

By: Representatives Mims, Calvert, Smith,
Horne, Williamson, Byrd, Carpenter, Pigott,
Morgan, Kinkade

To: Judiciary B

HOUSE BILL NO. 83

1 AN ACT TO CREATE "THE COMBATING VIOLENCE, DISORDER AND
2 LOOTING AND LAW ENFORCEMENT PROTECTION ACT OF MISSISSIPPI"; TO
3 DEFINE TERMS RELATING TO SUCH ACT; TO PROVIDE THAT ANYONE WHO ACTS
4 WITH AN ASSEMBLY OF SIX OR MORE PEOPLE AND CREATES AN IMMEDIATE
5 DANGER OR DISTURBS ANY OTHER PERSON'S LEGAL RIGHT OF ENJOYMENT
6 SHALL BE GUILTY OF A FELONY; TO PROVIDE A DEFENSE TO PROSECUTION;
7 TO PROHIBIT ANY PERSON IN AN ASSEMBLY FROM OBSTRUCTING TRAFFIC; TO
8 PROHIBIT THE THROWING OF AN OBJECT AT ANOTHER PERSON; TO PROVIDE
9 ENHANCED PENALTIES IF THE OBJECT HITS A LAW ENFORCEMENT OFFICER;
10 TO PROHIBIT DEFACING OF PROPERTY DURING AN ASSEMBLY; TO PROVIDE
11 PENALTIES FOR SUCH; TO PROHIBIT HARASSMENT DURING AN ASSEMBLY; TO
12 PROHIBIT UNEMPLOYMENT BENEFITS FOR ANY PERSON WHO PARTICIPATES IN
13 A VIOLENT ASSEMBLY; TO REQUIRE THE TERMINATION OF ANY STATE OR
14 LOCAL EMPLOYEE WHO IS CONVICTED FOR VIOLATING THIS ACT; TO
15 PROHIBIT FILING OF ANY ACTION AGAINST THE STATE OR LOCAL
16 GOVERNMENT IF A PERSON IS CONVICTED FOR VIOLATING THIS ACT; TO
17 REQUIRE MUNICIPALITIES AND COUNTIES TO PROVIDE PROOF THAT SUCH
18 MUNICIPALITY OR COUNTY HAS NOT DISPROPORTIONATELY REDUCED THEIR
19 LAW ENFORCEMENT'S BUDGET; TO AMEND SECTION 97-17-65, MISSISSIPPI
20 CODE OF 1972, TO CLARIFY THE PENALTIES OF LOOTING AGAINST
21 BUSINESSES; TO BRING FORWARD SECTION 97-17-67, MISSISSIPPI CODE OF
22 1972, WHICH PROVIDES FOR MALICIOUS MISCHIEF, FOR PURPOSES OF
23 AMENDMENT; TO AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO
24 ADD VIOLATIONS OF THIS ACT TO THE DEFINITION OF THE CRIME
25 RACKETEERING PROVISIONS; TO AMEND SECTION 97-3-15, MISSISSIPPI
26 CODE OF 1972, TO CLARIFY JUSTIFIABLE HOMICIDE BY ADDING DEFENSE OF
27 A BUSINESS OR SELF DURING A VIOLENT DISORDERLY ASSEMBLY; TO AMEND
28 SECTION 11-46-9, MISSISSIPPI CODE OF 1972, TO PROVIDE AN EXCEPTION
29 FOR TORT IMMUNITY WHEN A GOVERNMENTAL ENTITY FAILS TO PROVIDE
30 PROPER LAW ENFORCEMENT PROTECTION DURING A VIOLENT AND DISORDERLY
31 ASSEMBLY; TO AMEND SECTIONS 97-35-23 AND 97-35-25, MISSISSIPPI
32 CODE OF 1972, TO PROVIDE PENALTIES FOR OBSTRUCTING TRAFFIC DURING
33 AN ASSEMBLY; TO AMEND SECTIONS 71-5-511 AND 71-5-513, MISSISSIPPI



34 CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR
35 RELATED PURPOSES.

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

37 **SECTION 1.** This act shall be known and may be cited as "The
38 Combating Violence, Disorder And Looting And Law Enforcement
39 Protection Act of Mississippi".

