

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2843

1 AN ACT TO CREATE THE EXTREME RISK PROTECTION ORDER ACT; TO
 2 CREATE A PROCESS BY WHICH A PERSON'S RIGHT TO POSSESS FIREARMS CAN
 3 BE RESTRAINED IF THE PERSON IS THEREBY A DANGER TO HIMSELF OR
 4 HERSELF OR OTHERS; TO PROVIDE FOR DUE PROCESS; TO PROVIDE FOR AN
 5 EMERGENCY HEARING; TO SPECIFY JURISDICTION; TO AMEND SECTION
 6 45-9-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A CONCEALED
 7 CARRY LICENSE MAY NOT BE ISSUED TO AN APPLICANT WHO IS OR HAS BEEN
 8 SUBJECT TO AN EXTREME RISK PROTECTION ORDER IN THE PAST THREE
 9 YEARS; TO PROVIDE FOR REVOCATION OF A CONCEALED CARRY LICENSE UPON
 10 ENTRY OF AN EXTREME RISK PROTECTION ORDER; TO BRING FORWARD
 11 SECTION 25-7-9, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
 12 AMENDMENT TO CONFORM CHANCERY CLERK FEES TO THIS ACT; AND FOR
 13 RELATED PURPOSES.

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

15 **SECTION 1.** (1) **Short title.** This section may be cited as
 16 the Extreme Risk Protection Order Act.

17 (2) **Definitions.** As used in this section:

18 (a) "Family member of the respondent" means a spouse,
 19 parent, child, or stepchild of the respondent, any other person
 20 related by blood or present marriage to the respondent, or a
 21 person who shares a common dwelling with the respondent.

22 (b) "Extreme risk protection order" means an order
 23 issued by the court, prohibiting and enjoining a named person from



24 purchasing, possessing or receiving, or having in the person's
25 custody or control, any firearms.

26 (c) "Intimate partner" means a spouse, former spouse, a
27 person with whom the respondent has or allegedly has a child in
28 common, or a person with whom the respondent has or has had a
29 dating or engagement relationship.

30 (d) "Respondent" means the person alleged in an
31 affidavit filed under this section to pose a danger of causing
32 personal injury to himself, herself, or another person with a
33 firearm.

34 (3) **Commencement of action; procedure.** (a) (i) An action
35 for an extreme risk protection order is commenced by filing an
36 affidavit in chancery court alleging that the respondent poses a
37 danger of causing personal injury to the respondent or another
38 person by purchasing, possessing or receiving, or having in his or
39 her custody or control, a firearm.

40 (ii) The affiant must be either a family member of
41 the respondent or a law enforcement officer.

42 (b) An affidavit for an extreme risk protection order
43 may be filed in any county where the respondent resides or in the
44 county where the respondent is found. The chancellor is
45 authorized to immediately transfer the cause of a respondent from
46 the county where the person was found to the person's county of
47 residence.



48 (c) (i) No fee shall be charged by the chancery clerk
49 for filing, amending, vacating, certifying, or photocopying
50 affidavits or orders, for issuing any summons, or for any other
51 related filing service. No fee shall be charged by the sheriff or
52 other law enforcement officer for service by the sheriff or other
53 law enforcement officer of an affidavit, rule, motion, or order in
54 an action commenced under this section.

55 (ii) The prohibition against charging the affiant
56 other fees, expenses, or costs shall not preclude the imposition
57 of monetary criminal penalties under any criminal statute, or the
58 imposition by the chancellor of monetary penalties for contempt if
59 the affiant is found to have filed an intentionally false
60 affidavit or filed the affidavit in bad faith for a malicious
61 purpose.

62 (d) (i) Upon the affiant's request, the chancery clerk
63 shall provide the one-page affidavit form developed by the
64 Department of Mental Health and clerical assistance to help with
65 the writing and filing of an affidavit under this section by any
66 person not represented by counsel. Assistance also may be
67 provided by the District Attorney, the county prosecutor, or the
68 municipal court prosecutor. No chancery clerk shall require an
69 affiant to retain an attorney for the filing of an affidavit under
70 this section.

71 (ii) The affidavit shall set forth the name and
72 address of the respondent's nearest relatives and whether the



73 respondent resides or has visitation rights with any minor
74 children, if known, and the reasons for the affidavit. The
75 affidavit must contain factual descriptions of the respondent's
76 recent behavior, including a description of the behavior, where it
77 occurred, and over what period of time it occurred, if known.
78 Each factual allegation may be supported by observations of
79 witnesses named in the affidavit.

80 (iii) The Department of Mental Health, in
81 consultation with the Mississippi Chancery Clerks' Association,
82 shall develop a simple, one-page affidavit form for the use of
83 affiants as provided in this subsection, which shall be used in
84 all counties in the state.

85 (4) **Jurisdiction.** The chancery court, or the chancellor in
86 vacation, has jurisdiction under this section.

87 (5) **Process.** (a) The summons shall be issued under the
88 seal of the court, identifying the name of the clerk, the date it
89 is issued, and shall be directed to the respondent and require the
90 respondent to answer or appear within seven (7) days.

91 (i) If the affiant is represented by an attorney,
92 the process shall bear the attorney's name, business address,
93 e-mail address, and telephone number. The attorney must designate
94 a primary e-mail address and may designate no more than two (2)
95 secondary e-mail addresses.

96 (ii) If the affiant is unrepresented, the process
97 shall bear the affiant's mailing address and telephone number. An



98 unrepresented affiant may designate a single e-mail address to
99 which service may be directed.

