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To: Judiciary, Division A

SENATE BILL NO. 2469

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 HATE CRIME PENALTIES; AND
5 FOR RELATED PURPOSES.

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

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

9 99-19-301. (1) The penalty for any felony or misdemeanor
10 shall be subject to enhancement as provided in Sections 99-19-301
11 through 99-19-307 if the felony or misdemeanor was committed
12 because of the actual or perceived race, color, ancestry,
13 ethnicity, religion, national origin or gender of the victim or
14 because of actual or perceived employment as a law enforcement
15 officer, firefighter or emergency medical technician.

16 (2) As used in this section:

17 (a) "Law enforcement officer" means any law enforcement
18 officer, part-time law enforcement officer or law enforcement
19 trainee as defined in Section 45-6-3, as well as any federal law



20 enforcement officer or employee whose permanent duties include
21 making arrests, performing search and seizures, execution of
22 criminal arrest warrants, execution of civil seizure warrants, or
23 the care, custody, control or supervision of inmates.

24 (b) "Firefighter" means any firefighter regularly
25 employed by a fire department of any municipality, county, or fire
26 protection district of the State of Mississippi.

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

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

31 99-19-305. (1) Upon conviction or adjudication of guilt of
32 a defendant where notice has been duly given that an enhanced
33 penalty will be sought as provided in Sections 99-19-301 through
34 99-19-307, the court shall conduct a separate sentencing
35 proceeding to determine the sentence. The proceeding shall be
36 conducted by the trial judge before the trial jury as soon as
37 practicable. If, through impossibility or inability, the trial
38 jury is unable to reconvene for a hearing on the issue of penalty,
39 having determined the guilt of the accused, the trial judge shall
40 summon a jury to determine whether an enhanced penalty should be
41 imposed. If trial by jury has been waived, or if the defendant
42 pleaded guilty, the sentencing proceeding shall be conducted
43 before a jury impaneled for that purpose. Provided, however, that
44 if the defendant enters a plea of guilty and waives trial by jury



45 for the sentencing proceeding, the sentencing proceeding shall be
46 conducted before the trial judge sitting without a jury. In the
47 proceeding, evidence may be presented as to any matter that the
48 court deems relevant to sentence. However, this subsection shall
49 not be construed to authorize the introduction of any evidence
50 secured in violation of the Constitution of the United States or
51 of the State of Mississippi. The state and the defendant or his
52 counsel or both defendant and counsel shall be permitted to
53 present arguments for or against any sentence sought.

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

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

60 (b) That the defendant maliciously and with specific
61 intent committed the offense because the victim was within the
62 class delineated.

63 (3) That the victim was within the class delineated means
64 that the reason the underlying crime was committed was the
65 victim's actual or perceived race, color, religion, ethnicity,
66 ancestry, national origin or gender, or that the reason the
67 underlying crime was committed was the victim's actual or
68 perceived employment as a law enforcement officer, firefighter or
69 emergency medical technician.



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

72 99-19-307. In the event it is found beyond a reasonable
73 doubt that the offense was committed by reason of (a) the actual
74 or perceived race, color, ancestry, ethnicity, religion, national
75 origin or gender of the victim, or (b) the victim's actual or
76 perceived employment as a law enforcement officer, firefighter or
77 emergency medical technician, then the penalty for the offense may
78 be enhanced by punishment for a term of imprisonment of up to
79 twice that authorized by law for the offense committed, or a fine
80 of up to twice that authorized by law for the offense committed,
81 or both.

82 **SECTION 4.** This act shall take effect and be in force from
83 and after July 1, 2017.

