

By: Representative Mims

To: Judiciary B

HOUSE BILL NO. 380

1 AN ACT TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO
2 ALLOW USE OF FORCE, INCLUDING DEADLY FORCE TO DEFEND LIFE AND
3 PROPERTY IN THE EVENT OF AN UNLAWFUL ENTRY INTO AN OCCUPIED
4 DWELLING OR RESIDENCE; TO PROVIDE IMMUNITY FROM CRIMINAL
5 PROSECUTION OR CIVIL ACTION; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-3-15, Mississippi Code of 1972, is
8 amended as follows:

9 97-3-15. (1) The killing of a human being by the act,
10 procurement, or omission of another shall be justifiable in the
11 following cases:

12 (a) When committed by public officers, or those acting
13 by their command in their aid and assistance, in obedience to any
14 judgment of a competent court;

15 (b) When necessarily committed by public officers, or
16 those acting by their command in their aid and assistance, in
17 overcoming actual resistance to the execution of some legal
18 process, or to the discharge of any other legal duty;

19 (c) When necessarily committed by public officers, or
20 those acting by their command in their aid and assistance, in
21 retaking any felon who has been rescued or has escaped;

22 (d) When necessarily committed by public officers, or
23 those acting by their command in their aid and assistance, in
24 arresting any felon fleeing from justice;

25 (e) When a person is presumed to have held a reasonable
26 fear of imminent peril of death or great bodily harm to himself or
27 herself or another when using defensive force that is intended or
28 likely to cause death or great bodily harm to another if:

29 (i) The person against whom the defensive force
30 was used was in the process of unlawfully and forcefully entering,
31 or had unlawfully and forcibly entered, a dwelling or residence,
32 or if that person had removed or was attempting to remove another
33 against that person's will from the dwelling or residence; and

34 (ii) The person who uses defensive force knew or
35 had reason to believe that an unlawful and forcible entry or
36 unlawful and forcible act was occurring or had occurred;

37 (f) When committed in the lawful defense of one's own
38 person or any other human being, where there shall be reasonable
39 ground to apprehend a design to commit a felony or to do some
40 great personal injury, and there shall be imminent danger of such
41 design being accomplished;

42 (g) When necessarily committed in attempting by lawful
43 ways and means to apprehend any person for any felony committed;

44 (h) When necessarily committed in lawfully suppressing
45 any riot or in lawfully keeping and preserving the peace.

46 (2) As used in paragraphs (1)(c) and (1)(d) of this section,
47 the term "when necessarily committed" means that a public officer
48 or a person acting by or at the officer's command, aid or
49 assistance is authorized to use such force as necessary in
50 securing and detaining the felon offender, overcoming the
51 offender's resistance, preventing the offender's escape,
52 recapturing the offender if the offender escapes or in protecting
53 himself or others from bodily harm; but such officer or person
54 shall not be authorized to resort to deadly or dangerous means
55 when to do so would be unreasonable under the circumstances. The
56 public officer or person acting by or at the officer's command may
57 act upon a reasonable apprehension of the surrounding
58 circumstances; however, such officer or person shall not use
59 excessive force or force that is greater than reasonably necessary
60 in securing and detaining the offender, overcoming the offender's
61 resistance, preventing the offender's escape, recapturing the

62 offender if the offender escapes or in protecting himself or
63 others from bodily harm.

64 (3) As used in paragraphs (1)(c) and (1)(d) of this section,
65 the term "felon" shall include an offender who has been convicted
66 of a felony and shall also include an offender who is in custody,
67 or whose custody is being sought, on a charge or for an offense
68 which is punishable, upon conviction, by death or confinement in
69 the Penitentiary.

70 (4) As used in subsection (1)(e) of this section, the terms:

71 (a) "Dwelling" means a building or conveyance of any
72 kind, including any attached porch, whether the building or
73 conveyance is temporary or permanent, mobile or immobile, which
74 has a roof over it, including a tent, and is designed to be
75 occupied by people lodging therein at night.

76 (b) "Residence" means a dwelling in which a person
77 resides either temporarily or permanently or is visiting as an
78 invited guest.

79 (5) A person who uses force as permitted in this section is
80 justified in using such force and is immune from criminal
81 prosecution and civil action for the use of such force, unless the
82 person against whom force was used is a public officer, who was
83 acting in the performance of his or her official duties and the
84 officer identified himself or herself in accordance with any
85 applicable law or the person using force knew or reasonably should
86 have known that the person was a public officer. As used in this
87 subsection, the term "criminal prosecution" includes arresting,
88 detaining in custody, and charging or prosecuting the defendant.

89 In the event of a resulting death or great bodily harm to an
90 unlawful aggressor:

91 (a) A law enforcement agency may use standard
92 procedures for investigating the use of force as described in this
93 subsection (5), but the agency may not arrest the person for using

94 force unless it determines that there is probable cause that the
95 force that was used was unlawful.

96 (b) The court shall award reasonable attorney's fees,
97 court costs, compensation for loss of income, and all expenses
98 incurred by the defendant in defense of any civil action brought
99 by a plaintiff if the court finds that the defendant is immune
100 from prosecution as provided in this subsection (5).

101 **SECTION 2.** This act shall take effect and be in force from
102 and after July 1, 2006.