100 (b) Attachments to the summons or notice shall include
101 the affidavit for the extreme risk protection order and any
102 emergency extreme risk protection order that has been issued. The
103 enforcement of an order under subsection (7) of this section (ex
104 parte orders and emergency hearings) is not affected by the lack
105 of service, delivery, or notice, if a determination of probable
106 cause under subsection (7)(f) was duly made.

107 (6) **Service of notice of hearings.** Except as provided in
108 subsection (5), notice of hearings on affidavits or motions shall
109 be served personally upon the respondent unless notice is excused
110 by subsection (7); however, if a party is represented by an
111 attorney of record, service shall be made upon the attorney.
112 Except as otherwise specifically provided in this section, the
113 Mississippi Rules of Civil Procedure apply to proceedings governed
114 by this section.

115 (7) **Ex parte orders and emergency hearings.** (a) An affiant
116 may request an emergency extreme risk protection order by filing
117 an affidavit alleging that the respondent poses an immediate and
118 present danger of causing personal injury to himself, herself, or
119 another person by having, purchasing, possessing or receiving, or
120 in his or her custody or control, a firearm. The affidavit shall
121 also describe the type and location of any firearm or firearms



122 currently believed by the affiant to be possessed or controlled by
123 the respondent.

124 (b) If the respondent is alleged to pose an immediate
125 and present danger of causing personal injury to an intimate
126 partner, or an intimate partner is alleged to have been the target
127 of a threat or act of violence by the respondent, the affiant must
128 make a good-faith effort to provide notice to any and all intimate
129 partners of the respondent. The notice must include that the
130 affiant intends to petition the court for an emergency extreme
131 risk protection order, and, if the affiant is a law enforcement
132 officer, referral to relevant domestic violence or stalking
133 advocacy or counseling resources, if appropriate. The affiant
134 must attest to having provided the required notice, in the filed
135 affidavit. If after making a good-faith effort the affiant is
136 unable to provide notice to any or all intimate partners, the
137 affidavit should describe what efforts were made.

138 (c) A person who files an affidavit for an emergency
139 extreme risk protection order, knowing the information provided to
140 the court at any hearing or in the affidavit to be false, is
141 guilty of perjury and subject to punishment under Section 97-9-61.

142 (d) An emergency extreme risk protection order may be
143 issued on an ex parte basis without notice to the respondent.

144 (e) An emergency hearing held on an ex parte basis
145 shall be held the same day that the affidavit is filed or the next
146 day that the court is in session.



147 (f) (i) If the chancellor finds probable cause to
148 believe that the respondent poses an immediate and present danger
149 of causing personal injury to himself, herself, or another by
150 purchasing, possessing or receiving, or having in his or her
151 custody or control, a firearm, the chancellor shall issue an
152 emergency order.

153 (ii) If the court issues an emergency extreme risk
154 protection order, upon a finding of probable cause that the
155 respondent possesses firearms, it shall issue a search warrant
156 directing a law enforcement agency to seize the respondent's
157 firearms. The court may, as part of that warrant, direct the law
158 enforcement agency to search the respondent's residence and other
159 places where the court finds there is probable cause to believe
160 the respondent is likely to possess the firearms.

161 (g) An emergency extreme risk protection order
162 requires:

163 (i) The respondent to refrain from having firearms
164 in his or her custody or control, or purchasing, possessing or
165 receiving additional firearms for the duration of the order; and

166 (ii) The respondent to turn over to the local law
167 enforcement agency any concealed carry license in his or her
168 possession. The local law enforcement agency shall immediately
169 mail the concealed carry license to the Department of Public
170 Safety for safekeeping. The firearm or firearms and concealed
171 carry license, if unexpired, must be returned to the respondent



172 after the extreme risk protection order is terminated or expires.

173 (h) (i) Except as otherwise provided in subparagraph
174 (ii) of this paragraph (h), upon expiration of the period of
175 safekeeping, if the concealed carry license cannot be returned to
176 the respondent because the respondent cannot be located, fails to
177 respond to requests to retrieve the firearms, or is not lawfully
178 eligible to possess a firearm, upon affidavit from the local law
179 enforcement agency, the court may order the local law enforcement
180 agency to destroy the firearms, use the firearms for training
181 purposes, or for any other application as deemed appropriate by
182 the local law enforcement agency.

183 (ii) A respondent whose firearm rights have been
184 revoked or suspended may petition the court to transfer the
185 respondent's firearm to a person who is lawfully able to possess
186 the firearm if the person does not reside at the same address as
187 the respondent. Notice of the petition shall be served upon the
188 affiant who sought the emergency extreme risk protection order.
189 While the order is in effect, the transferee who receives the
190 respondent's firearms must swear or affirm by affidavit that he or
191 she will not transfer the firearm to the respondent or to anyone
192 residing in the same residence as the respondent.

193 (iii) If a person other than the respondent claims
194 title to any firearms surrendered under this section, that person
195 may petition the court to have the firearm returned to him or her.
196 If the court determines that person to be the lawful owner of the



197 firearm, the firearm shall be returned to him or her, but only if:

198 1. The firearm is removed from the
199 respondent's custody, control, or possession and the lawful owner
200 agrees to store the firearm in a manner such that the respondent
201 does not have access to or control of the firearm; and

202 2. The firearm is not otherwise unlawfully
203 possessed by the owner.

204 (iv) The person petitioning for the return of his
205 or her firearm must swear or affirm by affidavit that he or she:

206 1. Is the lawful owner of the firearm;
207 2. Will not transfer the firearm to the
208 respondent; and

209 3. Will store the firearm in a manner such
210 that the respondent does not have access to or control of the
211 firearm.

