

By: Representatives Gipson, Morgan,
Mettetal, Beckett, Rogers (61st), Tullos,
Oliver, Baker, Kinkade, Hale, Rushing,
Formby, Chism, Miles, Bain, Mims, Criswell,
Willis, Currie, Boyd, Bomgar, Hopkins,
Weathersby, Moore, Shirley, Arnold, Staples, Monsour, Barnett,
Crawford, Dixon, Ladner

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 786

1 AN ACT TO CREATE THE "MISSISSIPPI CHURCH PROTECTION ACT"; TO
2 AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, TO CONFORM TO
3 THE PRECEDING SECTION; TO BRING FORWARD SECTION 97-37-7,
4 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND
5 SECTION 97-37-9, MISSISSIPPI CODE OF 1972, TO REVISE THE LIST OF
6 DEFENSES FOR A PERSON INDICTED OR CHARGED FOR A VIOLATION OF THE
7 PROVISION OF LAW REGULATING THE USE OF FIREARMS; TO AMEND SECTION
8 97-3-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT KILLING A
9 PERSON WHILE ACTING AS A PARTICIPANT OF A CHURCH OR PLACE OF
10 WORSHIP SECURITY TEAM IS JUSTIFIABLE HOMICIDE; AND FOR RELATED
11 PURPOSES.

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

13 **SECTION 1.** This act shall be known and may be cited as the
14 "Mississippi Church Protection Act."

15 **SECTION 2.** (1) The governing body of any church or place of
16 worship may establish a security program by which designated
17 members are authorized to carry firearms for the protection of the
18 congregation of such church or place of worship, including
19 resisting any unlawful attempt to kill a member(s) or attendee(s)
20 of such church or place of worship, or to commit any felony upon
21 any such member or attendee in the church or place of worship or
22 in the immediate premises thereof. Any church or place of worship



23 that establishes a security program that meets the requirements of
24 subsection (2) of this section and any participant of such
25 security program shall be immune from civil liability for any
26 action taken by a member of such security program, if such action
27 occurs during the course and scope of the member's performance of
28 their official duties as a member of the security program for the
29 church or place of worship. For purposes of this act, "church" or
30 "place of worship" means and shall only be applicable to a bona
31 fide duly constituted religious society, ecclesiastical body or
32 any congregation thereof that was operating as such at the time of
33 any actions described in this act.

34 (2) In order to be eligible for the immunity provided in
35 this section:

36 (a) Such program shall at a minimum: (i) require each
37 participant of the program to have a firearms permit issued under
38 Section 45-9-101; and (ii) require each participant to complete an
39 instructional course in the safe handling and use of firearms as
40 described in Section 97-37-7; provided, however, that such program
41 may also include one or more persons with law enforcement or
42 military background who, may assist the church or place of worship
43 in training of the members of the program; and

44 (b) The accused member of the program who is involved
45 in any action under the provisions of this section shall have met
46 the requirements of paragraphs (a)(i) and (a)(ii) of this
47 subsection.



(3) Any person who is indicted or charged with a violation of criminal law while acting in his capacity as a member of a security program of a church or place of worship may assert as a defense in addition to any other defense available, that at the time of the action in question, he or she was a member of a church or place of worship security program, was then actually engaged in the performance of his or her duties as a member of such program, and had met the requirements of paragraphs (a)(i) and (a)(ii) of Section 2 of this act at the time of such action.

SECTION 3. Section 45-9-101, Mississippi Code of 1972, is amended as follows:

45-9-101. (1) (a) Except as otherwise provided, the Department of Public Safety is authorized to issue licenses to carry stun guns, concealed pistols or revolvers to persons qualified as provided in this section. Such licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person possessing a valid license issued pursuant to this section may carry a stun gun, concealed pistol or concealed revolver.

(b) The licensee must carry the license, together with valid identification, at all times in which the licensee is carrying a stun gun, concealed pistol or revolver and must display both the license and proper identification upon demand by a law enforcement officer. A violation of the provisions of this paragraph (b) shall constitute a noncriminal violation with a



penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by summons.

