

By: Representative Dixon

To: Judiciary A

HOUSE BILL NO. 179

1 AN ACT TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO
 2 REMOVE THE IMMUNITY OF JUSTIFIABLE HOMICIDE PROVIDED TO PERSONS
 3 WHO COMMIT THE KILLING OF AN AGGRESSOR WHEN THAT KILLING OCCURS
 4 OUTSIDE OF THE DWELLING; TO DEFINE THE TERM "IMMEDIATE PREMISE"
 5 FOR THE PURPOSE OF DETERMINING WHETHER CRIMINAL LIABILITY SHALL BE
 6 ATTACHED TO THE KILLING; TO REQUIRE THE DRUG TESTING OF
 7 INDIVIDUALS PROVIDED PROTECTION OF THE CASTLE DOCTRINE AT THE TIME
 8 OF INVESTIGATION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-3-15, Mississippi Code of 1972, is
 11 amended as follows:

12 97-3-15. (1) The killing of a human being by the act,
 13 procurement or omission of another shall be justifiable in the
 14 following cases:

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

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



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

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

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

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

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

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

42 (2) (a) As used in subsection (1)(c) and (d) of this
43 section, the term "when necessarily committed" means that a public
44 officer or a person acting by or at the officer's command, aid or
45 assistance is authorized to use such force as necessary in
46 securing and detaining the felon offender, overcoming the



47 offender's resistance, preventing the offender's escape,
48 recapturing the offender if the offender escapes or in protecting
49 himself or others from bodily harm; but such officer or person
50 shall not be authorized to resort to deadly or dangerous means
51 when to do so would be unreasonable under the circumstances. The
52 public officer or person acting by or at the officer's command may
53 act upon a reasonable apprehension of the surrounding
54 circumstances; however, such officer or person shall not use
55 excessive force or force that is greater than reasonably necessary
56 in securing and detaining the offender, overcoming the offender's
57 resistance, preventing the offender's escape, recapturing the
58 offender if the offender escapes or in protecting himself or
59 others from bodily harm.

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

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



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



96 (4) (a) A person who is not the initial aggressor and is
97 not engaged in unlawful activity shall have no duty to retreat
98 before using deadly force under subsection (1)(e) or (f) of this
99 section if the person is in a place where the person has a right
100 to be, and no finder of fact shall be permitted to consider the
101 person's failure to retreat as evidence that the person's use of
102 force was unnecessary, excessive or unreasonable. However, the
103 protection of criminal liability provided under subsection (1)(e)
104 of this section shall not be extended to any person who, in the
105 act of resisting the commission of a felony upon him or within his
106 dwelling, kills the aggressor outside of the immediate premises
107 thereof. For the purposes of this subsection "immediate premises"
108 means any interior portion of the dwelling. "Immediate premises"
109 shall not mean the exterior quarters of a dwelling in excess of
110 thirty (30) feet of the threshold or nearest access of entry.

111 (b) Any person exempt under provision of paragraph (a)
112 of this subsection shall be required to submit to a sobriety test
113 or drug test at the time of investigation to determine whether the
114 individual was under the influence of an intoxicating liquor or
115 controlled substance.

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

119 (b) The court shall award reasonable attorney's fees,
120 court costs, compensation for loss of income, and all expenses



121 incurred by the defendant in defense of any civil action brought
122 by a plaintiff if the court finds that the defendant acted in
123 accordance with subsection (1)(e) or (f) of this section. A
124 defendant who has previously been adjudicated "not guilty" of any
125 crime by reason of subsection (1)(e) or (f) of this section shall
126 be immune from any civil action for damages arising from same
127 conduct.

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2014.

