

By: Representative Gipson

To: Judiciary B

HOUSE BILL NO. 1367
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-9-101, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE STATEMENTS MADE TO LAW ENFORCEMENT AS TESTIMONY; TO
3 AMEND SECTION 97-9-103, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 CRIME OF RENDERING OF CRIMINAL ASSISTANCE TO INCLUDE THREATENING
5 OR HARASSING A WITNESS AND PROVIDING FALSE TESTIMONY; TO AMEND
6 SECTION 97-9-105, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIME OF
7 HINDERING PROSECUTION TO INCLUDE INTERFERENCE WITH CRIMINAL
8 INVESTIGATIONS; TO AMEND SECTION 97-9-113, MISSISSIPPI CODE OF
9 1972, TO REVISE THE CRIME OF WITNESS INTIMIDATION TO INCLUDE
10 THREATENING OR HARASSING A WITNESS OR PERSON REASONABLY EXPECTED
11 TO BE A WITNESS; TO AMEND SECTION 97-9-115, MISSISSIPPI CODE OF
12 1972, TO REVISE THE CRIME OF WITNESS TAMPERING TO INCLUDE
13 SOLICITATION OF ANOTHER TO PROVIDE A FALSE VERSION OF EVENTS; TO
14 AMEND SECTION 97-9-117, MISSISSIPPI CODE OF 1972, TO REVISE THE
15 CRIME OF JUROR BRIBERY TO INCLUDE AN ATTEMPT TO BRIBE; TO AMEND
16 SECTION 97-9-121, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIME OF
17 JUROR INTIMIDATION TO INCLUDE HARASSMENT; TO AMEND SECTION
18 97-9-125, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIME OF
19 TAMPERING WITH PHYSICAL EVIDENCE TO INCLUDE THREATENING A PERSON
20 TO NOT PROVIDE THE EVIDENCE; TO AMEND SECTION 97-9-129,
21 MISSISSIPPI CODE OF 1972, TO REVISE THE MAXIMUM TERMS OF
22 IMPRISONMENT FOR OBSTRUCTION OF JUSTICE; TO AMEND SECTION 97-3-19,
23 MISSISSIPPI CODE OF 1972, TO INCLUDE MURDER OF A WITNESS,
24 POTENTIAL WITNESS OR CONFIDENTIAL INFORMANT AS A CAPITAL OFFENSE;
25 AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 97-9-101, Mississippi Code of 1972, is
28 amended as follows:



29 97-9-101. The following words and phrases shall have the
30 meanings ascribed unless the context clearly requires otherwise:

31 (a) "Benefit" means any gain or advantage to the
32 beneficiary, including any gain or advantage to a third person
33 pursuant to the desire or consent of the beneficiary.

34 (b) "Government" means the state, county, municipality
35 or other political subdivision, agency, branch or department of
36 any of the foregoing, and any corporation or other entity
37 established by law to carry out any governmental function.

38 (c) "Governmental function" means any activity which a
39 public servant is legally authorized to undertake on behalf of a
40 government.

41 (d) "Harm" means loss, disadvantage or injury, or
42 anything so regarded by the person affected, including loss,
43 disadvantage or injury to any other person or entity in whose
44 welfare he is interested.

45 (e) "Juror" means any person who is a member of any
46 jury, including a grand jury, impaneled by any court of this state
47 or by any public servant authorized by law to impanel a jury. The
48 term juror also includes any person who has been summoned or whose
49 name has been drawn to attend as a prospective juror.

50 (f) "Official proceeding" means any proceeding heard
51 before any legislative, judicial, administrative or other
52 government agency or official authorized to hear evidence under
53 oath.



54 (g) "Physical evidence" means any article, object,
55 document, record or other thing of physical substance.

56 (h) "Property" means any real or personal property,
57 including books, records and documents.

