

By: Senator(s) White

To: Judiciary, Division A

SENATE BILL NO. 2184

1 AN ACT TO PROHIBIT RECOVERY OF DAMAGES BY CERTAIN PERSONS WHO
2 ARE INJURED WHILE COMMITTING A CRIMINAL ACT; TO PROSCRIBE THE
3 PROOF THAT A VICTIM COULD USE IN SUPPORT OF HIS IMMUNITY; TO ALLOW
4 A CIVIL ACTION AGAINST A VICTIM BY THE PERPETRATOR OF A CRIME TO
5 BE STAYED PENDING THE FINAL OUTCOME OF THE CRIMINAL TRIAL OF THE
6 PERPETRATOR; TO ALLOW FOR THE AWARD OF ATTORNEYS' FEES AND COSTS
7 TO A VICTIM WHO IS A DEFENDANT IN A CIVIL CASE UNDER CERTAIN
8 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) As used in this section, the term:

11 (a) "Criminal activity" means any action that
12 constitutes a felony offense, an attempt of a felony offense, or
13 any other crime involving physical harm or the risk of physical
14 harm to a victim, even if the person who has engaged in the
15 criminal activity is not subsequently charged or convicted.

16 (b) "Perpetrator" means a person who has engaged in any
17 action that constitutes a felony offense, an attempt of a felony
18 offense, or any other crime involving physical harm or the risk of
19 physical harm to a victim.

20 (c) "Victim" means a person who owns the property upon
21 which criminal activity takes place, an invited guest on that
22 property, or a person providing assistance to another victim. The
23 term includes a person who in self-defense injures another person
24 engaging in an action that constitutes a felony offense, an
25 attempt of a felony offense, or any other crime involving physical
26 harm or the risk of physical harm to another person.

27 (2) A perpetrator assumes the risk of loss, injury or death
28 resulting from or arising out of a course of criminal activity
29 engaged in by the perpetrator or an accomplice.

30 (3) A victim is immune from civil damages as a result of
31 acts or omissions of the victim in resisting criminal conduct or
32 from other harm to a perpetrator, except that a victim is not
33 immune from civil liability if he is found guilty of criminal
34 conduct resulting from his actions taken in response to criminal
35 activity of a perpetrator.

36 (4) Conclusive proof of criminal activity of a perpetrator
37 includes, but is not limited to, the following:

38 (a) A certified copy of a guilty plea;

39 (b) A court judgment of guilt;

40 (c) A court record of conviction; and

41 (d) An adjudication of delinquency of a child.

42 (5) A victim is immune from civil damages to a perpetrator
43 if he, by a preponderance of the evidence, proves the criminal
44 activity of the perpetrator.

45 (6) The immunity granted to a victim is not precluded if a
46 perpetrator pleads guilty to or is found guilty of a lesser
47 included offense that is not a felony.

48 (7) Except to the extent needed to preserve evidence, a
49 civil action in which a defense of immunity is pled shall be
50 stayed by the court on the motion of the defendant during the
51 pendency of any criminal action against the plaintiff based on the
52 alleged criminal activity.

53 (8) In any civil action subject to this section, the court
54 shall award reasonable expenses, including attorneys' fees and
55 costs to the victim, if he prevails on grounds of immunity as set
56 forth in subsections (2) and (3) of this section.

57 **SECTION 2.** This act shall take effect and be in force from
58 and after July 1, 2007, and shall apply to civil actions commenced
59 on or after that date.