212 (i) In accordance with paragraph (e) of this subsection
213 (7), the court shall schedule a full hearing as soon as possible,
214 but no later than fourteen (14) days from the issuance of an ex
215 parte extreme risk protection order, to determine if a six-month
216 extreme risk protection order should be issued. The court may
217 extend an ex parte order as needed, but not to exceed fourteen
218 (14) days, to effectuate service of the order or if necessary to
219 continue protection. The court may extend the order for a greater
220 length of time by mutual agreement of the parties.



221 (8) **Six-month orders.** (a) An affiant may request a
222 six-month extreme risk protection order by filing an affidavit or
223 verified pleading alleging that the respondent poses a significant
224 danger of causing personal injury to himself, herself, or another
225 in the near future by purchasing, possessing or receiving, or
226 having in his or her custody or control, a firearm. The affidavit
227 shall also describe the number, types, and locations of any
228 firearms believed by the affiant to be possessed or controlled by
229 the respondent.

230 (b) If the respondent is alleged to pose a significant
231 danger of causing personal injury to an intimate partner, or an
232 intimate partner is alleged to have been the target of a threat or
233 act of violence by the respondent, the affiant must make a
234 good-faith effort to provide notice to any and all intimate
235 partners of the respondent. The notice must include that the
236 affiant intends to petition the court for a six-month extreme risk
237 protection order, and, if the affiant is a law enforcement
238 officer, referral to relevant domestic violence or stalking
239 advocacy or counseling resources, if appropriate. The affiant
240 must attest to having provided the notice in the filed affidavit.
241 If after making a good-faith effort affiant is unable to provide
242 notice to any or all intimate partners, the affidavit must
243 describe what efforts were made.

244 (c) A person who files an affidavit for a six-month
245 extreme risk protection order, knowing the information provided to



246 the court at any hearing or in the affidavit to be false, is
247 guilty of perjury and subject to punishment as provided in Section
248 97-9-61.

249 (d) Upon receipt of an affidavit for a six-month
250 extreme risk protection order, the court shall order a hearing
251 within thirty (30) days.

252 (e) In determining whether to issue an extreme risk
253 protection order under this section, the court shall consider
254 evidence including, but not limited to, the following:

255 (i) The unlawful and reckless use, display, or
256 brandishing of a firearm by the respondent.

257 (ii) The history of use, attempted use, or
258 threatened use of physical force by the respondent against another
259 person.

260 (iii) Any prior arrest of the respondent for a
261 felony offense.

262 (iv) Evidence of the abuse of controlled
263 substances or alcohol by the respondent.

264 (v) A recent threat of violence or act of violence
265 by the respondent directed toward himself, herself, or another.

266 (vi) A violation of a domestic violence order of
267 protection.

268 (vii) A pattern of violent acts or violent
269 threats, including, but not limited to, threats of violence or



270 acts of violence by the respondent directed toward himself,
271 herself, or another.

272 (f) At the hearing, the affiant has the burden of
273 proving, by clear and convincing evidence, that the respondent
274 poses a significant danger of personal injury to himself, herself,
275 or another by purchasing, possessing or receiving, or having in
276 his or her custody or control, a firearm.

277 (g) (i) If the court finds that there is clear and
278 convincing evidence to issue an extreme risk protection order, the
279 court shall issue an extreme risk protection order that shall be
280 in effect for six (6) months subject to renewal under or
281 termination under subsection (9) of this section.

282 (ii) If the court issues a six-month extreme risk
283 protection order, it shall, upon a finding of probable cause that
284 the respondent possesses firearms, issue a search warrant
285 directing a law enforcement agency to seize the respondent's
286 firearms. The court may, as part of that warrant, direct the law
287 enforcement agency to search the respondent's residence and other
288 places where the court finds there is probable cause to believe he
289 or she is likely to possess the firearms.

290 (h) A six-month extreme risk protection order requires:

291 (i) The respondent to refrain from purchasing,
292 possessing or receiving, or having in his or her custody or
293 control, additional firearms for the duration of the order; and



294 (ii) The respondent to turn over to the local law
295 enforcement agency any firearm or concealed carry license in his
296 or her possession. The local law enforcement agency must
297 immediately mail the concealed carry license to the Department of
298 Public Safety for safekeeping. The firearm or firearms and
299 concealed carry license, if unexpired, shall be returned to the
300 respondent after the extreme risk protection order is terminated
301 or expired.

302 (i) (i) Except as otherwise provided in subparagraph
303 (ii) of this paragraph (i), upon expiration of the period of
304 safekeeping, if the firearms or concealed carry permit cannot be
305 returned to the respondent because the respondent cannot be
306 located, fails to respond to requests to retrieve the firearms, or
307 is not lawfully eligible to possess a firearm, upon petition from
308 the local law enforcement agency, the court may order the local
309 law enforcement agency to destroy the firearms, use the firearms
310 for training purposes, or for any other application as deemed
311 appropriate by the local law enforcement agency.

312 (ii) A respondent whose concealed carry license
313 has been revoked or suspended may petition the court, if the
314 affiant is present in court or has notice of the respondent's
315 petition, to transfer the respondent's firearm to a person who is
316 lawfully able to possess the firearm if the person does not reside
317 at the same address as the respondent. Notice of the petition
318 must be served upon the affiant who filed for the emergency



319 extreme risk protection order. While the order is in effect, the
320 transferee who receives respondent's firearms must swear or affirm
321 by affidavit that he or she will not transfer the firearm to the
322 respondent or to anyone residing in the same residence as the
323 respondent.

