

By: Representative Fleming

To: Judiciary En Banc

HOUSE BILL NO. 133

1 AN ACT TO ABOLISH THE DEATH PENALTY ON JANUARY 1, 2012, AND
2 TO PROVIDE THAT NO SENTENCE OF DEATH SHALL BE IMPOSED ON OR AFTER
3 JANUARY 1, 2005; TO AMEND SECTIONS 97-3-21, 99-19-101 AND
4 99-35-135, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
5 REPEAL SECTIONS 99-19-51, 99-19-53, 99-19-55, 99-19-57, 99-19-103
6 AND 99-19-105, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE
7 EXECUTION OF THE DEATH SENTENCE, INSTRUCTIONS REGARDING THE DEATH
8 PENALTY AND JUDICIAL REVIEW OF THE DEATH PENALTY; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** The death penalty shall stand abolished on
12 January 1, 2012. No sentence of death shall be imposed on or
13 after January 1, 2005. Any person who is under penalty of death
14 on January 1, 2012, shall have that sentence reduced to life
15 without parole.

16 **SECTION 2.** Section 97-3-21, Mississippi Code of 1972, is
17 amended as follows:

18 97-3-21. Every person who shall be convicted of murder shall
19 be sentenced by the court to imprisonment for life in the State
20 Penitentiary.

21 Every person who shall be convicted of capital murder shall
22 be sentenced (a) * * * to imprisonment for life in the State
23 Penitentiary without parole; or (b) to imprisonment for life in
24 the State Penitentiary with eligibility for parole as provided in
25 Section 47-7-3(1)(f).

26 **SECTION 3.** Section 99-19-101, Mississippi Code of 1972, is
27 amended as follows:

28 99-19-101. (1) Upon conviction or adjudication of guilt of
29 a defendant of capital murder or other capital offense, the court
30 shall conduct a separate sentencing proceeding to determine

31 whether the defendant should be sentenced to * * * life
32 imprisonment without eligibility for parole or life imprisonment.
33 The proceeding shall be conducted by the trial judge before the
34 trial jury as soon as practicable. If, through impossibility or
35 inability, the trial jury is unable to reconvene for a hearing on
36 the issue of penalty, having determined the guilt of the accused,
37 the trial judge may summon a jury to determine the issue of the
38 imposition of the penalty. If the trial jury has been waived, or
39 if the defendant pleaded guilty, the sentencing proceeding shall
40 be conducted before a jury impaneled for that purpose or may be
41 conducted before the trial judge sitting without a jury if both
42 the State of Mississippi and the defendant agree thereto in
43 writing. In the proceeding, evidence may be presented as to any
44 matter that the court deems relevant to sentence * * *. However,
45 this subsection shall not be construed to authorize the
46 introduction of any evidence secured in violation of the
47 Constitution of the United States or of the State of
48 Mississippi. * * *

49 * * *

50 **SECTION 4.** Section 99-35-135, Mississippi Code of 1972, is
51 amended as follows:

52 99-35-135. * * * If the sentence be for confinement in the
53 penitentiary, and the defendant be not present, but in custody,
54 the Clerk of the Supreme Court shall forthwith notify the legal
55 authorities of the penitentiary as in cases of conviction for
56 penitentiary offenses in the circuit court, who shall send for the
57 convict as provided in such cases.

58 **SECTION 5.** Sections 99-19-51, 99-19-53, 99-19-55 and
59 99-19-57, Mississippi Code of 1972, which provide for the
60 execution of the death sentence, are repealed.

61 **SECTION 6.** Sections 99-19-103 and 99-19-105, Mississippi
62 Code of 1972, which provide for instructions regarding the death
63 penalty and judicial review of the death penalty are repealed.

64 **SECTION 7.** This act shall take effect and be in force from
65 and after January 1, 2005.