(2) The Department of Public Safety shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for twelve (12) months or longer immediately preceding the filing of the application. However, this residency requirement may be waived if the applicant possesses a valid permit from another state, is active military personnel stationed in Mississippi, or is a retired law enforcement officer establishing residency in the state;

(b) (i) Is twenty-one (21) years of age or older; or
(ii) Is at least eighteen (18) years of age but not yet twenty-one (21) years of age and the applicant:

1. Is a member or veteran of the United States Armed Forces, including National Guard or Reserve; and

2. Holds a valid Mississippi driver's license or identification card issued by the Department of Public Safety;

(c) Does not suffer from a physical infirmity which prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of having been convicted of a felony in a court of this state, of any other state, or of the United States without having been pardoned for same;



97 (e) Does not chronically or habitually abuse controlled
98 substances to the extent that his normal faculties are impaired.
99 It shall be presumed that an applicant chronically and habitually
100 uses controlled substances to the extent that his faculties are
101 impaired if the applicant has been voluntarily or involuntarily
102 committed to a treatment facility for the abuse of a controlled
103 substance or been found guilty of a crime under the provisions of
104 the Uniform Controlled Substances Law or similar laws of any other
105 state or the United States relating to controlled substances
106 within a three-year period immediately preceding the date on which
107 the application is submitted;

108 (f) Does not chronically and habitually use alcoholic
109 beverages to the extent that his normal faculties are impaired.
110 It shall be presumed that an applicant chronically and habitually
111 uses alcoholic beverages to the extent that his normal faculties
112 are impaired if the applicant has been voluntarily or
113 involuntarily committed as an alcoholic to a treatment facility or
114 has been convicted of two (2) or more offenses related to the use
115 of alcohol under the laws of this state or similar laws of any
116 other state or the United States within the three-year period
117 immediately preceding the date on which the application is
118 submitted;

119 (g) Desires a legal means to carry a stun gun,
120 concealed pistol or revolver to defend himself;



121 (h) Has not been adjudicated mentally incompetent, or
122 has waited five (5) years from the date of his restoration to
123 capacity by court order;

124 (i) Has not been voluntarily or involuntarily committed
125 to a mental institution or mental health treatment facility unless
126 he possesses a certificate from a psychiatrist licensed in this
127 state that he has not suffered from disability for a period of
128 five (5) years;

129 (j) Has not had adjudication of guilt withheld or
130 imposition of sentence suspended on any felony unless three (3)
131 years have elapsed since probation or any other conditions set by
132 the court have been fulfilled;

133 (k) Is not a fugitive from justice; and

134 (l) Is not disqualified to possess a weapon based on
135 federal law.

136 (3) The Department of Public Safety may deny a license if
137 the applicant has been found guilty of one or more crimes of
138 violence constituting a misdemeanor unless three (3) years have
139 elapsed since probation or any other conditions set by the court
140 have been fulfilled or expunction has occurred prior to the date
141 on which the application is submitted, or may revoke a license if
142 the licensee has been found guilty of one or more crimes of
143 violence within the preceding three (3) years. The department
144 shall, upon notification by a law enforcement agency or a court
145 and subsequent written verification, suspend a license or the



processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;

(b) The driver's license number or social security number of applicant;

(c) Any previous address of the applicant for the two (2) years preceding the date of the application;

(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;

(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and



(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety, except that an applicant who is younger than twenty-one (21) years of age must submit a photograph in profile of the applicant;

(c) A nonrefundable license fee of Eighty Dollars (\$80.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.



195 (6) (a) The Department of Public Safety, upon receipt of
196 the items listed in subsection (5) of this section, shall forward
197 the full set of fingerprints of the applicant to the appropriate
198 agencies for state and federal processing.

199 (b) The Department of Public Safety shall forward a
200 copy of the applicant's application to the sheriff of the
201 applicant's county of residence and, if applicable, the police
202 chief of the applicant's municipality of residence. The sheriff
203 of the applicant's county of residence and, if applicable, the
204 police chief of the applicant's municipality of residence may, at
205 his discretion, participate in the process by submitting a
206 voluntary report to the Department of Public Safety containing any
207 readily discoverable prior information that he feels may be
208 pertinent to the licensing of any applicant. The reporting shall
209 be made within thirty (30) days after the date he receives the
210 copy of the application. Upon receipt of a response from a
211 sheriff or police chief, such sheriff or police chief shall be
212 reimbursed at a rate set by the department.

