

By: Representative Dixon

To: Judiciary B

HOUSE BILL NO. 1140

1 AN ACT TO PROVIDE THAT CHARGES OF MANSLAUGHTER SHALL BE TRIED
2 ON THE MERITS OF EACH INDIVIDUAL CASE WITHOUT REGARD TO CERTAIN
3 DEFENSES; TO AMEND SECTIONS 97-3-15, 97-3-27, 97-3-29, 97-3-31,
4 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43, 97-3-45 AND 97-3-47,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Any charge of manslaughter shall be tried on the
8 merits of the individual case. There shall be no defense
9 allowable in a manslaughter case regarding heat of passion,
10 self-defense, duress, domestic conflict, provocation or accident.

11 **SECTION 2.** Section 97-3-15, Mississippi Code of 1972, is
12 amended as follows:

13 97-3-15. (1) Except as otherwise provided in Section 1 of
14 this act, the killing of a human being by the act, procurement or
15 omission of another shall be justifiable in the following cases:

16 (a) When committed by public officers, or those acting
17 by their aid and assistance, in obedience to any judgment of a
18 competent court;



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

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

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

29 (e) When committed by any person in resisting any
30 attempt unlawfully to kill such person or to commit any felony
31 upon him, or upon or in any dwelling, in any occupied vehicle, in
32 any place of business, in any place of employment or in the
33 immediate premises thereof in which such person shall be;

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

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

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



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

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



67 (c) As used in subsections (1)(e) and (3) of this
68 section, "dwelling" means a building or conveyance of any kind
69 that has a roof over it, whether the building or conveyance is
70 temporary or permanent, mobile or immobile, including a tent, that
71 is designed to be occupied by people lodging therein at night,
72 including any attached porch * * *.

73 (3) A person who uses defensive force shall be presumed to
74 have reasonably feared imminent death or great bodily harm, or the
75 commission of a felony upon him or another or upon his dwelling,
76 or against a vehicle which he was occupying, or against his
77 business or place of employment or the immediate premises of such
78 business or place of employment, if the person against whom the
79 defensive force was used, was in the process of unlawfully and
80 forcibly entering, or had unlawfully and forcibly entered, a
81 dwelling, occupied vehicle, business, place of employment or the
82 immediate premises thereof or if that person had unlawfully
83 removed or was attempting to unlawfully remove another against the
84 other person's will from that dwelling, occupied vehicle,
85 business, place of employment or the immediate premises thereof
86 and the person who used defensive force knew or had reason to
87 believe that the forcible entry or unlawful and forcible act was
88 occurring or had occurred. This presumption shall not apply if
89 the person against whom defensive force was used has a right to be
90 in or is a lawful resident or owner of the dwelling, vehicle,
91 business, place of employment or the immediate premises thereof or



is the lawful resident or owner of the dwelling, vehicle,
business, place of employment or the immediate premises thereof or
if the person who uses defensive force is engaged in unlawful
activity or if the person is a law enforcement officer engaged in
the performance of his official duties * * *.

(4) A person who is not the initial aggressor and is not
engaged in unlawful activity shall have no duty to retreat before
using deadly force under subsection (1)(e) or (f) of this section
if the person is in a place where the person has a right to be,
and no finder of fact shall be permitted to consider the person's
failure to retreat as evidence that the person's use of force was
unnecessary, excessive or unreasonable.

(5) (a) The presumptions contained in subsection (3) of
this section shall apply in civil cases in which self-defense or
defense of another is claimed as a defense.

(b) The court shall award reasonable attorney's fees,
court costs, compensation for loss of income, and all expenses
incurred by the defendant in defense of any civil action brought
by a plaintiff if the court finds that the defendant acted in
accordance with subsection (1)(e) or (f) of this section. A
defendant who has previously been adjudicated "not guilty" of any
crime by reason of subsection (1)(e) or (f) of this section shall
be immune from any civil action for damages arising from same
conduct.



SECTION 3. Section 97-3-27, Mississippi Code of 1972, is amended as follows:

97-3-27. Except as otherwise provided in Section 1 of this act, the killing of a human being without malice, by the act, procurement, or culpable negligence of another, while such other is engaged in the perpetration of any felony, except those felonies enumerated in Section 97-3-19(2)(e) and (f), or while such other is attempting to commit any felony besides such as are above enumerated and excepted, shall be manslaughter.

