

By: Senator(s) Albritton

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2466

1 AN ACT TO AMEND SECTION 99-43-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CRIMINAL OFFENSES WHICH TRIGGER THE PROTECTIONS OFFERED
3 TO VICTIMS UNDER THE ACT; TO AMEND SECTION 99-43-37, MISSISSIPPI
4 CODE OF 1972, TO CLARIFY LEGISLATIVE INTENT UNDER THE CRIME
5 VICTIMS' BILL OF RIGHTS THAT CRIME VICTIMS MAY SUBMIT BOTH A
6 WRITTEN STATEMENT AND TESTIFY ORALLY; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 99-43-3, Mississippi Code of 1972, is
9 amended as follows:

10 99-43-3. As used in this chapter, the following words shall
11 have the meanings ascribed to them unless the context clearly
12 requires otherwise:

13 (a) "Accused" means a person who has been arrested for
14 committing a criminal offense and who is held for an initial
15 appearance or other proceeding before trial or who is a target of
16 an investigation for committing a criminal offense.

17 (b) "Appellate proceeding" means an oral argument held
18 in open court before the Mississippi Court of Appeals, the
19 Mississippi Supreme Court, a federal court of appeals or the
20 United States Supreme Court.

21 (c) "Arrest" means the actual custodial restraint of a
22 person or his submission to custody.

23 (d) "Community status" means extension of the limits of
24 the places of confinement of a prisoner through work release,
25 intensive supervision, house arrest and initial consideration of
26 pre-discretionary leave, passes and furloughs.

27 (e) "Court" means all state courts including juvenile
28 courts.

29 (f) "Victim assistance coordinator" means a person who
30 is employed or authorized by a public entity or a private entity
31 that receives public funding primarily to provide counseling,
32 treatment or other supportive assistance to crime victims.

33 (g) "Criminal offense" means conduct that gives a law
34 enforcement officer or prosecutor probable cause to believe that a
35 felony involving physical injury, the threat of physical
36 injury, * * * a sexual offense, * * * any offense involving
37 spousal abuse or domestic violence * * * has been committed.

38 (h) "Criminal proceeding" means a hearing, argument or
39 other matter scheduled by and held before a trial court but does
40 not include a lineup, grand jury proceeding or other matter not
41 held in the presence of the court.

42 (i) "Custodial agency" means a municipal or county
43 jail, the Department of Corrections, juvenile detention facility,
44 Department of Youth Services or a secure mental health facility
45 having custody of a person who is arrested or is in custody for a
46 criminal offense.

47 (j) "Defendant" means a person or entity that is
48 formally charged by complaint, indictment or information of
49 committing a criminal offense.

50 (k) "Final disposition" means the ultimate termination
51 of the criminal prosecution of a defendant by a trial court,
52 including dismissal, acquittal or imposition of a sentence.

53 (l) "Immediate family" means the spouse, parent, child,
54 sibling, grandparent or guardian of the victim, unless that person
55 is in custody for an offense or is the accused.

56 (m) "Lawful representative" means a person who is a
57 member of the immediate family or who is designated as provided in
58 Section 99-43-5; no person in custody for an offense or who is the
59 accused may serve as lawful representative.

60 (n) "Post-arrest release" means the discharge of the
61 accused from confinement on recognizance, bond or other condition.

62 (o) "Post-conviction release" means parole or discharge
63 from confinement by an agency having custody of the prisoner.

64 (p) "Post-conviction relief proceeding" means a
65 hearing, argument or other matter that is held in any court and
66 that involves a request for relief from a conviction, sentence or
67 adjudication.

68 (q) "Prisoner" means a person who has been convicted or
69 adjudicated of a criminal offense against a victim and who has
70 been sentenced to the custody of the sheriff, the Department of
71 Corrections, Department of Youth Services, juvenile detention
72 facility, a municipal jail or a secure mental health facility.

73 (r) "Prosecuting attorney" means the district attorney,
74 county prosecuting attorney, municipal prosecuting attorney, youth
75 court prosecuting attorney, special prosecuting attorney or
76 Attorney General.

77 (s) "Right" means any right granted to the victim by
78 the laws of this state.

79 (t) "Victim" means a person against whom the criminal
80 offense has been committed, or if the person is deceased or
81 incapacitated, the lawful representative.

82 **SECTION 2.** Section 99-43-37, Mississippi Code of 1972, is
83 amended as follows:

84 99-43-37. It is the discretion of the victim to exercise the
85 right to be present and heard, where authorized by law, at a court
86 proceeding. The absence of the victim at the proceeding of the
87 court does not preclude the court from going forward with the
88 proceeding. The right of the victim to be heard may be exercised,
89 where authorized by law, at the discretion of the victim, through
90 an oral statement or submission of a written statement, or both.

91 **SECTION 3.** This act shall take effect and be in force from
92 and after its passage.