213 (c) The Department of Public Safety shall, within
214 forty-five (45) days after the date of receipt of the items listed
215 in subsection (5) of this section:

216 (i) Issue the license;
217 (ii) Deny the application based solely on the
218 ground that the applicant fails to qualify under the criteria
219 listed in subsections (2) and (3) of this section. If the



Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

(iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

(d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and



245 failure to rule within this thirty-day period shall constitute
246 sustaining such denial, suspension or revocation. Such review
247 shall be conducted pursuant to such reasonable rules and
248 regulations as the Commissioner of Public Safety may adopt.

249 (b) If the revocation, suspension or denial of issuance
250 is sustained by the Commissioner of Public Safety, or his duly
251 authorized agent pursuant to paragraph (a) of this subsection, the
252 aggrieved party may file within ten (10) days after the rendition
253 of such decision a petition in the circuit or county court of his
254 residence for review of such decision. A hearing for review shall
255 be held and shall proceed before the court without a jury upon the
256 record made at the hearing before the Commissioner of Public
257 Safety or his duly authorized agent. No such party shall be
258 allowed to carry a stun gun, concealed pistol or revolver pursuant
259 to the provisions of this section while any such appeal is
260 pending.

261 (8) The Department of Public Safety shall maintain an
262 automated listing of license holders and such information shall be
263 available online, upon request, at all times, to all law
264 enforcement agencies through the Mississippi Crime Information
265 Center. However, the records of the department relating to
266 applications for licenses to carry stun guns, concealed pistols or
267 revolvers and records relating to license holders shall be exempt
268 from the provisions of the Mississippi Public Records Act of 1983,



and shall be released only upon order of a court having proper jurisdiction over a petition for release of the record or records.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after having a license lost or destroyed, the licensee shall notify the Department of Public Safety in writing of such change or loss. Failure to notify the Department of Public Safety pursuant to the provisions of this subsection shall constitute a noncriminal violation with a penalty of Twenty-five Dollars (\$25.00) and shall be enforceable by a summons.

(10) In the event that a stun gun, concealed pistol or revolver license is lost or destroyed, the person to whom the license was issued shall comply with the provisions of subsection (9) of this section and may obtain a duplicate, or substitute thereof, upon payment of Fifteen Dollars (\$15.00) to the Department of Public Safety, and furnishing a notarized statement to the department that such license has been lost or destroyed.

(11) A license issued under this section shall be revoked if the licensee becomes ineligible under the criteria set forth in subsection (2) of this section.

(12) (a) No less than ninety (90) days prior to the expiration date of the license, the Department of Public Safety shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the department. The licensee must renew his license on or before the expiration date by filing with



the department the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and a full set of fingerprints administered by the Department of Public Safety or the sheriff of the county of residence of the licensee. The first renewal may be processed by mail and the subsequent renewal must be made in person. Thereafter every other renewal may be processed by mail to assure that the applicant must appear in person every ten (10) years for the purpose of obtaining a new photograph.

(i) Except as provided in this subsection, a renewal fee of Forty Dollars (\$40.00) shall also be submitted along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident aged sixty-five (65) years of age or older shall be Twenty Dollars (\$20.00).

(b) The Department of Public Safety shall forward the full set of fingerprints of the applicant to the appropriate agencies for state and federal processing. The license shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.



318 (c) A licensee who fails to file a renewal application
319 on or before its expiration date must renew his license by paying
320 a late fee of Fifteen Dollars (\$15.00). No license shall be
321 renewed six (6) months or more after its expiration date, and such
322 license shall be deemed to be permanently expired. A person whose
323 license has been permanently expired may reapply for licensure;
324 however, an application for licensure and fees pursuant to
325 subsection (5) of this section must be submitted, and a background
326 investigation shall be conducted pursuant to the provisions of
327 this section.