40 **SECTION 2.** (1) For purposes of this act, the following
41 words and phrases shall have the meanings as defined in this
42 section unless the context clearly indicates otherwise:

43 (a) "Violent or disorderly assembly" means the
44 gathering of seven or more persons resulting in conduct which:
45 (i) creates an immediate danger of damage to property or injury to
46 persons; (ii) substantially obstructs law enforcement or other
47 governmental functions or services; or (iii) by force, threat of
48 force, or physical action deprives any person of a legal right or
49 disturbs any person in the enjoyment of a legal right.

50 (b) "Harass" means to engage in conduct directed at a
51 specific person which causes substantial emotional distress to
52 that person and serves no legitimate purpose.

53 (c) "Intimidate" means to frighten or threaten someone
54 for the purpose of coercing that person to take some action.

55 (d) "Looting" means the same as it is defined in
56 Section 97-17-65.

57 (2) (a) Anyone who acts with an assembly of six (6) or more
58 people, knowing that the assembly's conduct (a) creates an
59 immediate danger of damage to property or injury to persons; (b)



60 substantially obstructs law enforcement or other governmental
61 functions or services; or (c) by force, threat of force, or
62 physical action deprives any person of a legal right or disturbs
63 any person in the enjoyment of a legal right shall be guilty of a
64 felony, and upon conviction, shall be punished by imprisonment in
65 the custody of the Department of Corrections for not more than
66 three (3) years, fined not more than Five Thousand Dollars
67 (\$5,000.00) or both.

68 (b) It shall be a defense to prosecution under this
69 section that the assembly was at first lawful and the person
70 charged with the offense left the assembly when one of those
71 assembled showed an intent to engage in violent behavior.

72 (c) If a person who violates this section travelled to
73 Mississippi with the intent to participate in a violent or
74 disorderly assembly, that person shall be guilty of a felony and,
75 upon conviction, be punished by imprisonment in the custody of the
76 Department of Corrections for no less than three (3) years, nor
77 more than six (6) years, fined not more than Five Thousand Dollars
78 (\$5,000.00) or both.

79 (3) (a) A person may not obstruct or interfere with the
80 regular flow of vehicular traffic on a public road, street or
81 highway during any protest or demonstration for which a public
82 assembly permit has not been issued by a county or municipality.
83 A person who violates this section shall be guilty of a



84 misdemeanor and, upon conviction, penalized as provided in Section
85 97-35-23.

86 (b) A person may not obstruct or interfere with the
87 regular flow of vehicular traffic on a public road, street or
88 highway while participating in a violent or disorderly assembly.
89 A person who violates this section shall be guilty of a felony,
90 and upon conviction, be imprisoned in the custody of the
91 Department of Corrections for no more than two (2) years, or fined
92 up to Three Thousand Dollars (\$3,000.00), or both.

93 (c) Any motor vehicle operator who unintentionally
94 causes injury or death to a person who obstructs or interferes
95 with the regular flow of vehicular traffic in violation of this
96 subsection shall not be liable for such injury or death.

97 (4) (a) Any person who throws an object at another with the
98 intent or effect of harming the target and does so while
99 participating in a violent or disorderly assembly shall be guilty
100 of a misdemeanor and, upon conviction, be punished by imprisonment
101 for not more than six (6) months in the county jail, or fined not
102 more than Five Hundred Dollars (\$500.00), or both.

103 (b) Except as otherwise provided in paragraph (c) of
104 this section, if the objects hits an individual, the person who
105 threw the object shall be guilty of a felony and, upon conviction,
106 be punished by imprisonment for not more two (2) years in the
107 custody of the Department of Corrections, fined not less than Two
108 Thousand Dollars (\$2,000.00), or both.



109 (c) If the object hits any law enforcement officer such
110 person shall be guilty of a felony and, upon conviction, be
111 punished by imprisonment for not less than five (5) years in the
112 custody of the Department of Corrections, fined not less than Five
113 Thousand Dollars (\$5,000.00), or both. Any person arrested in
114 violation of this subsection against a law enforcement officer
115 shall not be eligible for release on bail or surety bond until the
116 first appearance on the case in order to ensure the full
117 participation of the prosecutor and the protection of the public.

