

By: Senator(s) Wiggins, Massey, Polk,  
Tollison, Longwitz, Watson

To: Judiciary, Division A

SENATE BILL NO. 2377  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO  
2 CREATE A DISTINCTION IN THE SERIOUSNESS OF MURDER TO BE  
3 DENOMINATED AS FIRST- AND SECOND-DEGREE MURDER; TO AMEND SECTION  
4 97-3-21, MISSISSIPPI CODE OF 1972, TO REVISE THE PUNISHMENT FOR  
5 MURDER TO CONFORM; 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, shall be  
14 first-degree murder;

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



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

27 (d) When done with deliberate design to effect the  
28 death of an unborn child, shall be first-degree murder.

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

32 (a) Murder which is perpetrated by killing a peace  
33 officer or fireman while such officer or fireman is acting in his  
34 official capacity or by reason of an act performed in his official  
35 capacity, and with knowledge that the victim was a peace officer  
36 or fireman. For purposes of this paragraph, the term "peace  
37 officer" means any state or federal law enforcement officer,  
38 including, but not limited to, a federal park ranger, the sheriff  
39 of or police officer of a city or town, a conservation officer, a  
40 parole officer, a judge, senior status judge, special judge,  
41 district attorney, legal assistant to a district attorney, county  
42 prosecuting attorney or any other court official, an agent of the  
43 Alcoholic Beverage Control Division of the \* \* \* Department of



44 Revenue, an agent of the Bureau of Narcotics, personnel of the  
45 Mississippi Highway Patrol, and the employees of the Department of  
46 Corrections who are designated as peace officers by the  
47 Commissioner of Corrections pursuant to Section 47-5-54, and the  
48 superintendent and his deputies, guards, officers and other  
49 employees of the Mississippi State Penitentiary;

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

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

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

58 (e) When done with or without any design to effect  
59 death, by any person engaged in the commission of the crime of  
60 rape, burglary, kidnapping, arson, robbery, sexual battery,  
61 unnatural intercourse with any child under the age of twelve (12),  
62 or nonconsensual unnatural intercourse with mankind, or in any  
63 attempt to commit such felonies;

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



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

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

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

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

81 97-3-21. (1) Every person who shall be convicted of  
82 first-degree murder shall be sentenced by the court to  
83 imprisonment for life in the \* \* \* custody of the Department of  
84 Corrections.

85 (2) Every person who shall be convicted of second-degree  
86 murder shall be imprisoned for life in the custody of the  
87 Department of Corrections if the punishment is so fixed by the  
88 jury in its verdict after a separate sentencing proceeding. If  
89 the jury fails to agree on fixing the penalty at imprisonment for  
90 life, the court shall fix the penalty at not less than twenty (20)  
91 nor more than forty (40) years in the custody of the Department of  
92 Corrections.



93           (3) Every person who shall be convicted of capital murder  
94 shall be sentenced (a) to death; (b) to imprisonment for life in  
95 the State Penitentiary without parole; or (c) to imprisonment for  
96 life in the State Penitentiary with eligibility for parole as  
97 provided in Section 47-7-3(1)(f).

98           **SECTION 3.** This act shall take effect and be in force from  
99 and after July 1, 2013.