328 (13) No license issued pursuant to this section shall
329 authorize any person to carry a stun gun, concealed pistol or
330 revolver into any place of nuisance as defined in Section 95-3-1,
331 Mississippi Code of 1972; any police, sheriff or highway patrol
332 station; any detention facility, prison or jail; any courthouse;
333 any courtroom, except that nothing in this section shall preclude
334 a judge from carrying a concealed weapon or determining who will
335 carry a concealed weapon in his courtroom; any polling place; any
336 meeting place of the governing body of any governmental entity;
337 any meeting of the Legislature or a committee thereof; any school,
338 college or professional athletic event not related to firearms;
339 any portion of an establishment, licensed to dispense alcoholic
340 beverages for consumption on the premises, that is primarily
341 devoted to dispensing alcoholic beverages; any portion of an
342 establishment in which beer or light wine is consumed on the



343 premises, that is primarily devoted to such purpose; any
344 elementary or secondary school facility; any junior college,
345 community college, college or university facility unless for the
346 purpose of participating in any authorized firearms-related
347 activity; inside the passenger terminal of any airport, except
348 that no person shall be prohibited from carrying any legal firearm
349 into the terminal if the firearm is encased for shipment, for
350 purposes of checking such firearm as baggage to be lawfully
351 transported on any aircraft; any church or other place of worship,
352 except as provided in Section 2 of this act; or any place where
353 the carrying of firearms is prohibited by federal law. In
354 addition to the places enumerated in this subsection, the carrying
355 of a stun gun, concealed pistol or revolver may be disallowed in
356 any place in the discretion of the person or entity exercising
357 control over the physical location of such place by the placing of
358 a written notice clearly readable at a distance of not less than
359 ten (10) feet that the "carrying of a pistol or revolver is
360 prohibited." No license issued pursuant to this section shall
361 authorize the participants in a parade or demonstration for which
362 a permit is required to carry a stun gun, concealed pistol or
363 revolver.

364 (14) A law enforcement officer as defined in Section 45-6-3,
365 chiefs of police, sheriffs and persons licensed as professional
366 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
367 1972, shall be exempt from the licensing requirements of this



368 section. The licensing requirements of this section do not apply
369 to the carrying by any person of a stun gun, pistol or revolver,
370 knife, or other deadly weapon that is not concealed as defined in
371 Section 97-37-1.

372 (15) Any person who knowingly submits a false answer to any
373 question on an application for a license issued pursuant to this
374 section, or who knowingly submits a false document when applying
375 for a license issued pursuant to this section, shall, upon
376 conviction, be guilty of a misdemeanor and shall be punished as
377 provided in Section 99-19-31, Mississippi Code of 1972.

378 (16) All fees collected by the Department of Public Safety
379 pursuant to this section shall be deposited into a special fund
380 hereby created in the State Treasury and shall be used for
381 implementation and administration of this section. After the
382 close of each fiscal year, the balance in this fund shall be
383 certified to the Legislature and then may be used by the
384 Department of Public Safety as directed by the Legislature.

385 (17) All funds received by a sheriff or police chief
386 pursuant to the provisions of this section shall be deposited into
387 the general fund of the county or municipality, as appropriate,
388 and shall be budgeted to the sheriff's office or police department
389 as appropriate.

390 (18) Nothing in this section shall be construed to require
391 or allow the registration, documentation or providing of serial
392 numbers with regard to any stun gun or firearm.



393 (19) Any person holding a valid unrevoked and unexpired
394 license to carry stun guns, concealed pistols or revolvers issued
395 in another state shall have such license recognized by this state
396 to carry stun guns, concealed pistols or revolvers. The
397 Department of Public Safety is authorized to enter into a
398 reciprocal agreement with another state if that state requires a
399 written agreement in order to recognize licenses to carry stun
400 guns, concealed pistols or revolvers issued by this state.

401 (20) The provisions of this section shall be under the
402 supervision of the Commissioner of Public Safety. The
403 commissioner is authorized to promulgate reasonable rules and
404 regulations to carry out the provisions of this section.