324 (iii) If a person other than the respondent claims
325 title to any firearms surrendered under this section, he or she
326 may petition the court, if the affiant is present in court or has
327 notice of the petition, to have the firearm returned to him or
328 her. If the court determines that person to be the lawful owner
329 of the firearm, the firearm shall be returned to him or her, but
330 only if:

331 1. The firearm is removed from the
332 respondent's custody, control, or possession and the lawful owner
333 agrees to store the firearm in a manner such that the respondent
334 does not have access to or control of the firearm; and

335 2. The firearm is not otherwise unlawfully
336 possessed by the owner.

337 (iv) The person petitioning for the return of his
338 or her firearm must swear or affirm by affidavit that he or she:

339 1. Is the lawful owner of the firearm;
340 2. Will not transfer the firearm to the
341 respondent; and



342 3. Will store the firearm in a manner such
343 that the respondent does not have access to or control of the
344 firearm.

345 (j) If the court does not issue an extreme risk
346 protection order at the hearing, the court shall dissolve any
347 emergency extreme risk protection order then in effect.

348 (k) When the court issues an extreme risk protection
349 order under this section, the court shall inform the respondent
350 that he or she is entitled to one (1) hearing during the period of
351 the order to request a termination of the order and shall provide
352 the respondent with a form to request a hearing.

353 (9) **Termination and renewal.** (a) A person subject to an
354 extreme risk protection order issued under this section may submit
355 one (1) written request at any time during the effective period of
356 the order for a hearing to terminate the order.

357 (i) The respondent shall have the burden of
358 proving by a preponderance of the evidence that the respondent
359 does not pose a danger of causing personal injury to himself,
360 herself, or another person in the near future by purchasing,
361 possessing or receiving, or having in his or her custody or
362 control, a firearm.

363 (ii) If the court finds after the hearing that the
364 respondent has met his or her burden, the court shall terminate
365 the order.



366 (b) An affiant may request a renewal of an extreme risk
367 protection order at any time within the three (3) months before
368 the expiration of an extreme risk protection order.

369 (i) A court shall, after notice and a hearing,
370 renew an extreme risk protection order issued under this section
371 if the affiant proves, by clear and convincing evidence, that the
372 respondent continues to pose a danger of causing personal injury
373 to himself, herself, or another in the near future by purchasing,
374 possessing or receiving, or having in his or her custody or
375 control, a firearm.

376 (ii) In determining whether to renew an extreme
377 risk protection order issued under this section, the court shall
378 consider evidence of the facts identified in subsection (8)(e) of
379 this section and any other evidence of an increased risk for
380 violence.

381 (iii) At the hearing, the affiant shall have the
382 burden of proving, by clear and convincing evidence, that the
383 respondent continues to pose a danger of causing personal injury
384 to himself, herself, or another in the near future by purchasing,
385 possessing or receiving, or having in his or her custody or
386 control, a firearm.

387 (iv) The renewal of an extreme risk protection
388 order issued under this section shall be in effect for six (6)
389 months, subject to termination by further order of the court at a



390 hearing held under this section and further renewal by further
391 order of the court under this section

392 (10) **Notice of orders.** (a) **Entry and issuance.** Upon
393 issuance of any extreme risk protection order, the clerk shall
394 immediately, or on the next court day if an emergency extreme risk
395 protection order is issued:

396 (i) Enter the order on the record and file it in
397 accordance with the circuit court procedures; and

398 (ii) Provide a file-stamped copy of the order to
399 respondent, if present, and to affiant.

400 (b) **Filing with sheriff.** The chancery clerk shall, or
401 the affiant may, on the same day that an extreme risk protection
402 order is issued, file a certified copy of that order with the
403 sheriff or other law enforcement officials charged with
404 maintaining Department of Public Safety records or charged with
405 serving the order upon the respondent. If the order was an
406 emergency extreme risk protection order, the clerk, on the next
407 court day, shall file a certified copy of the order with the
408 sheriff or other law enforcement officials charged with
409 maintaining Department of Public Safety records.

410 (c) **Service by sheriff.** (i) Unless the respondent was
411 present in court when the order was issued, the sheriff or other
412 law enforcement official shall promptly serve that order upon the
413 respondent and file proof of the service in the manner provided
414 for service of process in civil proceedings.



415 (d) An order renewing or terminating an extreme risk
416 protection order shall be promptly recorded, issued, and served.

417 (11) **Data maintenance by law enforcement agencies.** (a)
418 Every sheriff shall furnish to the Department of Public Safety,
419 daily, in the form and detail the department requires, copies of
420 any recorded extreme risk protection order issued by the court,
421 and any foreign orders of protection filed by the chancery clerk,
422 and transmitted to the sheriff by the chancery clerk under
423 subsection (10) of this section. Each extreme risk protection
424 order shall be entered in the Department of Public Safety data
425 system on the same day it is issued by the court. If an emergency
426 extreme risk protection order was issued, the order shall be
427 entered as soon as possible after receipt from the clerk.

428 (b) The Department of Public Safety shall maintain a
429 complete and systematic record and index of all valid and recorded
430 extreme risk protection orders issued or filed under this section.
431 The data shall be used to inform all dispatchers and law
432 enforcement officers at the scene of a violation of an extreme
433 risk protection order of the effective dates and terms of any
434 recorded order of protection.

435 (c) The data, records and transmittals required under
436 this subsection (11) shall pertain to any valid emergency or
437 six-month extreme risk protection order, whether issued in a civil
438 or criminal proceeding or authorized under the laws of another
439 state, tribe, or United States territory.