58 (i) "Public servant" means any officer or employee of
59 government, including legislators and judges and any person
60 participating as juror, advisor, consultant or otherwise, in
61 performing a governmental function; but the term does not include
62 witnesses. This term includes persons who have been elected,
63 appointed or designated to become a public servant although not
64 yet occupying that position.

65 (j) "Testimony" means oral or written statements,
66 documents or any other material that may be offered as evidence in
67 an official proceeding or oral or written statements provided
68 under oath to law enforcement during a felony criminal
69 investigation.

70 (k) "Threat" means any menace, however communicated,
71 to: (i) cause bodily injury to the person threatened or another
72 or commit any other criminal offense; (ii) cause damage to
73 property or cause anyone to part with property; (iii) accuse
74 anyone of a criminal offense; (iv) expose a secret or an asserted
75 fact, whether true or false, tending to subject anyone to hatred,
76 contempt or ridicule; (v) impair the credit or business * * *
77 reputation of any person; or (vi) take or withhold action as a



78 public servant or cause a public servant to take or withhold
79 action.

80 **SECTION 2.** Section 97-9-103, Mississippi Code of 1972, is
81 amended as follows:

82 97-9-103. For the purposes of * * * this article, a person
83 "renders criminal assistance" to another if he knowingly:

84 (a) Harbors or conceals the other person;

85 (b) Warns the other person of impending discovery or
86 apprehension, except that this paragraph (b) does not apply to a
87 warning given in connection with an effort to bring another into
88 compliance with the law;

89 (c) Provides or aids in providing the other person with
90 money, transportation, weapon, disguise or other means of avoiding
91 discovery or apprehension;

92 (d) Prevents or obstructs, by means of force, deception
93 or intimidation, anyone from performing an act that might aid in
94 the discovery, apprehension, prosecution or conviction of the
95 other person; * * *

96 (e) Suppresses, by an act of concealment, alteration or
97 destruction, any physical evidence that might aid in the
98 discovery, apprehension or conviction of the other person * * *;

99 (f) Threatens, harasses, or intimidates a witness or a
100 person reasonably expected to be a witness in a criminal
101 prosecution in an effort to prevent the person from testifying,
102 giving evidence or assisting law enforcement in any way;



103 (g) Provides false testimony, under oath, to the
104 government about the person's knowledge or lack of knowledge of
105 any criminal activity or information or investigation;

106 (h) Provides false information, under oath, or signs an
107 affidavit with false information exonerating or incriminating
108 another person; or

109 (i) Attempts to prevent law enforcement from
110 discovering facts relating to another's criminal activity or
111 engaging in acts designed to interfere with or prevent a law
112 enforcement investigation of another.

113 **SECTION 3.** Section 97-9-105, Mississippi Code of 1972, is
114 amended as follows:

115 97-9-105. (1) A person commits the crime of hindering
116 prosecution in the first degree if * * *:

117 (a) With the intent to hinder the apprehension,
118 prosecution, conviction or punishment of another for conduct
119 constituting a felony, he renders criminal assistance to the other
120 person * * *; or

121 (b) Prevents or attempts to prevent law enforcement
122 from discovering facts relating to another's criminal activity or
123 engages in acts designed to interfere with, or prevent a law
124 enforcement investigation of another; or

125 (c) Provides false information, under oath, or signs an
126 affidavit with false information exonerating or incriminating
127 another person.



128 (2) Hindering prosecution in the first degree is a Class 1
129 felony.