405 (21) For the purposes of this section, the term "stun gun"
406 means a portable device or weapon from which an electric current,
407 impulse, wave or beam may be directed, which current, impulse,
408 wave or beam is designed to incapacitate temporarily, injure,
409 momentarily stun, knock out, cause mental disorientation or
410 paralyze.

411 (22) (a) From and after January 1, 2016, the Commissioner
412 of Public Safety shall promulgate rules and regulations which
413 provide that licenses authorized by this section for honorably
414 retired law enforcement officers and honorably retired
415 correctional officers from the Mississippi Department of
416 Corrections shall (i) include the words "retired law enforcement
417 officer" on the front of the license, and (ii) that the license



itself have a red background to distinguish it from other licenses issued under this section.

(b) An honorably retired law enforcement officer and honorably retired correctional officer shall provide the following information to receive the license described in this section: (i) a letter, with the official letterhead of the agency or department from which such officer is retiring, which explains that such officer is honorably retired, and (ii) a letter with the official letterhead of the agency or department, which explains that such officer has completed a certified law enforcement training academy.

(23) A disabled veteran who seeks to qualify for an exemption under this section shall be required to provide, as proof of service-connected disability, verification from the United States Department of Veterans Affairs.

(24) No license shall be required under this section for a loaded or unloaded pistol or revolver carried upon the person in a sheath, belt holster or shoulder holster or carried in a purse, handbag, satchel, other similar bag or briefcase or fully enclosed case.

SECTION 4. Section 97-37-7, Mississippi Code of 1972, is brought forward as follows:

97-37-7. (1) (a) It shall not be a violation of Section 97-37-1 or any other statute for pistols, firearms or other suitable and appropriate weapons to be carried by duly constituted



bank guards, company guards, watchmen, railroad special agents or duly authorized representatives who are not sworn law enforcement officers, agents or employees of a patrol service, guard service, or a company engaged in the business of transporting money, securities or other valuables, while actually engaged in the performance of their duties as such, provided that such persons have made a written application and paid a nonrefundable permit fee of One Hundred Dollars (\$100.00) to the Department of Public Safety.

(b) No permit shall be issued to any person who has ever been convicted of a felony under the laws of this or any other state or of the United States. To determine an applicant's eligibility for a permit, the person shall be fingerprinted. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. The department shall charge a fee which includes the amounts required by the Federal Bureau of Investigation and the department for the national and state criminal history record checks and any necessary costs incurred by the department for the handling and administration of the criminal history background checks. In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of three (3) attempts, the Department of Public Safety



shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

(c) A person may obtain a duplicate of a lost or destroyed permit upon payment of a Fifteen Dollar (\$15.00) replacement fee to the Department of Public Safety, if he furnishes a notarized statement to the department that the permit has been lost or destroyed.

(d) (i) No less than ninety (90) days prior to the expiration date of a permit, the Department of Public Safety shall mail to the permit holder written notice of expiration together with the renewal form prescribed by the department. The permit holder shall renew the permit on or before the expiration date by filing with the department the renewal form, a notarized affidavit stating that the permit holder remains qualified, and the renewal fee of Fifty Dollars (\$50.00); honorably retired law enforcement officers shall be exempt from payment of the renewal fee. A permit holder who fails to file a renewal application on or before its expiration date shall pay a late fee of Fifteen Dollars (\$15.00).

(ii) Renewal of the permit shall be required every four (4) years. The permit of a qualified renewal applicant shall be renewed upon receipt of the completed renewal application and appropriate payment of fees.



493 (iii) A permit cannot be renewed six (6) months or
494 more after its expiration date, and such permit shall be deemed to
495 be permanently expired; the holder may reapply for an original
496 permit as provided in this section.