440 (12) **Filing of an extreme risk protection order issued by**
441 **another state.** (a) A person who has sought an extreme risk
442 protection order or similar order issued by the court of another
443 state, tribe, or United States territory may file a certified copy
444 of the extreme risk protection order with the chancery clerk of a
445 county in which the person believes that enforcement may be
446 necessary.

447 (b) The clerk shall:

448 (i) Treat the foreign extreme risk protection
449 order in the same manner as a judgment of the chancery court for
450 any county of this state in accordance with the provisions of the
451 Uniform Enforcement of Foreign Judgments Act, Section 11-7-301 et
452 seq., except that the clerk shall not mail notice of the filing of
453 the foreign order to the respondent named in the order; and

454 (ii) On the same day that a foreign extreme risk
455 protection order is filed, file a certified copy of that order
456 with the sheriff of the county and the law enforcement officials
457 charged with maintaining Department of Public Safety records.

458 (c) Neither residence in this state nor filing of a
459 foreign extreme risk protection order is required for enforcement
460 of the order in this state. Failure to file the foreign order is
461 not an impediment to its treatment in all respects as a
462 Mississippi extreme risk protection order.

463 (d) The clerk shall not charge a fee to file a foreign
464 order of protection under this Section.



465 (13) **Enforcement; sanctions for violation of order.** A
466 respondent who knowingly violates an extreme risk protection order
467 is guilty of a misdemeanor punishable by a fine not to exceed One
468 Thousand Dollars (\$1,000.00) and confinement in the county jail
469 not to exceed one (1) year. Prosecution for a violation of an
470 extreme risk protection order shall not bar concurrent prosecution
471 for any other crime, including any crime that may have been
472 committed at the time of the violation of the extreme risk
473 protection order.

474 (14) **Nonpreclusion of remedies.** Nothing in this section
475 precludes an affiant or law enforcement officer from removing
476 weapons under other authority, or filing criminal charges when
477 probable cause exists.

478 (15) **Limited law enforcement liability.** Any act of omission
479 or commission by any law enforcement officer acting in good-faith
480 in rendering emergency assistance or otherwise enforcing this
481 section shall not impose civil liability upon the law enforcement
482 officer or his or her supervisor or employer unless the act is a
483 result of willful or wanton misconduct.

484 (16) **Expunction or sealing of order.** If the court denies
485 issuance of an extreme risk protection order against the
486 respondent, all records of the proceeding shall be expunged
487 immediately from the court records. If the extreme risk
488 protection order is granted, all records of the proceeding shall
489 be sealed three (3) years after the expiration of the order.



490 **SECTION 2.** Section 45-9-101, Mississippi Code of 1972, is
491 amended as follows:

492 45-9-101. (1) (a) Except as otherwise provided, the
493 Department of Public Safety is authorized to issue licenses to
494 carry stun guns, concealed pistols or revolvers to persons
495 qualified as provided in this section. Such licenses shall be
496 valid throughout the state for a period of five (5) years from the
497 date of issuance. Any person possessing a valid license issued
498 pursuant to this section may carry a stun gun, concealed pistol or
499 concealed revolver.

500 (b) The licensee must carry the license, together with
501 valid identification, at all times in which the licensee is
502 carrying a stun gun, concealed pistol or revolver and must display
503 both the license and proper identification upon demand by a law
504 enforcement officer. A violation of the provisions of this
505 paragraph (b) shall constitute a noncriminal violation with a
506 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
507 by summons.

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

510 (a) Is a resident of the state. However, this
511 residency requirement may be waived if the applicant possesses a
512 valid permit from another state, is active military personnel
513 stationed in Mississippi, or is a retired law enforcement officer
514 establishing residency in the state;



515 (b) (i) Is twenty-one (21) years of age or older; or

516 (ii) Is at least eighteen (18) years of age but
517 not yet twenty-one (21) years of age and the applicant:

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

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

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

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

528 (e) Does not chronically or habitually abuse controlled
529 substances to the extent that his normal faculties are impaired.
530 It shall be presumed that an applicant chronically and habitually
531 uses controlled substances to the extent that his faculties are
532 impaired if the applicant has been voluntarily or involuntarily
533 committed to a treatment facility for the abuse of a controlled
534 substance or been found guilty of a crime under the provisions of
535 the Uniform Controlled Substances Law or similar laws of any other
536 state or the United States relating to controlled substances
537 within a three-year period immediately preceding the date on which
538 the application is submitted;



539 (f) Does not chronically and habitually use alcoholic
540 beverages to the extent that his normal faculties are impaired.
541 It shall be presumed that an applicant chronically and habitually
542 uses alcoholic beverages to the extent that his normal faculties
543 are impaired if the applicant has been voluntarily or
544 involuntarily committed as an alcoholic to a treatment facility or
545 has been convicted of two (2) or more offenses related to the use
546 of alcohol under the laws of this state or similar laws of any
547 other state or the United States within the three-year period
548 immediately preceding the date on which the application is
549 submitted;

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

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

555 (i) Has not been voluntarily or involuntarily committed
556 to a mental institution or mental health treatment facility unless
557 he possesses a certificate from a psychiatrist licensed in this
558 state that he has not suffered from disability for a period of
559 five (5) years;

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



564 (k) Is not a fugitive from justice; * * *
565 (l) Is not disqualified to possess a weapon based on
566 federal law * * *; and
567 (m) Has not been subject to an extreme risk protection
568 order under Section 1 of this act for at least three (3) years.

