

By: Representative Willis

To: Judiciary B

HOUSE BILL NO. 615

1 AN ACT TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO
2 DEFINE THE KILLING OF A PEACE OFFICER OR FIREMAN WHILE ACTING IN
3 THEIR OFFICIAL CAPACITY OR BY REASON OF THEIR OFFICIAL CAPACITY AS
4 A "HATE CRIME"; TO AMEND SECTION 97-3-21, MISSISSIPPI CODE OF
5 1972, TO PROVIDE THAT THE DEATH PENALTY OR LIFE IMPRISONMENT
6 WITHOUT PAROLE WILL BE THE ONLY SENTENCING OPTIONS FOR THOSE WHO
7 COMMIT THIS HATE CRIME; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 97-3-19, Mississippi Code of 1972, is
10 amended as follows:

11 97-3-19. (1) The killing of a human being without the
12 authority of law by any means or in any manner shall be murder in
13 the following cases:

14 (a) When done with deliberate design to effect the
15 death of the person killed, or of any human being, shall be
16 first-degree murder;

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



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

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

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

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



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

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

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

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

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

67 (f) When done with or without any design to effect
68 death, by any person engaged in the commission of the crime of
69 felonious abuse and/or battery of a child in violation of



70 subsection (2) of Section 97-5-39, or in any attempt to commit
71 such felony;

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

74 (h) Murder which is perpetrated by the killing of any
75 elected official of a county, municipal, state or federal
76 government with knowledge that the victim was such public
77 official;

78 (i) Murder of three (3) or more persons who are killed
79 incident to one (1) act, scheme, course of conduct or criminal
80 episode* * *;and

81 (j) Murder of more than three (3) persons within a
82 three-year period.

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

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

89 97-3-21. (1) Every person who * * * is convicted of
90 first-degree murder shall be sentenced by the court to
91 imprisonment for life in the custody of the Department of
92 Corrections.

93 (2) Every person who * * * is convicted of second-degree
94 murder shall be imprisoned for life in the custody of the



95 Department of Corrections if the punishment is so fixed by the
96 jury in its verdict after a separate sentencing proceeding. If
97 the jury fails to agree on fixing the penalty at imprisonment for
98 life, the court shall fix the penalty at not less than twenty (20)
99 nor more than forty (40) years in the custody of the Department of
100 Corrections.

101 (3) * * * Except as otherwise provided in subsection (4) of
102 this section, every person who * * * is convicted of capital
103 murder shall be sentenced (a) to death; (b) to imprisonment for
104 life in the State Penitentiary without parole; or (c) to
105 imprisonment for life in the State Penitentiary with eligibility
106 for parole as provided in Section 47-7-3(1)(f).

107 (4) Every person who is convicted of capital murder that is
108 also defined as a hate crime as provided in Section 97-3-19(2)(a)
109 shall be sentenced to (a) to death, or (b) to imprisonment for
110 life in the State Penitentiary without parole.

111 **SECTION 3.** This act shall take effect and be in force from
112 and after July 1, 2017.