130 **SECTION 4.** Section 97-9-113, Mississippi Code of 1972, is
131 amended as follows:

132 97-9-113. (1) A person commits the crime of intimidating a
133 witness if he intentionally or knowingly:

134 (a) Attempts, by use of a threat directed to a witness
135 or a person he believes will be called as a witness in any
136 official proceedings, to:

137 (* * *i) Influence the testimony of that person;

138 (* * *ii) Induce that person to avoid legal
139 process summoning him to testify; or

140 (* * *iii) Induce that person to absent himself
141 from an official proceeding to which he has been legally
142 summoned * * *;

143 (b) Harasses or intimidates or attempts to threaten,
144 harass or intimidate a witness or a person reasonably expected to
145 be a witness;

146 (c) Attempts to influence the testimony of a witness or
147 a person reasonably expected to be a witness by rendering criminal
148 assistance to another being investigated for or charged with
149 criminal activity; or

150 (d) Solicits, encourages or requests a witness to
151 provide false information intended to defeat or defend against an



152 existing criminal charge or to hinder or interfere an ongoing
153 investigation of a criminal act.

154 (2) Intimidating a witness is a Class 1 felony.

155 (3) It is not a defense to a prosecution under this section
156 if the actual completion of the threat, harassment or intimidation
157 was prevented from occurring.

158 **SECTION 5.** Section 97-9-115, Mississippi Code of 1972, is
159 amended as follows:

160 97-9-115. (1) A person commits the crime of tampering with
161 a witness if he:

162 (a) Intentionally or knowingly attempts to induce a
163 witness or a person he reasonable believes will be called as a
164 witness in any official proceeding to:

165 (* * *i) Testify falsely or unlawfully withhold
166 testimony; * * *

167 (* * *ii) Absent himself from any official
168 proceeding to which he has been legally summoned * * *; or

169 (b) Solicits, encourages, threatens, harasses or
170 intimidates or attempts to solicit, encourage, threaten, harass or
171 intimidate a witness in an effort to prevent or dissuade the
172 witness from testifying or to provide a false version of events
173 exonerating or incriminating another person of commission of a
174 crime.

175 (2) Tampering with a witness is a Class 2 felony.



176 (3) It is not a defense to a prosecution under this section
177 if the actual completion of the threat, harassment or intimidation
178 was prevented from occurring.

179 **SECTION 6.** Section 97-9-117, Mississippi Code of 1972, is
180 amended as follows:

181 97-9-117. (1) A person commits the crime of bribing a juror
182 if he intentionally or knowingly offers, confers or agrees or
183 attempts to confer any benefit upon a juror with the intent that
184 the juror's vote, opinion, decision or other action as a juror
185 will thereby be influenced.

186 (2) Bribing a juror is a Class 1 felony.

187 **SECTION 7.** Section 97-9-121, Mississippi Code of 1972, is
188 amended as follows:

189 97-9-121. (1) A person commits the crime of intimidating a
190 juror if he intentionally or knowingly attempts, by the use of a
191 threat, harassment or intimidations to influence a juror's vote,
192 opinion, decision or other action as a juror.

193 (2) Intimidating a juror is a Class 1 felony.

194 **SECTION 8.** Section 97-9-125, Mississippi Code of 1972, is
195 amended as follows:

196 97-9-125. (1) A person commits the crime of tampering with
197 physical evidence if, believing that an official proceeding is
198 pending or may be instituted, and acting without legal right or
199 authority, he:



200 (a) Intentionally destroys, mutilates, conceals,
201 removes or alters physical evidence with intent to impair its use,
202 verity or availability in the pending criminal investigation or
203 prospective official proceeding;

204 (b) Knowingly makes, presents or offers any false
205 physical evidence with intent that it be introduced in the pending
206 or prospective official proceeding; * * *

207 (c) Intentionally prevents the production of physical
208 evidence by an act of force, intimidation or deception against any
209 person * * *, or threatens, harasses or intimidates a witness or a
210 person he reasonably believes may be a witness in a criminal
211 investigation to not provide physical evidence or to hide, destroy
212 or alter physical evidence; or

213 (d) Solicits, encourages or assists another person to
214 destroy, hide or conceal evidence of any type if it is reasonably
215 likely the state or federal authorities would use the evidence
216 during the prosecution of a criminal act by the state or federal
217 authorities.

218 (2) Tampering with physical evidence is a Class 2 felony.