569 (3) The Department of Public Safety may deny a license if
570 the applicant has been found guilty of one or more crimes of
571 violence constituting a misdemeanor unless three (3) years have
572 elapsed since probation or any other conditions set by the court
573 have been fulfilled or expunction has occurred prior to the date
574 on which the application is submitted, or may revoke a license if
575 the licensee has been found guilty of one or more crimes of
576 violence within the preceding three (3) years. The department
577 shall, upon notification by a law enforcement agency or a court
578 and subsequent written verification, suspend a license or the
579 processing of an application for a license if the licensee or
580 applicant is arrested or formally charged with a crime which would
581 disqualify such person from having a license under this section,
582 until final disposition of the case. The provisions of subsection
583 (7) of this section shall apply to any suspension or revocation of
584 a license pursuant to the provisions of this section.

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



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

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

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

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

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

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

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

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

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

610 (b) A full-face photograph of the applicant taken
611 within the preceding thirty (30) days in which the head, including
612 hair, in a size as determined by the Department of Public Safety,



613 except that an applicant who is younger than twenty-one (21) years
614 of age must submit a photograph in profile of the applicant;

615 (c) A nonrefundable license fee of Eighty Dollars
616 (\$80.00). Costs for processing the set of fingerprints as
617 required in paragraph (d) of this subsection shall be borne by the
618 applicant. Honorably retired law enforcement officers, disabled
619 veterans and active duty members of the Armed Forces of the United
620 States shall be exempt from the payment of the license fee;

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

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

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

632 (b) The Department of Public Safety shall forward a
633 copy of the applicant's application to the sheriff of the
634 applicant's county of residence and, if applicable, the police
635 chief of the applicant's municipality of residence. The sheriff
636 of the applicant's county of residence and, if applicable, the
637 police chief of the applicant's municipality of residence may, at



638 his discretion, participate in the process by submitting a
639 voluntary report to the Department of Public Safety containing any
640 readily discoverable prior information that he feels may be
641 pertinent to the licensing of any applicant. The reporting shall
642 be made within thirty (30) days after the date he receives the
643 copy of the application. Upon receipt of a response from a
644 sheriff or police chief, such sheriff or police chief shall be
645 reimbursed at a rate set by the department.

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

649 (i) Issue the license;

650 (ii) Deny the application based solely on the
651 ground that the applicant fails to qualify under the criteria
652 listed in subsections (2) and (3) of this section. If the
653 Department of Public Safety denies the application, it shall
654 notify the applicant in writing, stating the ground for denial,
655 and the denial shall be subject to the appeal process set forth in
656 subsection (7); or

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



662 (d) * * * If a legible set of fingerprints, as
663 determined by the Department of Public Safety and the Federal
664 Bureau of Investigation, cannot be obtained after a minimum of two
665 (2) attempts, the Department of Public Safety shall determine
666 eligibility based upon a name check by the Mississippi Highway
667 Safety Patrol and a Federal Bureau of Investigation name check
668 conducted by the Mississippi Highway Safety Patrol at the request
669 of the Department of Public Safety.

670 (7) (a) If the Department of Public Safety denies the
671 issuance of a license, or suspends or revokes a license, the party
672 aggrieved may appeal such denial, suspension or revocation to the
673 Commissioner of Public Safety, or his authorized agent, within
674 thirty (30) days after the aggrieved party receives written notice
675 of such denial, suspension or revocation. The Commissioner of
676 Public Safety, or his duly authorized agent, shall rule upon such
677 appeal within thirty (30) days after the appeal is filed and
678 failure to rule within this thirty-day period shall constitute
679 sustaining such denial, suspension or revocation. Such review
680 shall be conducted pursuant to such reasonable rules and
681 regulations as the Commissioner of Public Safety may adopt.

682 (b) If the revocation, suspension or denial of issuance
683 is sustained by the Commissioner of Public Safety, or his duly
684 authorized agent pursuant to paragraph (a) of this subsection, the
685 aggrieved party may file within ten (10) days after the rendition
686 of such decision a petition in the circuit or county court of his



687 residence for review of such decision. A hearing for review shall
688 be held and shall proceed before the court without a jury upon the
689 record made at the hearing before the Commissioner of Public
690 Safety or his duly authorized agent. No such party shall be
691 allowed to carry a stun gun, concealed pistol or revolver pursuant
692 to the provisions of this section while any such appeal is
693 pending.

694 (8) The Department of Public Safety shall maintain an
695 automated listing of license holders and such information shall be
696 available online, upon request, at all times, to all law
697 enforcement agencies through the Mississippi Crime Information
698 Center. However, the records of the department relating to
699 applications for licenses to carry stun guns, concealed pistols or
700 revolvers and records relating to license holders shall be exempt
701 from the provisions of the Mississippi Public Records Act of 1983,
702 and shall be released only upon order of a court having proper
703 jurisdiction over a petition for release of the record or records.

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



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

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

722 (12) (a) No less than ninety (90) days prior to the
723 expiration date of the license, the Department of Public Safety
724 shall mail to each licensee a written notice of the expiration and
725 a renewal form prescribed by the department. The licensee must
726 renew his license on or before the expiration date by filing with
727 the department the renewal form, a notarized affidavit stating
728 that the licensee remains qualified pursuant to the criteria
729 specified in subsections (2) and (3) of this section, and a full
730 set of fingerprints administered by the Department of Public
731 Safety or the sheriff of the county of residence of the licensee.
732 The first renewal may be processed by mail and the subsequent
733 renewal must be made in person. Thereafter every other renewal
734 may be processed by mail to assure that the applicant must appear
735 in person every ten (10) years for the purpose of obtaining a new
736 photograph.



