

By: Representative Moore

To: Judiciary En Banc

HOUSE BILL NO. 459

1 AN ACT TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT MURDER OF TWO OR MORE HUMAN BEINGS BY THE SAME PERSON  
3 IS CAPITAL MURDER; TO AMEND SECTION 97-3-21, MISSISSIPPI CODE OF  
4 1972, TO PROVIDE THAT THE PENALTY FOR PERSONS CONVICTED OF SUCH  
5 OFFENSE IS DEATH; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 97-3-19, Mississippi Code of 1972, is  
8 amended as follows:

9 97-3-19. (1) The killing of a human being without the  
10 authority of law by any means or in any manner shall be murder in  
11 the following cases:

12 (a) When done with deliberate design to effect the  
13 death of the person killed, or of any human being;

14 (b) When done in the commission of an act eminently  
15 dangerous to others and evincing a depraved heart, regardless of  
16 human life, although without any premeditated design to effect the  
17 death of any particular individual;

18 (c) When done without any design to effect death by any  
19 person engaged in the commission of any felony other than rape,  
20 kidnapping, burglary, arson, robbery, sexual battery, unnatural  
21 intercourse with any child under the age of twelve (12), or  
22 nonconsensual unnatural intercourse with mankind, or felonious  
23 abuse and/or battery of a child in violation of subsection (2) of  
24 Section 97-5-39, or in any attempt to commit such felonies;

25 (d) When done with deliberate design to effect the  
26 death of an unborn child.

27           (2) The killing of a human being without the authority of  
28 law by any means or in any manner shall be capital murder in the  
29 following cases:

30           (a) Murder which is perpetrated by killing a peace  
31 officer or fireman while such officer or fireman is acting in his  
32 official capacity or by reason of an act performed in his official  
33 capacity, and with knowledge that the victim was a peace officer  
34 or fireman. For purposes of this paragraph, the term "peace  
35 officer" means any state or federal law enforcement officer,  
36 including, but not limited to, a federal park ranger, the sheriff  
37 of or police officer of a city or town, a conservation officer, a  
38 parole officer, a judge, senior status judge, special judge,  
39 district attorney, legal assistant to a district attorney, county  
40 prosecuting attorney or any other court official, an agent of the  
41 Alcoholic Beverage Control Division of the State Tax Commission,  
42 an agent of the Bureau of Narcotics, personnel of the Mississippi  
43 Highway Patrol, and the employees of the Department of Corrections  
44 who are designated as peace officers by the Commissioner of  
45 Corrections pursuant to Section 47-5-54, and the superintendent  
46 and his deputies, guards, officers and other employees of the  
47 Mississippi State Penitentiary;

48           (b) Murder which is perpetrated by a person who is  
49 under sentence of life imprisonment;

50           (c) Murder which is perpetrated by use or detonation of  
51 a bomb or explosive device;

52           (d) Murder which is perpetrated by any person who has  
53 been offered or has received anything of value for committing the  
54 murder, and all parties to such a murder, are guilty as  
55 principals;

56           (e) When done with or without any design to effect  
57 death, by any person engaged in the commission of the crime of  
58 rape, burglary, kidnapping, arson, robbery, sexual battery,  
59 unnatural intercourse with any child under the age of twelve (12),

60 or nonconsensual unnatural intercourse with mankind, or in any  
61 attempt to commit such felonies;

62 (f) When done with or without any design to effect  
63 death, by any person engaged in the commission of the crime of  
64 felonious abuse and/or battery of a child in violation of  
65 subsection (2) of Section 97-5-39, or in any attempt to commit  
66 such felony;

67 (g) Murder which is perpetrated on educational property  
68 as defined in Section 97-37-17;

69 (h) Murder which is perpetrated by the killing of any  
70 elected official of a county, municipal, state or federal  
71 government with knowledge that the victim was such public  
72 official;

73 (i) Murder of two (2) or more human beings by the same  
74 person whether or not by a common plan or design and whether or  
75 not the deaths occur within any particular period of time.

76 (3) An indictment for murder or capital murder shall serve  
77 as notice to the defendant that the indictment may include any and  
78 all lesser included offenses thereof, including, but not limited  
79 to, manslaughter.

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

82 97-3-21. (1) Every person who is convicted of murder shall  
83 be sentenced by the court to imprisonment for life in the State  
84 Penitentiary.

85 (2) Every person who is convicted of capital murder, except  
86 as provided in subsection (3) of this section, shall be sentenced  
87 (a) to death; (b) to imprisonment for life in the State  
88 Penitentiary without parole; or (c) to imprisonment for life in  
89 the State Penitentiary with eligibility for parole as provided in  
90 Section 47-7-3(1)(f).

91 (3) Every person who is convicted of capital murder under  
92 Section 97-3-19(2)(i) shall be sentenced to death.

93           **SECTION 3.** This act shall take effect and be in force from  
94 and after July 1, 2007.