowingly permitting the continuing sexual abuse of a child. Being found guilty of this offense could result in a felony conviction. Penalties are based upon conviction and age and include imprisonment from one (1) year to life, and possible fines from one thousand (\$1,000.00) to twenty thousand dollars (\$20,000.00) or both.
10. Miss. Code Ann. § 97-5-40. Condoning (Excusing, Forgiving, Overlooking) Child Abuse. It is a crime for a person living in the house with a child to knowingly condone abuse, including sexual battery of the child. Penalties are based upon conviction and include imprisonment for not more than one (1) year, and a possible fine of not more than one thousand dollars (\$1,000.00) or both.
11. Miss. Code Ann. § 97-5-41. Carnal Knowledge of a Child. It is a crime for a person to have carnal knowledge (have sex with) his or her unmarried stepchild or adopted child younger than himself or herself and over fourteen and under eighteen years old. Penalties are based upon conviction and include imprisonment not to exceed ten (10) years.
12. Miss. Code Ann. § 97-29-3. Adultery and Fornication Between Teacher and Pupil. It is a crime for any teacher and any student under 18 years of age, not married to each other, to have sexual intercourse with each other. Penalties are based upon conviction and age and

include imprisonment for the teacher from three (3) to six (6) months, and possible fines for both the teacher and pupil not to exceed five hundred dollars (\$500.00).

13. Miss. Code Ann. § 97-29-59. Unnatural Intercourse. It is a crime to engage in sexual activity with mankind or with a beast. Penalties are based upon conviction and include imprisonment for a term of not more than ten (10) years. In Lawrence v. Texas, 539 U.S. 558 (U.S. 2003), the U.S. Supreme Court held that a Texas statute was unconstitutional where two persons of the same sex who engaged in certain consensual sexual conduct were criminally prosecuted, and the criminal convictions for adult consensual sexual intimacy in the home violated vital interests in liberty and privacy protected by the Due Process Clause of the Fourteenth Amendment. Due to the similarities in the Texas and Mississippi laws, it is unlikely that certain aspects of the Mississippi statute would be enforceable.

**STATUTES IN THE MISSISSIPPI CODE
RELATING TO PATERNITY AND CHILD SUPPORT**
(in effect as of January 1, 2012)

1. Miss. Code Ann. § 93-9-7. Obligations of the Father. If you have a child, you are responsible for the child whether or not it was born of matrimony, including the reasonable expense of the pregnancy, education and necessary maintenance, medical and financial support of the child. Support may include funeral expenses should the child not be born alive or die thereafter.

2. Miss. Code Ann. § 93-9-9. Enforcement; Surname of Child; Acknowledgment of Paternity; Genetic Testing. Paternity can be established in a variety of ways. Miss. Code Ann. § 93-9-28. Voluntary Paternity Acknowledgment provides procedures for a mother or father to secure a voluntary acknowledgment of paternity for any child born out of wedlock. Paternity can also be determined upon the petition of the mother, or father, the child or any public authority chargeable by law with the support of the child. Once paternity has been established, the statute also allows the father to enforce their rights as a custodial parent. If the commonly accepted father contests paternity, or is receiving certain federal benefits, he can be compelled to submit to genetic testing to establish paternity by Miss. Code Ann. § 93-9-21 Genetic Tests; Order and Notice; Enforcement of Order to Submit. In all cases involving Social Security benefits and child support authorized by Title IV-D of the Social Security Act, upon sworn documentation by the mother, commonly accepted father, or the Department of Human Services alleging paternity, the department may issue an administrative order for paternity testing which requires the mother, commonly accepted father and minor child to submit themselves for paternity testing. If the commonly accepted father does not submit to genetic testing, a court shall review the documentation of the refusal to submit to genetic testing and make a determination as to whether the complaint to establish paternity should be granted. If the testing confirms the commonly accepted father's paternity, Miss. Code Ann. § 93-9-23 Genetic Testing, Reports and Proceedings on Tests allows the Department of Human Services can recoup the costs of the testing from the father including the costs of the blood or other tests required by the court, and the compensation of each expert witness appointed by the court shall be fixed at a reasonable amount. It shall be paid as the court shall order as outlined in Miss. Code Ann. § 93-9-25 Tests Costs; Compensating Experts.

3. Miss. Code Ann. § 93-9-27. Effect of Test Results; Rebuttable Presumption. If the court finds that the conclusions of all the experts, as disclosed by the evidence based upon the tests, are that the alleged father is not the father of the child, the question of paternity shall be resolved accordingly. If an expert concludes that the blood or other tests show the probability of paternity, that evidence shall be admitted.