118 (d) Whenever a person is charged with simple or
119 aggravated assault in violation of this act against any law
120 enforcement officer, the penalties shall be enhanced as provided
121 in Section 97-3-7.

122 (5) Any person who, while participating in a violent or
123 disorderly assembly, demolishes, pulls down, destroys, or defaces
124 public property, including but not limited to a monument or
125 statue, shall be guilty of a felony, and upon conviction,
126 imprisoned in the custody of the Department of Corrections for not
127 more than two (2) years or fined not less than Two Thousand
128 Dollars (\$2,000.00), or both.

129 (6) Any person who, while participating in a violent or
130 disorderly assembly, intimidates or harasses individuals present
131 at a public accommodation and not participating in the violent or
132 disorderly assembly shall be guilty of a misdemeanor and, upon
133 conviction, be punished by imprisonment in the county jail for not



more than six (6) months, fined not more than Five Hundred Dollars (\$500.00), or both.

(7) (a) Any person convicted, pleads guilty or nolo contendere in violation of this act, shall be ineligible for unemployment benefits.

(b) Any state or local government employee found guilty in violation of this act, shall be terminated by the governmental entity that employs them.

(8) (a) No action may be brought against the state or any of its agencies or subdivisions by anyone who is convicted of unlawfully participating in a riot, unlawful assembly, public demonstration, mob violence, or civil disobedience if the claim arises out of such riot, unlawful assembly, public demonstration, mob violence, or civil disobedience. Nothing in this act shall abridge traditional immunities pertaining to statements made in court.

(b) Municipalities, counties and political subdivisions have a duty of reasonable care to protect individuals present within their borders from being harmed or suffering property damage caused by participants in a riot or violent or disorderly assembly.

(c) Any person who is the victim of a crime described in this act may recover damages from a local government that failed or was grossly negligent in policing a riot or violent or disorderly assembly.



159 (9) Each municipality must certify to each state agency
160 through which it receives any state funds by October 15 of each
161 year, that the municipality has not disproportionately funded
162 reductions to the municipality's law enforcement agencies. The
163 certification must include a statement that any reduction in
164 funding or proposed funding is a result of reduced revenue
165 collection and is proportionate to that reduction in revenue. A
166 reduction in law enforcement funding is proportionate if the
167 portion of the local government's total budget allocated to law
168 enforcement agencies, expressed as a percentage, remains within
169 three (3) percentage points of the percentage decrease in total
170 revenue from the previous fiscal year to the current fiscal year.
171 A municipality that has disproportionately reduced its law
172 enforcement funding is not eligible to receive state funds.

173 (10) Each county must certify to each state agency through
174 which it receives any state funds by October 15 of each year that
175 the county has not disproportionately funded reductions to the
176 county's law enforcement agencies. The certification must include
177 a statement that any reduction in funding or proposed funding is a
178 result of reduced revenue collection and is proportionate to that
179 reduction in revenue. A reduction in law enforcement funding is
180 proportionate if the portion of the county's total budget
181 allocated to law enforcement agencies, expressed as a percentage,
182 remains within three (3) percentage points of the percentage
183 decrease in total revenue from the previous fiscal year to the



current fiscal year. A county that has disproportionately reduced its law enforcement funding is not eligible to receive state funds.

SECTION 3. Section 97-17-65, Mississippi Code of 1972, is amended as follows:

97-17-65. (1) A person commits looting when he knowingly without authority of law or of the owner enters any home or dwelling, or upon any premises of another, or enters any commercial, mercantile, business or industrial building, plant or establishment, in which a normal security of property is not present by virtue of a hurricane, fire or vis major of any kind or by virtue of a riot, mob, or closure of such for any reason, or other human agency and obtains or exerts control over or injures or removes property of the owner.