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

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

743 (iii) The renewal fee for a Mississippi resident
744 aged sixty-five (65) years of age or older shall be Twenty Dollars
745 (\$20.00).

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

751 (c) A licensee who fails to file a renewal application
752 on or before its expiration date must renew his license by paying
753 a late fee of Fifteen Dollars (\$15.00). No license shall be
754 renewed six (6) months or more after its expiration date, and such
755 license shall be deemed to be permanently expired. A person whose
756 license has been permanently expired may reapply for licensure;
757 however, an application for licensure and fees pursuant to
758 subsection (5) of this section must be submitted, and a background
759 investigation shall be conducted pursuant to the provisions of
760 this section.



761 (13) No license issued pursuant to this section shall
762 authorize any person to carry a stun gun, concealed pistol or
763 revolver into any place of nuisance as defined in Section
764 95-3-1 * * *; any police, sheriff or highway patrol station; any
765 detention facility, prison or jail; any courthouse; any courtroom,
766 except that nothing in this section shall preclude a judge from
767 carrying a concealed weapon or determining who will carry a
768 concealed weapon in his courtroom; any polling place; any meeting
769 place of the governing body of any governmental entity; any
770 meeting of the Legislature or a committee thereof; any school,
771 college or professional athletic event not related to firearms;
772 any portion of an establishment, licensed to dispense alcoholic
773 beverages for consumption on the premises, that is primarily
774 devoted to dispensing alcoholic beverages; any portion of an
775 establishment in which beer or light wine is consumed on the
776 premises, that is primarily devoted to such purpose; any
777 elementary or secondary school facility; any junior college,
778 community college, college or university facility unless for the
779 purpose of participating in any authorized firearms-related
780 activity; inside the passenger terminal of any airport, except
781 that no person shall be prohibited from carrying any legal firearm
782 into the terminal if the firearm is encased for shipment, for
783 purposes of checking such firearm as baggage to be lawfully
784 transported on any aircraft; any church or other place of worship,
785 except as provided in Section 45-9-171; or any place where the



786 carrying of firearms is prohibited by federal law. In addition to
787 the places enumerated in this subsection, the carrying of a stun
788 gun, concealed pistol or revolver may be disallowed in any place
789 in the discretion of the person or entity exercising control over
790 the physical location of such place by the placing of a written
791 notice clearly readable at a distance of not less than ten (10)
792 feet that the "carrying of a pistol or revolver is prohibited."
793 No license issued pursuant to this section shall authorize the
794 participants in a parade or demonstration for which a permit is
795 required to carry a stun gun, concealed pistol or revolver.

796 (14) A law enforcement officer as defined in Section 45-6-3,
797 chiefs of police, sheriffs and persons licensed as professional
798 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
799 1972, shall be exempt from the licensing requirements of this
800 section. The licensing requirements of this section do not apply
801 to the carrying by any person of a stun gun, pistol or revolver,
802 knife, or other deadly weapon that is not concealed as defined in
803 Section 97-37-1.

804 (15) Any person who knowingly submits a false answer to any
805 question on an application for a license issued pursuant to this
806 section, or who knowingly submits a false document when applying
807 for a license issued pursuant to this section, shall, upon
808 conviction, be guilty of a misdemeanor and shall be punished as
809 provided in Section 99-19-31 * * *.



810 (16) All fees collected by the Department of Public Safety
811 pursuant to this section shall be deposited into a special fund
812 hereby created in the State Treasury and shall be used for
813 implementation and administration of this section. After the
814 close of each fiscal year, the balance in this fund shall be
815 certified to the Legislature and then may be used by the
816 Department of Public Safety as directed by the Legislature.

817 (17) All funds received by a sheriff or police chief
818 pursuant to the provisions of this section shall be deposited into
819 the general fund of the county or municipality, as appropriate,
820 and shall be budgeted to the sheriff's office or police department
821 as appropriate.

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

825 (19) Any person holding a valid unrevoked and unexpired
826 license to carry stun guns, concealed pistols or revolvers issued
827 in another state shall have such license recognized by this state
828 to carry stun guns, concealed pistols or revolvers. The
829 Department of Public Safety is authorized to enter into a
830 reciprocal agreement with another state if that state requires a
831 written agreement in order to recognize licenses to carry stun
832 guns, concealed pistols or revolvers issued by this state.

833 (20) The provisions of this section shall be under the
834 supervision of the Commissioner of Public Safety. The



835 commissioner is authorized to promulgate reasonable rules and
836 regulations to carry out the provisions of this section.

837 (21) For the purposes of this section, the term "stun gun"
838 means a portable device or weapon from which an electric current,
839 impulse, wave or beam may be directed, which current, impulse,
840 wave or beam is designed to incapacitate temporarily, injure,
841 momentarily stun, knock out, cause mental disorientation or
842 paralyze.

843 (22) (a) From and after January 1, 2016, the Commissioner
844 of Public Safety shall promulgate rules and regulations which
845 provide that licenses authorized by this section for honorably
846 retired law enforcement officers and honorably retired
847 correctional officers from the Mississippi Department of
848 Corrections shall (i) include the words "retired law enforcement
849 officer" on the front of the license, and (ii) that the license
850 itself have a red background to distinguish it from other licenses
851 issued under this section.