4. Miss. Code Ann. § 43-19-101. Child Support Award Guidelines. Generally a judge or state agency must follow specific child support guidelines when awarding support of a minor child, based upon the adjusted gross income (“AGI”) of the non-custodial parent. These guidelines are as follows:

Number of Children	Percentage of AGI
1	14%
2	20%
3	22%
4	24%
5 or more	26%

For example if the adjusted gross income of the parent is \$50,000, and the parent has 1 child, then the child support award will be 14% of \$50,000 or \$7,000. If the parent has 2 children, the child support award will be 20% of \$50,000 or \$10,000. In addition to the child support payments, the support award may also cover reasonable medical support, for example, when either parent has access to health insurance coverage.

5. Miss. Code Ann. § 43-19-48 Use of Data Match Systems by Department of Human Services for Noncustodial Parents Delinquent in Child Support Payments. If the noncustodial parent is delinquent on child support payments, the Department of Human Services is empowered to establish compliance on the part of the delinquent parent including freezing any assets of the delinquent parent as may be held by any financial institution doing business in the State of Mississippi. Most federal benefits have provisions conditioning the receipt of benefits with the proper payment of child support awards, and benefits can be threatened by delinquent payment or nonpayment.

REPORTING REQUIREMENTS

CHILD ABUSE HOTLINE 1-800-222-8000 MONITORED BY MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

DEFINITIONS OF ABUSE AND NEGLECT - Miss. Code Ann. § 43-21-105

(l) “Neglected child” means a child:

(i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or

(ii) Who is otherwise without proper care, custody, supervision or support; or

(iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or

(iv) Who, for any reason, lacks the care necessary for his health, morals or well-being.

(m) “Abused child” means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused upon the child sexual abuse, sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. However, physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section.

(n) “Sexual abuse” means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child’s health or welfare is harmed or threatened.

§ 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 or an abused child, 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 Human Services, and immediately a referral shall be made by the Department of Human 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 Human 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. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, or 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 Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services 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 of Human Services 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 of Human Services 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.

§ 43-21-354. Statewide incoming wide area telephone service to be maintained on twenty-four-hour seven days a week basis

The statewide incoming wide area telephone service established pursuant to Section 43-21-353, Mississippi Code of 1972, shall be maintained by the Department of Public Welfare, or its successor, on a twenty-four-hour seven (7) days a week basis.

§ 43-21-355. Immunity for reporting information

Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, school attendance officer, public school district employee, nonpublic school employee, licensed professional counselor or any other person participating in the making of a required report pursuant to Section 43-21-353 or participating in the judicial proceeding resulting therefrom 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.

ADDITIONAL REPORTING REQUIREMENTS

NOTE: The following material is quoted from “School Law Primer for Educators and School Personnel” (Updated October 2008) by the Mississippi Office of Attorney General and the Mississippi Department of Education, Office of Healthy Schools, pages 64 - 67, and is available online at <http://www.ago.state.ms.us/images/uploads/forms/SchoolPrimer.pdf>.

Mandatory Reporting of Suspicion of a Neglected or Abused Child

Any . . . nurse, psychologist, social worker, child care giver, 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 or an abused child, 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 Human Services. Miss. Code Ann. Section 43-21-353. The phone numbers for the Department of Human Services, Child/Adult Abuse & Neglect Hotline are (601) 359-4991 and (800) 222-8000.

Reporting Suspected Cases of School Violence and Other Traumatic Situations on the Connections Hotline

Pursuant to state statute, Section 37-3-93 of the Mississippi Code, the 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 students and faculty the public schools. Cases of school violence or other traumatic situations can be reported to the Connections Hotline at 1-888-827-4637.

Mandatory Reporting of Crimes Committed on School Property or at School-Related Activities (Section 37-11-29 of the Mississippi Code)

Superintendent to report expulsion for criminal activity to the parent, youth court and law enforcement.

Pursuant to Section 37-9-14 (2)(w) of the Mississippi Code, the superintendent has the duty 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. The superintendent is 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 a school-related activity, regardless of location and the identity of the student or students committing the crime. Miss. Code Ann. Section 37-9-14 (2)(x).

Facts reported to the Superintendent

Any principal, teacher or other school employee who has knowledge of any unlawful activity occurring on educational property or during a school-related activity shall report such activity to the superintendent or his designee who shall notify the appropriate law enforcement officials as required by this section. Miss. Code Ann. Section 37-11-29 (1).

Law Enforcement to report arrests of students to schools

Law enforcement is to report arrests to schools within one (1) week of the arrest. Miss. Code Ann. Section 37-11-29 (2).

Superintendent reports to Law Enforcement

(Sections 37-11-29(3)-(6) of the Mississippi Code)

(3) The Superintendent or his designee reports to the appropriate law enforcement agency a reasonable belief that a criminal act has occurred on educational property for any offenses in Paragraph (6) set out below. The superintendent/designee shall immediately report the act to the appropriate local law enforcement agency. The form approved by the Mississippi Board of Education to report crimes on school property or at a school-related activity is attached as Appendix C. Any superintendent who fails to report shall be subject to the penalties provided in 37-11-35 (misdemeanor). Section 37-11-35 specifically provides that as follows:

If any person charged with 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.

