

By: Representatives Monsour, Aguirre, Arnold, Baker, Bennett, Byrd, Carpenter, Chism, Currie, DeLano, Foster, Gipson, Hopkins, Mangold, Massengill, McLeod, Moore, Staples, Willis, Zuber, Scoggin, Mims, Miles, Hale, Bounds, Haney, Patterson, Steverson, Boyd, Brown, Rogers (14th), Oliver, Powell

To: Judiciary B

HOUSE BILL NO. 645
 (As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 99-19-301, 99-19-305 AND 99-19-307,
 2 MISSISSIPPI CODE OF 1972, TO INCLUDE LAW ENFORCEMENT OFFICERS,
 3 FIREFIGHTERS AND EMERGENCY MEDICAL PERSONNEL IN THE CLASS OF
 4 VICTIMS WHERE OFFENSES ARE SUBJECT TO ENHANCED PENALTIES, TO BE
 5 KNOWN AS THE BLUE, RED AND MED LIVES MATTER ACT; TO PROTECT
 6 FREEDOM OF SPEECH AND THE FREEDOM TO PEACEABLY ASSEMBLE; AND FOR
 7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 99-19-301, Mississippi Code of 1972, is
 10 amended as follows:

11 99-19-301. (1) The penalty for any felony or misdemeanor
 12 shall be subject to enhancement as provided in Sections 99-19-301
 13 through 99-19-307 if the felony or misdemeanor was committed
 14 because of the actual or perceived race, color, ancestry,
 15 ethnicity, religion, national origin or gender of the victim.

16 (2) The penalty for any felony or misdemeanor shall be
 17 subject to enhancement as provided in Sections 99-19-301 through
 18 99-19-307 if the felony or misdemeanor was committed with the
 19 specific intent to target an individual or group because of actual



20 or perceived employment as a law enforcement officer, firefighter
21 or emergency medical technician.

22 (3) As used in Sections 99-19-301 through 99-19-307:

23 (a) "Law enforcement officer" means any law enforcement
24 officer, part-time law enforcement officer or law enforcement
25 trainee as defined in Section 45-6-3, as well as any reserve or
26 volunteer law enforcement officer and any federal law enforcement
27 officer or employee whose permanent duties include making arrests,
28 performing search and seizures, execution of criminal arrest
29 warrants, execution of civil seizure warrants, or the care,
30 custody, control or supervision of inmates.

31 (b) "Firefighter" means any firefighter regularly
32 employed by a fire department of any municipality, county, or fire
33 protection district of the State of Mississippi and includes a
34 volunteer firefighter.

35 (c) "Emergency medical technician" means a person
36 qualified under Sections 41-59-33 and 41-59-35.

37 **SECTION 2.** Section 99-19-305, Mississippi Code of 1972, is
38 amended as follows:

39 99-19-305. (1) Upon conviction or adjudication of guilt of
40 a defendant where notice has been duly given that an enhanced
41 penalty will be sought as provided in Sections 99-19-301 through
42 99-19-307, the court shall conduct a separate sentencing
43 proceeding to determine the sentence. The proceeding shall be
44 conducted by the trial judge before the trial jury as soon as



45 practicable. If, through impossibility or inability, the trial
46 jury is unable to reconvene for a hearing on the issue of penalty,
47 having determined the guilt of the accused, the trial judge shall
48 summon a jury to determine whether an enhanced penalty should be
49 imposed. If trial by jury has been waived, or if the defendant
50 pleaded guilty, the sentencing proceeding shall be conducted
51 before a jury impaneled for that purpose. Provided, however, that
52 if the defendant enters a plea of guilty and waives trial by jury
53 for the sentencing proceeding, the sentencing proceeding shall be
54 conducted before the trial judge sitting without a jury. In the
55 proceeding, evidence may be presented as to any matter that the
56 court deems relevant to sentence. However, this subsection shall
57 not be construed to authorize the introduction of any evidence
58 secured in violation of the Constitution of the United States or
59 of the State of Mississippi. The state and the defendant or his
60 counsel or both defendant and counsel shall be permitted to
61 present arguments for or against any sentence sought.

62 (2) In order to impose an enhanced penalty under the
63 provisions of Sections 99-19-301 through 99-19-307, the jury must
64 find beyond a reasonable doubt:

65 (a) That the defendant perceived, knew, or had
66 reasonable grounds to know or perceive that the victim was within
67 the class delineated; and



68 (b) That the defendant maliciously and with specific
69 intent committed the offense because the victim was within the
70 class delineated.

71 (3) That the victim was within the class delineated means
72 that the reason the underlying crime was committed was the
73 victim's actual or perceived race, color, religion, ethnicity,
74 ancestry, national origin or gender, or that the reason the
75 underlying crime was committed was the victim's actual or
76 perceived employment as a law enforcement officer, firefighter or
77 emergency medical technician.

78 **SECTION 3.** Section 99-19-307, Mississippi Code of 1972, is
79 amended as follows:

80 99-19-307. * * * If it is found beyond a reasonable doubt
81 that the offense was committed by reason of (a) the actual or
82 perceived race, color, ancestry, ethnicity, religion, national
83 origin or gender of the victim, or (b) the victim's actual or
84 perceived employment as a law enforcement officer, firefighter or
85 emergency medical technician, then the penalty for the offense may
86 be enhanced by punishment for a term of imprisonment of up to
87 twice that authorized by law for the offense committed, or a fine
88 of up to twice that authorized by law for the offense committed,
89 or both.

90 **SECTION 4.** Nothing in Sections 99-19-301 through 99-19-307
91 shall abridge freedom of speech or the freedom to peaceably
92 assemble as protected in Article III, Sections 11 and 13 of the



93 Mississippi Constitution of 1890 and the First Amendment of the
94 United States Constitution.

95 **SECTION 5.** This act shall take effect and be in force from
96 and after July 1, 2017.

