To: Judiciary B

MISSISSIPPI LEGISLATURE REGULAR SESSION 2002

By: Representative Simpson

HOUSE BILL NO. 390

An Act to Create the Anti-Terrorism Act of 2002; to Create the Criminal Offenses of Soliciting or Providing Support for an Act of Terrorism, Making a Terroristic Threat, Terrorism and Hindering Prosecution of Terrorism; to Make Legislative Findings; to Define Certain Terms; to Provide Penalties for Violations of This Act; to Amend Section 47-7-3, Mississippi Code of 1972, to Provide That Persons Convicted for Violations of This Act Shall Not Be Eligible for Parole; and for Related Purposes.

Be it enacted by the Legislature of the State of Mississippi:

Section 1. This act shall be known and may be cited as the Anti-Terrorism Act of 2002.

Section 2. The devastating consequences of the recent barbaric attack on the World Trade Center and the Pentagon underscore the compelling need for legislation that is specifically designed to combat the evils of terrorism. Indeed, the bombings of American embassies in Kenya and Tanzania in 1998, the federal building in Oklahoma City in 1995, Pan Am Flight number 103 in Lockerbie in 1988, the 1997 shooting atop the Empire State Building, the 1994 murder of Ari Halberstam on the Brooklyn Bridge and the 1993 bombing of the World Trade Center, will forever serve to remind us that terrorism is a serious and deadly problem that disrupts public order and threatens individual safety both at home and around the world. Terrorism is inconsistent with civilized society and cannot be tolerated.

Although certain federal laws seek to curb the incidence of terrorism, there are no corresponding state laws that facilitate the prosecution and punishment of terrorists in state courts. Inexplicably, there is also no criminal penalty in this state for a person who solicits or raises funds for, or provides other material support or resources to, those who commit or encourage...
the commission of horrific and cowardly acts of terrorism. Nor do
our criminal laws proscribe the making of terrorist threats or
punish with appropriate severity those who hinder the prosecution
of terrorists.

A comprehensive state law is urgently needed to complement
federal laws in the fight against terrorism and to better protect
all citizens against terrorist acts. Accordingly, the Legislature
finds that our laws must be strengthened to ensure that
terrorists, as well as those who solicit or provide financial and
other support to terrorist, are prosecuted and punished in state
courts with appropriate severity.

SECTION 3. The following words and phrases shall have the
meanings ascribed herein, unless the context clearly indicates
otherwise:

(a) "Act of terrorism" means an act or acts
constituting a specified offense as defined in paragraph (c) of
this section for which a person may be convicted in the criminal
courts of this state, or an act or acts constituting an offense in
any other jurisdiction within or outside the territorial
boundaries of the United States which contains all of the
essential elements of a specified offense, that is intended to:

(i) Intimidate or coerce a civilian population;
(ii) Influence the policy of a unit of government
by intimidation or coercion; or

(iii) Affect the conduct of a unit of government
by murder, assassination or kidnapping.

"Act of terrorism" also means activities that involve a
violent act or acts dangerous to human life that are in violation
of the criminal laws of the state and are intended to:

(i) Intimidate or coerce a civilian population;
(ii) Influence the policy of a unit of government
by intimidation or coercion; or
(iii) Affect the conduct of a unit of government by murder, assassination or kidnapping.

(b) "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation and other physical assets, except medicine or religious materials.

(c) "Specified offense" for purposes of this act means a felony offense, a violent felony offense, murder and manslaughter, and includes an attempt or conspiracy to commit any such offense.

(d) "Renders criminal assistance" means any person who, with intent to prevent, hinder or delay the discovery or apprehension of, or the lodging of a criminal charge against, a person who he knows or believes has committed a crime or is being sought by law enforcement officials for the commission of a crime, or with intent to assist a person in profiting or benefiting from the commission of a crime, he:

(i) Harbors or conceals such person; or

(ii) Warns such person of impending discovery or apprehension; or

(iii) Provides such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or

(iv) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a criminal charge against him; or

(v) Suppresses, by any act of concealment, alteration or destruction, any physical evidence which might aid in the discovery or apprehension of such person or in the lodging of a criminal charge against him; or
(vi) Aids such person to protect or expeditiously profit from an advantage derived from such crime.

SECTION 4. A person commits soliciting or providing support for an act of terrorism in the second degree when, with intent that material support or resources will be used, in whole or in part, to plan, prepare, carry out or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism, he or she raises, solicits, collects or provides material support or resources.

Soliciting or providing support for an act of terrorism in the second degree is a felony punishable by not more than seven (7) years imprisonment in the State Penitentiary.

SECTION 5. A person commits soliciting or providing support for an act of terrorism in the first degree when he or she commits the crime of soliciting or providing support for an act of terrorism in the second degree and the total value of material support or resources exceeds One Thousand Dollars ($1,000.00).

Soliciting or providing support for an act of terrorism in the first degree is a felony punishable by not more than fifteen (15) years imprisonment in the State Penitentiary.

SECTION 6. (1) A person is guilty of making a terrorist threat when with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination or kidnapping, he or she threatens to commit or cause to be committed a specified offense and thereby causes a reasonable expectation or fear of the imminent commission of such offense.

(2) It shall be no defense to a prosecution pursuant to this section that the defendant did not have the intent or capability of committing the specified offense or that the threat was not made to a person who was a subject thereof.
Making a terroristic threat is a felony punishable by not more than ten (10) years imprisonment in the State Penitentiary.