219 **SECTION 9.** Section 97-9-129, Mississippi Code of 1972, is
220 amended as follows:

221 97-9-129. (1) A person who has been convicted of any Class
222 1 felony under this article shall be sentenced to imprisonment for
223 a term of not more than * * * fifteen (15) years or fined not more
224 than Five Thousand Dollars (\$5,000.00), or both.



225 (2) A person who has been convicted of any Class 2 felony
226 under this article shall be sentenced to imprisonment for a term
227 of not more than * * * ten (10) years or fined not more than Three
228 Thousand Dollars (\$3,000.00), or both.

229 (3) A person who has been convicted of any misdemeanor under
230 this article shall be sentenced to confinement in the county jail
231 for a term of not more than one (1) year or fined not more than
232 One Thousand Dollars (\$1,000.00), or both.

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

235 97-3-19. (1) The killing of a human being without the
236 authority of law by any means or in any manner shall be murder in
237 the following cases:

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

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

245 (c) When done without any design to effect death by any
246 person engaged in the commission of any felony other than rape,
247 kidnapping, burglary, arson, robbery, sexual battery, unnatural
248 intercourse with any child under the age of twelve (12), or
249 nonconsensual unnatural intercourse with mankind, or felonious



250 abuse and/or battery of a child in violation of subsection (2) of
251 Section 97-5-39, or in any attempt to commit such felonies, shall
252 be first-degree murder;

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

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

258 (a) Murder which is perpetrated by killing a peace
259 officer or fireman while such officer or fireman is acting in his
260 official capacity or by reason of an act performed in his official
261 capacity, and with knowledge that the victim was a peace officer
262 or fireman. For purposes of this paragraph, the term "peace
263 officer" means any state or federal law enforcement officer,
264 including, but not limited to, a federal park ranger, the sheriff
265 of or police officer of a city or town, a conservation officer, a
266 parole officer, a judge, senior status judge, special judge,
267 district attorney, legal assistant to a district attorney, county
268 prosecuting attorney or any other court official, an agent of the
269 Alcoholic Beverage Control Division of the Department of Revenue,
270 an agent of the Bureau of Narcotics, personnel of the Mississippi
271 Highway Patrol, and the employees of the Department of Corrections
272 who are designated as peace officers by the Commissioner of
273 Corrections pursuant to Section 47-5-54, and the superintendent



274 and his deputies, guards, officers and other employees of the
275 Mississippi State Penitentiary;

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

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

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

284 (e) When done with or without any design to effect
285 death, by any person engaged in the commission of the crime of
286 rape, burglary, kidnapping, arson, robbery, sexual battery,
287 unnatural intercourse with any child under the age of twelve (12),
288 or nonconsensual unnatural intercourse with mankind, or in any
289 attempt to commit such felonies;

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

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

297 (h) Murder which is perpetrated by the killing of any
298 elected official of a county, municipal, state or federal



299 government with knowledge that the victim was such public
300 official;

301 (i) Murder of three (3) or more persons who are killed
302 incident to one (1) act, scheme, course of conduct or criminal
303 episode * * *;

304 (j) Murder of more than three (3) persons within a
305 three-year period * * *;

306 (k) Murder which is perpetrated by the killing of a
307 person who: (i) is or would be a witness for the state or federal
308 government in a criminal trial; (ii) is a confidential informant
309 for any agency of the state or federal government; or (iii) is any
310 other person who was cooperating or assisting the state or federal
311 government or was suspected of cooperation or assistance to the
312 state or federal government, if the motive for the killing was
313 either the person's status as a witness, potential witness or
314 informant, or was to prevent the cooperation or assistance to the
315 prosecution. It shall not be a defense to a killing under this
316 subsection that the defendant erroneously suspected or believed
317 the victim to have cooperated or assisted the state or federal
318 government.

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



323 **SECTION 11.** This act shall take effect and be in force from
324 and after July 1, 2017.