SECTION 4. Section 97-3-29, Mississippi Code of 1972, is amended as follows:

97-3-29. Except as otherwise provided in Section 1 of this act, the killing of a human being without malice, by the act, procurement, or culpable negligence of another, while such other is engaged in the perpetration of any crime or misdemeanor not amounting to felony, or in the attempt to commit any crime or misdemeanor, where such killing would be murder at common law, shall be manslaughter.

SECTION 5. Section 97-3-31, Mississippi Code of 1972, is amended as follows:

97-3-31. Except as otherwise provided in Section 1 of this act, every person who shall unnecessarily kill another, either while resisting an attempt by such other person to commit any felony, or to do any unlawful act, or after such attempt shall have failed, shall be guilty of manslaughter.



141 **SECTION 6.** Section 97-3-33, Mississippi Code of 1972, is
142 amended as follows:

143 97-3-33. Except as otherwise provided in Section 1 of this
144 act, the involuntary killing of a human being by the act,
145 procurement, or culpable negligence of another, while such human
146 being is engaged in the commission of a trespass or other injury
147 to private rights or property, or is engaged in an attempt to
148 commit such injury, shall be manslaughter.

149 **SECTION 7.** Section 97-3-35, Mississippi Code of 1972, is
150 amended as follows:

151 97-3-35. Except as otherwise provided in Section 1 of this
152 act, the killing of a human being, without malice, in the heat of
153 passion, but in a cruel or unusual manner, or by the use of a
154 dangerous weapon, without authority of law, and not in necessary
155 self-defense, shall be manslaughter.

156 **SECTION 8.** Section 97-3-39, Mississippi Code of 1972, is
157 amended as follows:

158 97-3-39. Except as otherwise provided in Section 1 of this
159 act, if any physician or other person, while in a state of
160 intoxication, shall, without a design to effect death, administer
161 or cause to be administered, any poison, drug, or other medicine,
162 or shall perform any surgical operation on another, which shall
163 cause the death of such other person, he shall be guilty of
164 manslaughter.



165 **SECTION 9.** Section 97-3-41, Mississippi Code of 1972, is
166 amended as follows:

167 97-3-41. Except as otherwise provided in Section 1 of this
168 act, any person navigating any boat or vessel for gain, who
169 shall * * * willfully or negligently receive so many passengers,
170 or such quantity of lading, that by means thereof such boat or
171 vessel shall sink or overset, and thereby any human being shall be
172 drowned or otherwise killed, shall be guilty of manslaughter.

173 **SECTION 10.** Section 97-3-43, Mississippi Code of 1972, is
174 amended as follows:

175 97-3-43. Except as otherwise provided in Section 1 of this
176 act, if any captain, engineer, or any other person having charge
177 of a steamboat or railroad engine connected with a car or cars
178 used for the conveyance of passengers; or if the engineer or other
179 person having charge of the boiler of such boat or engine, or of
180 any other apparatus for the generation of steam, shall, from
181 ignorance or gross neglect, or for the purpose of excelling any
182 other boat in speed, or for the purpose of unusual speed, create
183 or allow to be created such an undue quantity of steam as to burst
184 or break the boiler or other apparatus in which it shall be
185 generated, or any apparatus or machinery connected therewith, or
186 shall thereby cause the said engine or cars to run off of said
187 railroad track, or from any other ignorant or gross neglect shall
188 permit or cause such cars or engine to be thus thrown, by which
189 bursting, breaking, or running off the track any person shall be



190 killed, every such captain, engineer, or other person, shall be
191 guilty of manslaughter.

192 **SECTION 11.** Section 97-3-45, Mississippi Code of 1972, is
193 amended as follows:

194 97-3-45. Except as otherwise provided in Section 1 of this
195 act, if the owner of a mischievous animal, knowing its
196 propensity, * * * willfully suffer it to go at large, or shall
197 keep it without ordinary care, and such animal, while so at large,
198 or not confined, kill any human being who shall have taken
199 reasonable precautions to avoid the animal, such owner shall be
200 guilty of manslaughter.

201 **SECTION 12.** Section 97-3-47, Mississippi Code of 1972, is
202 amended as follows:

203 97-3-47. Except as otherwise provided in Section 1 of this
204 act, every other killing of a human being, by the act,
205 procurement, or culpable negligence of another, and without
206 authority of law, not provided for in this title, shall be
207 manslaughter.

208 **SECTION 13.** This act shall take effect and be in force from
209 and after July 1, 2013.