497 (2) It shall not be a violation of this or any other statute
498 for pistols, firearms or other suitable and appropriate weapons to
499 be carried by Department of Wildlife, Fisheries and Parks law
500 enforcement officers, railroad special agents who are sworn law
501 enforcement officers, investigators employed by the Attorney
502 General, criminal investigators employed by the district
503 attorneys, all prosecutors, public defenders, investigators or
504 probation officers employed by the Department of Corrections,
505 employees of the State Auditor who are authorized by the State
506 Auditor to perform investigative functions, or any deputy fire
507 marshal or investigator employed by the State Fire Marshal, while
508 engaged in the performance of their duties as such, or by fraud
509 investigators with the Department of Human Services, or by judges
510 of the Mississippi Supreme Court, Court of Appeals, circuit,
511 chancery, county, justice and municipal courts, or by coroners.
512 Before any person shall be authorized under this subsection to
513 carry a weapon, he shall complete a weapons training course
514 approved by the Board of Law Enforcement Officer Standards and
515 Training. Before any criminal investigator employed by a district
516 attorney shall be authorized under this section to carry a pistol,
517 firearm or other weapon, he shall have complied with Section



518 45-6-11 or any training program required for employment as an
519 agent of the Federal Bureau of Investigation. A law enforcement
520 officer, as defined in Section 45-6-3, shall be authorized to
521 carry weapons in courthouses in performance of his official
522 duties. A person licensed under Section 45-9-101 to carry a
523 concealed pistol, who (a) has voluntarily completed an
524 instructional course in the safe handling and use of firearms
525 offered by an instructor certified by a nationally recognized
526 organization that customarily offers firearms training, or by any
527 other organization approved by the Department of Public Safety,
528 (b) is a member or veteran of any active or reserve component
529 branch of the United States of America Armed Forces having
530 completed law enforcement or combat training with pistols or other
531 handguns as recognized by such branch after submitting an
532 affidavit attesting to have read, understand and agree to comply
533 with all provisions of the enhanced carry law, or (c) is an
534 honorably retired law enforcement officer or honorably retired
535 member or veteran of any active or reserve component branch of the
536 United States of America Armed Forces having completed law
537 enforcement or combat training with pistols or other handguns,
538 after submitting an affidavit attesting to have read, understand
539 and agree to comply with all provisions of Mississippi enhanced
540 carry law shall also be authorized to carry weapons in courthouses
541 except in courtrooms during a judicial proceeding, and any
542 location listed in subsection (13) of Section 45-9-101, except any



place of nuisance as defined in Section 95-3-1, any police, sheriff or highway patrol station or any detention facility, prison or jail. For the purposes of this subsection (2), component branch of the United States Armed Forces includes the Army, Navy, Air Force, Coast Guard or Marine Corps, or the Army National Guard, the Army National Guard of the United States, the Air National Guard or the Air National Guard of the United States, as those terms are defined in Section 101, Title 10, United States Code, and any other reserve component of the United States Armed Forces enumerated in Section 10101, Title 10, United States Code. The department shall promulgate rules and regulations allowing concealed pistol permit holders to obtain an endorsement on their permit indicating that they have completed the aforementioned course and have the authority to carry in these locations. This section shall in no way interfere with the right of a trial judge to restrict the carrying of firearms in the courtroom.

(3) It shall not be a violation of this or any other statute for pistols, firearms or other suitable and appropriate weapons, to be carried by any out-of-state, full-time commissioned law enforcement officer who holds a valid commission card from the appropriate out-of-state law enforcement agency and a photo identification. The provisions of this subsection shall only apply if the state where the out-of-state officer is employed has entered into a reciprocity agreement with the state that allows full-time commissioned law enforcement officers in Mississippi to



lawfully carry or possess a weapon in such other states. The Commissioner of Public Safety is authorized to enter into reciprocal agreements with other states to carry out the provisions of this subsection.

SECTION 5. Section 97-37-9, Mississippi Code of 1972, is amended as follows:

97-37-9. Any person indicted or charged for a violation of Section 97-37-1 may show as a defense:

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or

(c) That he was a law enforcement or peace officer in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was a member of the Armed Forces of the United States, National Guard, State Militia, Emergency Management Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or

(g) That he was in lawful pursuit of a felon; or



592 (h) That he was lawfully engaged in legitimate sports;
593 or

594 (i) That at the time he was a company guard, bank
595 guard, watchman, or other person enumerated in Section 97-37-7,
596 and was then actually engaged in the performance of his duties as
597 such, and then held a valid permit from the sheriff, the
598 commissioner of public safety, or a valid permit issued by the
599 Secretary of State prior to May 1, 1974, to carry the weapon; and
600 the burden of proving either of said defenses shall be on the
601 accused.