(4) Law Enforcement shall immediately dispatch an officer to the educational institution and with probable cause the officer is authorized to make an arrest if necessary.

Any person reporting in good faith shall be immune from any civil liability.

“Unlawful activity” is defined in Section 37-11-29(6) as:

- Possession or use of deadly weapon
- Possession, sale, or use of any controlled substance
- Aggravated assault
- Simple assault
- Rape
- Sexual battery
- Murder
- Kidnapping
- Fondling, touching or handling a child for lustful purposes

The Office of the Attorney General advises the superintendent to report all acts believed to be a crime (not just the crimes listed in Paragraph (6) above) to local law enforcement, as law enforcement is the appropriate entity to make a factual determination as to what specific crime has been committed. MS AG Op., Preston (April 11, 2003). The following opinions of the Attorney General respond to questions related to Section 37-11-29:

MS AG Op., Anderton, (November 21, 1997). All crimes, not just the ones enumerated in subsection 37-11-29 (6), should be reported to the school system by law enforcement regardless of whether such crime was committed on or off school property.

MS AG Op., Preston (April 11, 2003).

- 1) Can a school board or district establish and/or operate under policies that effectively alter the requirements to report crimes committed on school property? A school board has the authority to establish policies and procedures; however, these policies and procedures may not be in conflict with the requirements of Section 37-11-29 (which requires the reporting of crimes on school property).
- 2) What circumstances, if any, exist which justify the non-report of unlawful activity or an alleged unlawful activity of 37-11-29 (6)? Section 37-11-29 requires any school employee who has knowledge of one of the crimes set for in Paragraph (6) to report to the superintendent or his designee. The superintendent/designee shall immediately notify law enforcement authorities. It is not within the authority of administrators to refrain from reporting these crimes and only handle the matters administratively.
- 3) Is an arrest a necessary prerequisite to a Juvenile Incident Report being released to local law enforcement agency? An arrest is not a prerequisite to making an immediate report to local law enforcement.
- 4) Is a report made by a school administration to a school police officer employed by that district sufficient to comply with Sections 37-9-14 and 37-11-29? The reporting of unlawful activity to a district-employed law enforcement officer does not meet the reporting criteria for these statutes.
- 5) Does the expanded meaning for crimes to be reported by law enforcement to schools as opined in the 1997 AG Opinion to Anderton (all crimes not just the ones listed in 37-11-29 (6)) apply equally to schools? The Superintendent is required to report any unlawful act that he reasonably believes occurred on educational property or during a school-related activity. This requirement remains regardless of whether reasonable belief is established from the superintendent's knowledge or from information relayed to the superintendent by a principal, teacher, other school employee or a concerned citizen. Furthermore, although this Section states that a superintendent is only required to report any act involving an offense set forth in subsection (6), this office would advise a superintendent to report all acts believed to be a crime to local law enforcement, as law enforcement is the appropriate entity to make a factual determination as to what specific crime has been committed.

Mandatory Reporting of Sexual Involvement of a School Employee with a Student.

If any person eighteen (18) years or older who is employed by any public or private school district 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, 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. Miss. Code Ann. Section 97-5-24.

Mandatory Reporting to the Department of Education by the Circuit Court of Convictions Committed by Licensed Employees.

Each Circuit Clerk has the statutory duty to report to the Mississippi Department of Education, Office of Educator Licensure, the felony or sex offense conviction of any certified/licensed personnel employed by a public or private elementary or secondary school according to requirements outlined in Mississippi law. Miss. Code Ann. Section 37-3-51.

Mandatory Reporting to the Department of Education by Superintendents.

Section 37-3-2 (15) of the Mississippi Code authorizes the Commission on Teacher and Administrator Education, Licensure and Development, to promulgate procedures for reporting infractions delineated under Section 37-3-2 of the Mississippi Code. The Commission has provided a procedure for reporting violations of Sections 37-3-2 (11), (12) and (13) of the Mississippi Code, violations of Section 37-9-57 (abandonment of employment) and Section 37-16-4 (enforcement and penalty for test violations) that provide the grounds for denial, suspension and revocation of an educator license. Each superintendent of a public school must report to the Mississippi Department of Education infractions committed under these sections of the Mississippi Code according to the following procedures:

- (1) Submit an initial report on all certified/licensed employees no later than October 1 of each school year.
- (2) After the initial report, submit reports on employees as knowledge of offenses occurs. Such reports shall be submitted within ten (10) days of notification of the offense.

APPENDIX B

RESOURCE REFERENCE FOR VICTIM'S ASSISTANCE

NOTE: The following material is quoted from "A VICTIM'S GUIDE" (2009 EDITION) by the Mississippi Office of the Attorney General, Crime Prevention & Victim Services Division, pages 55 - 68, and is available online at <http://www.ago.state.ms.us/images/uploads/forms/AVictimsGuide.pdf>.