

By: Senator(s) Davis

To: Judiciary, Division B

SENATE BILL NO. 2135

1 AN ACT TO CREATE THE CRIMINAL OFFENSE OF SOLICITATION OF A
2 CRIME; TO PROVIDE PENALTIES THEREFOR; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** (1) (a) A person who, by means of oral, written
5 or electronic communication, directly or through another,
6 intentionally commands, requests or hires another person to commit
7 a criminal offense, or attempts to command, request or hire
8 another person to commit a criminal offense, with the intent that
9 the criminal offense be committed, is guilty of the offense of
10 solicitation of a crime.

11 (b) It is no defense that the solicitation was
12 unsuccessful and the offense solicited was not committed. It is
13 no defense that the person solicited could not be guilty of the
14 offense solicited due to insanity, minority, or other lack of
15 criminal responsibility or incapacity. It is no defense that the
16 person solicited was unaware of the criminal nature of the conduct
17 solicited. It is no defense that the person solicited is unable
18 to commit the offense solicited because of the lack of capacity,
19 status, or characteristic needed to commit the offense solicited,
20 so long as the person soliciting or the person solicited believes
21 that either or both have such capacity, status or characteristic.

22 (c) A person may not be convicted under this section on
23 the uncorroborated testimony of the person allegedly solicited and
24 unless the solicitation is made under circumstances strongly
25 corroborative of both the solicitation itself and the defendant's
26 intent that the other person act on the solicitation.

27 (d) It is no defense to prosecution under this section
28 that:

29 (i) The person solicited is not criminally
30 responsible for the felony solicited;

31 (ii) The person solicited has been acquitted, has
32 not been prosecuted or convicted, has been convicted of a
33 different offense or of a different type or class of offense, or
34 is immune from prosecution;

35 (iii) The defendant belongs to a class of persons
36 that by definition of the felony solicited is legally incapable of
37 committing the offense in an individual capacity; or

38 (iv) The felony solicited was actually committed.

39 (2) An offense under this section is:

40 (a) A felony, if the offense solicited is a capital
41 offense, punishable upon conviction by commitment to the custody
42 of the Department of Corrections for a period not to exceed
43 twenty-five (25) years, a fine not to exceed One Hundred Thousand
44 Dollars (\$100,000.00), or both.

45 (b) A felony, if the offense solicited is a felony that
46 is not a capital offense, punishable upon conviction by commitment
47 to the custody of the Department of Corrections for a period not
48 to exceed ten (10) years, a fine not to exceed Ten Thousand
49 Dollars (\$10,000.00), or both.

50 (c) A misdemeanor, if the offense solicited is a
51 misdemeanor, punishable upon conviction by imprisonment for a
52 period not to exceed one (1) year, a fine not to exceed Five
53 Thousand Dollars (\$5,000.00), or both.

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