(2) Any person who commits looting shall be guilty of a felony and, upon conviction, such person shall be punished by imprisonment in the * * * ~~Penitentiary~~ custody of the Department of Corrections for a period not to exceed fifteen (15) years or by a fine not to exceed Ten Thousand Dollars (\$10,000.00), or both * * * ~~such fine and imprisonment.~~

(3) The fact that a person may be subject to prosecution under this section shall not bar his prosecution or punishment under the statutes relating to larceny or burglary, or under any other statute or ordinance to the extent that such would otherwise be permitted in the absence of this section.



209 **SECTION 4.** Section 97-17-67, Mississippi Code of 1972, is
210 brought forward as follows:

211 97-17-67. (1) Every person who shall maliciously or
212 mischievously destroy, disfigure, or injure, or cause to be
213 destroyed, disfigured, or injured, any property of another, either
214 real or personal, shall be guilty of malicious mischief.

215 (2) If the value of the property destroyed, disfigured or
216 injured is One Thousand Dollars (\$1,000.00) or less, it shall be a
217 misdemeanor and may be punishable by a fine of not more than One
218 Thousand Dollars (\$1,000.00) or imprisonment in the county jail
219 not exceeding twelve (12) months, or both, if the court finds
220 substantial and compelling reasons why the offender cannot be
221 safely and effectively supervised in the community, is not
222 amenable to community-based treatment, or poses a significant risk
223 to public safety. If such a finding is not made, the court shall
224 suspend the sentence of imprisonment and impose a period of
225 probation not exceeding one (1) year or a fine of not more than
226 One Thousand Dollars (\$1,000.00), or both. Any person convicted
227 of a third or subsequent offense under this subsection where the
228 value of the property is not less than Five Hundred Dollars
229 (\$500.00), shall be imprisoned in the Penitentiary for a term not
230 exceeding three (3) years or fined an amount not exceeding One
231 Thousand Dollars (\$1,000.00), or both.

232 (3) If the value of the property destroyed, disfigured or
233 injured is in excess of One Thousand Dollars (\$1,000.00) but less



234 than Five Thousand Dollars (\$5,000.00), it shall be a felony
235 punishable by a fine not exceeding Ten Thousand Dollars
236 (\$10,000.00) or imprisonment in the Penitentiary not exceeding
237 five (5) years, or both.

238 (4) If the value of the property is Five Thousand Dollars
239 (\$5,000.00) or more but less than Twenty-five Thousand Dollars
240 (\$25,000.00), it shall be punishable by a fine of not more than
241 Ten Thousand Dollars (\$10,000.00) or imprisonment in the
242 Penitentiary not exceeding ten (10) years, or both.

243 (5) If the value of the property is Twenty-five Thousand
244 Dollars (\$25,000.00) or more, it shall be punishable by a fine of
245 not more than Ten Thousand Dollars (\$10,000.00) or imprisonment in
246 the Penitentiary not exceeding twenty (20) years, or both.

247 (6) In all cases restitution to the victim for all damages
248 shall be ordered. The value of property destroyed, disfigured or
249 injured by the same party as part of a common crime against the
250 same or multiple victims may be aggregated together and if the
251 value exceeds One Thousand Dollars (\$1,000.00), shall be a felony.

252 (7) For purposes of this statute, value shall be the cost of
253 repair or replacement of the property damaged or destroyed.

254 (8) Anyone who by any word, deed or act directly or
255 indirectly urges, aids, abets, suggests or otherwise instills in
256 the mind of another the will to so act shall be considered a
257 principal in the commission of said crime and shall be punished in
258 the same manner.



259 **SECTION 5.** Section 97-43-3, Mississippi Code of 1972, is
260 amended as follows:

261 97-43-3. The following terms shall have the meanings
262 ascribed to them herein unless the context requires otherwise:

263 (a) "Racketeering activity" means to commit, to attempt
264 to commit, to conspire to commit, or to solicit, coerce or
265 intimidate another person to commit any crime which is chargeable
266 under the following provisions of the Mississippi Code of 1972:

267 (1) Section 97-19-71, which relates to fraud in
268 connection with any state or federally funded assistance programs.

269 (2) Section 75-71-735, which relates to violations
270 of the Mississippi Securities Act.