852 (b) An honorably retired law enforcement officer and
853 honorably retired correctional officer shall provide the following
854 information to receive the license described in this section: (i)
855 a letter, with the official letterhead of the agency or department
856 from which such officer is retiring, which explains that such
857 officer is honorably retired, and (ii) a letter with the official
858 letterhead of the agency or department, which explains that such



859 officer has completed a certified law enforcement training
860 academy.

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

865 (24) A license under this section is not required for a
866 loaded or unloaded pistol or revolver to be carried upon the
867 person in a sheath, belt holster or shoulder holster or in a
868 purse, handbag, satchel, other similar bag or briefcase or fully
869 enclosed case if the person is not engaged in criminal activity
870 other than a misdemeanor traffic offense, is not otherwise
871 prohibited from possessing a pistol or revolver under state or
872 federal law, and is not in a location prohibited under subsection
873 (13) of this section.

874 **SECTION 3.** Section 25-7-9, Mississippi Code of 1972, is
875 brought forward as follows:

876 25-7-9. (1) The clerks of the chancery courts shall charge
877 the following fees:

878 (a) For the act of certifying copies of filed
879 documents, for each complete document.....\$ 1.00

880 (b) (i) Recording each deed, will, lease, amendment,
881 subordination, lien, release, cancellation, order, decree, oath,
882 etc., per book and page listed where applicable; for the first
883 fifteen (15) pages.....\$ 10.00



884 Each additional page.....\$ 1.00

885 (ii) Sectional index entries per section or

886 subdivision lot.....\$ 1.00

887 (c) Recording each deed of trust, for the first fifteen

888 (15) pages.....\$ 15.00

889 Each additional page.....\$ 1.00

890 Sectional index entries per section or subdivision

891 lot \$ 1.00

892 (d) (i) Recording oil and gas leases, cancellations,

893 etc., including indexing in general indices; for the first

894 fifteen (15) pages.....\$ 18.00

895 Each additional page.....\$ 1.00

896 (ii) Sectional index entries per section or

897 subdivision lot.....\$ 1.00

898 (iii) Recording each oil and gas assignment

899 per assignee.....\$ 18.00

900 (e) (i) Furnishing copies of any papers of record or

901 on file:

902 If performed by the clerk or his employee,

903 per page.....\$.50

904 If performed by any other person,

905 per page.....\$.25

906 (ii) Entering marginal notations on

907 documents of record.....\$ 1.00



908 (f) For each day's attendance on the board of
909 supervisors, for himself and one (1) deputy, each.....\$ 20.00

910 (g) For other services as clerk of the board of
911 supervisors an allowance shall be made to him (payable
912 semiannually at the July and January meetings) out of the county
913 treasury, an annual sum not exceeding.....\$3,000.00

914 (h) For each day's attendance on the chancery court, to
915 be approved by the chancellor:

916 For the first chancellor sitting only, clerk and
917 two (2) deputies, each.....\$ 50.00

918 For the second chancellor sitting,
919 clerk only.....\$ 50.00

920 Provided that the fees herein prescribed shall be the total
921 remuneration for the clerk and his deputies for attending chancery
922 court.

923 (i) On order of the court, clerks and not more than two
924 (2) deputies may be allowed five (5) extra days for each term of
925 court for attendance upon the court to get up records.

926 (j) For public service not otherwise specifically
927 provided for, the chancery court may by order allow the clerk to
928 be paid by the county on the order of the board of supervisors, an
929 annual sum not exceeding.....\$5,000.00

930 (k) For each civil filing, to be deposited into the
931 Civil Legal Assistance Fund.....\$ 5.00



932 The chancery clerk shall itemize on the original document a
933 detailed fee bill of all charges due or paid for filing, recording
934 and abstracting same. No person shall be required to pay such
935 fees until same have been so itemized, but those fees may be
936 demanded before the document is recorded.

937 (2) The following fees shall be a total fee for all services
938 performed by the clerk with respect to a complaint which shall be
939 payable upon filing and shall accrue to the chancery clerk at the
940 time of filing. The clerk or his successor in office shall
941 perform all duties set forth without additional compensation or
942 fee to wit:

- 943 (a) Divorce to be contested.....\$75.00
- 944 (b) Divorce uncontested.....\$30.00
- 945 (c) Alteration of birth or marriage certificate..\$25.00
- 946 (d) Removal of minority.....\$25.00
- 947 (e) Guardianship or conservatorship.....\$75.00
- 948 (f) Estate of deceased, intestate.....\$75.00
- 949 (g) Estate of deceased, testate.....\$75.00
- 950 (h) Adoption.....\$75.00
- 951 (i) Land dispute.....\$75.00
- 952 (j) Injunction.....\$75.00
- 953 (k) Settlement of small claim.....\$30.00
- 954 (l) Contempt in child support.....\$75.00
- 955 (m) Partition suit.....\$75.00
- 956 (n) Any cross-complaint.....\$25.00



957 (o) Commitment.....\$75.00

958 (3) For every civil case filed:

959 (a) An additional fee to be deposited to the credit of
960 the Comprehensive Electronic Court Systems Fund established
961 in Section 9-21-14.....\$10.00

962 (b) An additional fee to be deposited to the
963 credit of the Judicial System Operation Fund established in
964 Section 9-21-45.....\$40.00

965 (4) Cost of process shall be borne by the issuing party.
966 Additionally, should the attorney or person filing the pleadings
967 desire the clerk to pay the cost to the sheriff for serving
968 process on one (1) person or more, or to pay the cost of
969 publication, the clerk shall demand the actual charges therefor,
970 at the time of filing.

971 **SECTION 4.** This act shall take effect and be in force from
972 and after July 1, 2019.