SECTION 7. (1) A person is guilty of a crime of terrorism when, with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit a government by murder, assassination or kidnapping, he or she commits a specified offense.

(2) When a person is convicted of a crime of terrorism pursuant to this section, the crime of terrorism shall be deemed a violent felony offense and if loss of life does not occur such person shall be punished by imprisonment in the State Penitentiary for not more than twenty-five (25) years.

(3) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this section, and the specified offense results in the loss of life, the sentence upon conviction of such offense shall be life imprisonment without parole; provided, however, that nothing herein shall preclude or prevent a sentence of death when the specified offense is capital murder.

SECTION 8. A person is guilty of hindering prosecution of terrorism in the second degree when he or she renders criminal assistance to a person who has committed an act of terrorism, knowing or believing that such person engaged in conduct constituting an act of terrorism.

Hindering prosecution of terrorism in the second degree is a felony punishable by not more than fifteen (15) years imprisonment in the State Penitentiary.

SECTION 9. A person is guilty of hindering prosecution of terrorism in the first degree when he or she renders criminal assistance to a person who has committed an act of terrorism that resulted in the death of a person other than one of the
participants, knowing or believing that such person engaged in conduct constituting an act of terrorism.

Hindering prosecution of terrorism in the first degree is a felony punishable by not more than twenty-five (25) years imprisonment in the State Penitentiary.

SECTION 10. Section 47-7-3, Mississippi Code of 1972, is amended as follows:

47-7-3. (1) Every prisoner who has been convicted of any offense against the State of Mississippi, and is confined in the execution of a judgment of such conviction in the Mississippi State Penitentiary for a definite term or terms of one (1) year or over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the penitentiary, and who has served not less than one-fourth (1/4) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:

(a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) No one shall be eligible for parole until he shall have served one (1) year of his sentence, unless such person has accrued any meritorious earned time allowances, in which case he shall be eligible for parole if he has served (i) nine (9) months of his sentence or sentences, when his sentence or sentences is two (2) years or less; (ii) ten (10) months of his sentence or
sentences when his sentence or sentences is more than two (2)
years but no more than five (5) years; and (iii) one (1) year of
his sentence or sentences when his sentence or sentences is more
than five (5) years;

(d) (i) No person shall be eligible for parole who
shall, on or after January 1, 1977, be convicted of robbery or
attempted robbery through the display of a firearm until he shall
have served ten (10) years if sentenced to a term or terms of more
than ten (10) years or if sentenced for the term of the natural
life of such person. If such person is sentenced to a term or
terms of ten (10) years or less, then such person shall not be
eligible for parole. The provisions of this paragraph (d) shall
also apply to any person who shall commit robbery or attempted
robbery on or after July 1, 1982, through the display of a deadly
weapon. This subparagraph (d)(i) shall not apply to persons
convicted after September 30, 1994;

(ii) No person shall be eligible for parole who
shall, on or after October 1, 1994, be convicted of robbery,
attempted robbery or carjacking as provided in Section 97-3-115 et
seq., through the display of a firearm or drive-by shooting as
provided in Section 97-3-109. The provisions of this subparagraph
(d)(ii) shall also apply to any person who shall commit robbery,
attempted robbery, carjacking or a drive-by shooting on or after
October 1, 1994, through the display of a deadly weapon;

(e) No person shall be eligible for parole who, on or
after July 1, 1994, is charged, tried, convicted and sentenced to
life imprisonment without eligibility for parole under the
provisions of Section 99-19-101;

(f) No person shall be eligible for parole who is
charged, tried, convicted and sentenced to life imprisonment under
the provisions of Section 99-19-101;
(g) No person shall be eligible for parole who is convicted or whose suspended sentence is revoked after June 30, 1995, except as provided in paragraph (i);

(h) An offender may be eligible for medical release under Section 47-7-4;

(i) A first offender convicted of a nonviolent crime after January 1, 2000, may be eligible for parole if the offender meets the requirements in subsection (1) and this paragraph. In addition to other requirements, if a first offender is convicted of a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole or the offender may be required to complete a post-release drug and alcohol program as a condition of parole. For purposes of this paragraph, "nonviolent crime" means a felony other than homicide, robbery, manslaughter, sex crimes, arson, burglary of an occupied dwelling, aggravated assault, kidnapping, felonious abuse of vulnerable adults, felonies with enhanced penalties, and the sale or manufacture of a controlled substance under the Uniform Controlled Substances Law.

(j) No person shall be eligible for parole who is convicted of a crime which is an act of terrorism as provided in Sections 1 through 9 of House Bill No. _____, 2001 Regular Session.

(2) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section; however, this subsection shall not apply to the advancement of parole eligibility dates pursuant to the Prison Overcrowding Emergency Powers Act. Moreover, meritorious earned time allowances may be used to reduce the time necessary to be served for parole eligibility as provided in paragraph (c) of subsection (1) of this section.
(3) The State Parole Board shall by rules and regulations establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. Such tentative parole hearing date shall be calculated by a formula taking into account the offender's age upon first commitment, number of prior incarcerations, prior probation or parole failures, the severity and the violence of the offense committed, employment history and other criteria which in the opinion of the board tend to validly and reliably predict the length of incarceration necessary before the offender can be successfully paroled.

(4) Any inmate within twenty-four (24) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job training programs. Any inmate refusing to participate in an educational development or job training program may be ineligible for parole.

SECTION 11. This act shall take effect and be in force from and after its passage.