271 (3) Sections 45-13-105, 45-13-109, 97-37-23 and
272 97-37-25, which relate to unlawful possession, use and
273 transportation of explosives.

274 (4) Sections 97-3-19 and 97-3-21, which relate to
275 murder.

276 (5) Section 97-3-7(2), which relates to aggravated
277 assaults.

278 (6) Section 97-3-53, which relates to kidnapping.

279 (7) Sections 97-3-73 through 97-3-83, which relate
280 to robbery.

281 (8) Sections 97-17-19 through 97-17-37, which
282 relate to burglary.



(9) Sections 97-17-1 through 97-17-13, which relate to arson.

(10) Sections 97-29-49 and 97-29-51, which relate to prostitution.

(11) Sections 97-5-5 and 97-5-31 through 97-5-37, which relate to the exploitation of children and enticing children for concealment, prostitution or marriage.

(12) Section 41-29-139, which relates to violations of the Uniform Controlled Substances Law; provided, however, that in order to be classified as "racketeering activity," such offense must be punishable by imprisonment for more than one (1) year.

(13) Sections 97-21-1 through 97-21-63, which relate to forgery and counterfeiting.

(14) Sections 97-9-1 through 97-9-77, which relate to offenses affecting administration of justice.

(15) Sections 97-33-1 through 97-33-49, which relate to gambling and lotteries.

(16) Section 97-3-54 et seq., which relate to human trafficking.

(17) Sections 1 and 2 of this act which regulates violent assemblies.

(b) "Unlawful debt" means money or any other thing of value constituting principal or interest of a debt which is legally unenforceable, in whole or in part, because the debt was



308 incurred or contracted in gambling activity in violation of state
309 law or in the business of lending money at a rate usurious under
310 state law, where the usurious rate is at least twice the
311 enforceable rate.

312 (c) "Enterprise" means any individual, sole
313 proprietorship, partnership, corporation, union or other legal
314 entity, or any association or group of individuals associated in
315 fact although not a legal entity. It includes illicit as well as
316 licit enterprises and governmental, as well as other, entities.

317 (d) "Pattern of racketeering activity" means engaging
318 in at least two (2) incidents of racketeering conduct that have
319 the same or similar intents, results, accomplices, victims, or
320 methods of commission or otherwise are interrelated by
321 distinguishing characteristics and are not isolated incidents,
322 provided at least one (1) of such incidents occurred after July 1,
323 1984, and that the last of such incidents occurred within five (5)
324 years after a prior incident of racketeering conduct.

325 **SECTION 6.** Section 97-3-15, Mississippi Code of 1972, is
326 amended as follows:

327 97-3-15. (1) The killing of a human being by the act,
328 procurement or omission of another shall be justifiable in the
329 following cases:

330 (a) When committed by public officers, or those acting
331 by their aid and assistance, in obedience to any judgment of a
332 competent court;



333 (b) When necessarily committed by public officers, or
334 those acting by their command in their aid and assistance, in
335 overcoming actual resistance to the execution of some legal
336 process, or to the discharge of any other legal duty;

337 (c) When necessarily committed by public officers, or
338 those acting by their command in their aid and assistance, in
339 retaking any felon who has been rescued or has escaped;

340 (d) When necessarily committed by public officers, or
341 those acting by their command in their aid and assistance, in
342 arresting any felon fleeing from justice;

343 (e) When committed by any person in resisting any
344 attempt unlawfully to kill such person or to commit any felony
345 upon him, or upon or in any dwelling, in any occupied vehicle, in
346 any place of business, in any place of employment or in the
347 immediate premises thereof in which such person shall be;

348 (f) When committed in the lawful defense of one's own
349 person or any other human being, where there shall be reasonable
350 ground to apprehend a design to commit a felony or to do some
351 great personal injury, and there shall be imminent danger of such
352 design being accomplished;

353 (g) When necessarily committed in attempting by lawful
354 ways and means to apprehend any person for any felony committed;

355 (h) When necessarily committed in lawfully suppressing
356 any riot or in lawfully keeping and preserving the peace; and



(i) When necessarily committed in the performance of duty as a member of a church or place of worship security program as described in Section 45-9-171.