602 (j) That at the time he or she was a member of a church
603 or place of worship security program, and was then actually
604 engaged in the performance of his or her duties as such and met
605 the requirements of Section 2 of this act.

606 **SECTION 6.** Section 97-3-15, Mississippi Code of 1972, is
607 amended as follows:

608 97-3-15. (1) The killing of a human being by the act,
609 procurement or omission of another shall be justifiable in the
610 following cases:

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

614 (b) When necessarily committed by public officers, or
615 those acting by their command in their aid and assistance, in



616 overcoming actual resistance to the execution of some legal
617 process, or to the discharge of any other legal duty;

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

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

624 (e) When committed by any person in resisting any
625 attempt unlawfully to kill such person or to commit any felony
626 upon him, or upon or in any dwelling, in any occupied vehicle, in
627 any place of business, in any place of employment or in the
628 immediate premises thereof in which such person shall be;

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

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

636 (h) When necessarily committed in lawfully suppressing
637 any riot or in lawfully keeping and preserving the peace * * *;

638 and



639 (i) When necessarily committed in the performance of
640 duty as a member of a church or place of worship security program
641 as described in Section 2 of this act.

642 (2) (a) As used in subsection (1)(c) and (d) of this
643 section, the term "when necessarily committed" means that a public
644 officer or a person acting by or at the officer's command, aid or
645 assistance is authorized to use such force as necessary in
646 securing and detaining the felon offender, overcoming the
647 offender's resistance, preventing the offender's escape,
648 recapturing the offender if the offender escapes or in protecting
649 himself or others from bodily harm; but such officer or person
650 shall not be authorized to resort to deadly or dangerous means
651 when to do so would be unreasonable under the circumstances. The
652 public officer or person acting by or at the officer's command may
653 act upon a reasonable apprehension of the surrounding
654 circumstances; however, such officer or person shall not use
655 excessive force or force that is greater than reasonably necessary
656 in securing and detaining the offender, overcoming the offender's
657 resistance, preventing the offender's escape, recapturing the
658 offender if the offender escapes or in protecting himself or
659 others from bodily harm.

660 (b) As used in subsection (1)(c) and (d) of this
661 section the term "felon" shall include an offender who has been
662 convicted of a felony and shall also include an offender who is in
663 custody, or whose custody is being sought, on a charge or for an



offense which is punishable, upon conviction, by death or
confinement in the Penitentiary.

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

(3) A person who uses defensive force shall be presumed to
have reasonably feared imminent death or great bodily harm, or the
commission of a felony upon him or another or upon his dwelling,
or against a vehicle which he was occupying, or against his
business or place of employment or the immediate premises of such
business or place of employment, if the person against whom the
defensive force was used, was in the process of unlawfully and
forcibly entering, or had unlawfully and forcibly entered, a
dwelling, occupied vehicle, business, place of employment or the
immediate premises thereof or if that person had unlawfully
removed or was attempting to unlawfully remove another against the
other person's will from that dwelling, occupied vehicle,
business, place of employment or the immediate premises thereof
and the person who used defensive force knew or had reason to
believe that the forcible entry or unlawful and forcible act was
occurring or had occurred. This presumption shall not apply if
the person against whom defensive force was used has a right to be



689 in or is a lawful resident or owner of the dwelling, vehicle,
690 business, place of employment or the immediate premises thereof or
691 is the lawful resident or owner of the dwelling, vehicle,
692 business, place of employment or the immediate premises thereof or
693 if the person who uses defensive force is engaged in unlawful
694 activity or if the person is a law enforcement officer engaged in
695 the performance of his official duties * * *7.

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

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

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



713 be immune from any civil action for damages arising from same
714 conduct.

715 **SECTION 7.** This act shall take effect and be in force from
716 and after July 1, 2016.