(j) When necessarily committed in lawful defense of one's own business, where there is rioting, looting or other activity in violation of Sections 1 through 2 of this act.

(2) (a) As used in subsection (1)(c) and (d) of this section, the term "when necessarily committed" means that a public officer or a person acting by or at the officer's command, aid or assistance is authorized to use such force as necessary in securing and detaining the felon offender, overcoming the offender's resistance, preventing the offender's escape, recapturing the offender if the offender escapes or in protecting himself or others from bodily harm; but such officer or person shall not be authorized to resort to deadly or dangerous means when to do so would be unreasonable under the circumstances. The public officer or person acting by or at the officer's command may act upon a reasonable apprehension of the surrounding circumstances; however, such officer or person shall not use excessive force or force that is greater than reasonably necessary in securing and detaining the offender, overcoming the offender's resistance, preventing the offender's escape, recapturing the offender if the offender escapes or in protecting himself or others from bodily harm.



381 (b) As used in subsection (1)(c) and (d) of this
382 section, the term "felon" shall include an offender who has been
383 convicted of a felony and shall also include an offender who is in
384 custody, or whose custody is being sought, on a charge or for an
385 offense which is punishable, upon conviction, by death or
386 confinement in the Penitentiary.

387 (c) As used in subsections (1)(e) and (3) of this
388 section, "dwelling" means a building or conveyance of any kind
389 that has a roof over it, whether the building or conveyance is
390 temporary or permanent, mobile or immobile, including a tent, that
391 is designed to be occupied by people lodging therein at night,
392 including any attached porch.

393 (3) A person who uses defensive force shall be presumed to
394 have reasonably feared imminent death or great bodily harm, or the
395 commission of a felony upon him or another or upon his dwelling,
396 or against a vehicle which he was occupying, or against his
397 business or place of employment or the immediate premises of such
398 business or place of employment, if the person against whom the
399 defensive force was used, was in the process of unlawfully and
400 forcibly entering, or had unlawfully and forcibly entered, a
401 dwelling, occupied vehicle, business, place of employment or the
402 immediate premises thereof or if that person had unlawfully
403 removed or was attempting to unlawfully remove another against the
404 other person's will from that dwelling, occupied vehicle,
405 business, place of employment or the immediate premises thereof



and the person who used defensive force knew or had reason to believe that the forcible entry or unlawful and forcible act was occurring or had occurred. This presumption shall not apply if the person against whom defensive force was used has a right to be in or is a lawful resident or owner of the dwelling, vehicle, business, place of employment or the immediate premises thereof or is the lawful resident or owner of the dwelling, vehicle, business, place of employment or the immediate premises thereof or if the person who uses defensive force is engaged in unlawful activity or if the person is a law enforcement officer engaged in the performance of his official duties.

(4) A person who is not the initial aggressor and is not engaged in unlawful activity shall have no duty to retreat before using deadly force under subsection (1)(e) or (f) of this section if the person is in a place where the person has a right to be, and no finder of fact shall be permitted to consider the person's failure to retreat as evidence that the person's use of force was unnecessary, excessive or unreasonable.

(5) (a) The presumptions contained in subsection (3) of this section shall apply in civil cases in which self-defense or defense of another is claimed as a defense.

(b) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant acted in



431 accordance with subsection (1)(e) or (f) of this section. A
432 defendant who has previously been adjudicated "not guilty" of any
433 crime by reason of subsection (1)(e) or (f) of this section shall
434 be immune from any civil action for damages arising from the same
435 conduct.

436 **SECTION 7.** Section 11-46-9, Mississippi Code of 1972, is
437 amended as follows:

438 11-46-9. (1) A governmental entity and its employees acting
439 within the course and scope of their employment or duties shall
440 not be liable for any claim:

441 (a) Arising out of a legislative or judicial action or
442 inaction, or administrative action or inaction of a legislative or
443 judicial nature;

444 (b) Arising out of any act or omission of an employee
445 of a governmental entity exercising ordinary care in reliance
446 upon, or in the execution or performance of, or in the failure to
447 execute or perform, a statute, ordinance or regulation, whether or
448 not the statute, ordinance or regulation be valid;

449 (c) Arising out of any act or omission of an employee
450 of a governmental entity engaged in the performance or execution
451 of duties or activities relating to police or fire protection
452 unless the employee acted in reckless disregard of the safety and
453 well-being of any person not engaged in criminal activity at the
454 time of injury;



455 (d) Based upon the exercise or performance or the
456 failure to exercise or perform a discretionary function or duty on
457 the part of a governmental entity or employee thereof, whether or
458 not the discretion be abused;

459 (e) Arising out of an injury caused by adopting or
460 failing to adopt a statute, ordinance or regulation;

461 (f) Which is limited or barred by the provisions of any
462 other law;

463 (g) Arising out of the exercise of discretion in
464 determining whether or not to seek or provide the resources
465 necessary for the purchase of equipment, the construction or
466 maintenance of facilities, the hiring of personnel and, in
467 general, the provision of adequate governmental services;

468 (h) Arising out of the issuance, denial, suspension or
469 revocation of, or the failure or refusal to issue, deny, suspend
470 or revoke any privilege, ticket, pass, permit, license,
471 certificate, approval, order or similar authorization where the
472 governmental entity or its employee is authorized by law to
473 determine whether or not such authorization should be issued,
474 denied, suspended or revoked unless such issuance, denial,
475 suspension or revocation, or failure or refusal thereof, is of a
476 malicious or arbitrary and capricious nature;

477 (i) Arising out of the assessment or collection of any
478 tax or fee;



479 (j) Arising out of the detention of any goods or
480 merchandise by any law enforcement officer, unless such detention
481 is of a malicious or arbitrary and capricious nature;

482 (k) Arising out of the imposition or establishment of a
483 quarantine, whether such quarantine relates to persons or
484 property;

485 (l) Of any claimant who is an employee of a
486 governmental entity and whose injury is covered by the Workers'
487 Compensation Law of this state by benefits furnished by the
488 governmental entity by which he is employed;

489 (m) Of any claimant who at the time the claim arises is
490 an inmate of any detention center, jail, workhouse, penal farm,
491 penitentiary or other such institution, regardless of whether such
492 claimant is or is not an inmate of any detention center, jail,
493 workhouse, penal farm, penitentiary or other such institution when
494 the claim is filed;

495 (n) Arising out of any work performed by a person
496 convicted of a crime when the work is performed pursuant to any
497 sentence or order of any court or pursuant to laws of the State of
498 Mississippi authorizing or requiring such work;

499 (o) Under circumstances where liability has been or is
500 hereafter assumed by the United States, to the extent of such
501 assumption of liability, including, but not limited to, any claim
502 based on activities of the Mississippi National Guard when such
503 claim is cognizable under the National Guard Tort Claims Act of



the United States, 32 USCS 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

(p) Arising out of a plan or design for construction or improvements to public property, including, but not limited to, public buildings, highways, roads, streets, bridges, levees, dikes, dams, impoundments, drainage channels, diversion channels, harbors, ports, wharfs or docks, where such plan or design has been approved in advance of the construction or improvement by the legislative body or governing authority of a governmental entity or by some other body or administrative agency, exercising discretion by authority to give such approval, and where such plan or design is in conformity with engineering or design standards in effect at the time of preparation of the plan or design;

(q) Arising out of an injury caused solely by the effect of weather conditions on the use of streets and highways;

(r) Arising out of the lack of adequate personnel or facilities at a state hospital or state corrections facility if reasonable use of available appropriations has been made to provide such personnel or facilities;

(s) Arising out of loss, damage or destruction of property of a patient or inmate of a state institution;

(t) Arising out of any loss of benefits or compensation due under a program of public assistance or public welfare;



528 (u) Arising out of or resulting from riots, unlawful
529 assemblies, unlawful public demonstrations, mob violence or civil
530 disturbances;

531 (v) Arising out of an injury caused by a dangerous
532 condition on property of the governmental entity that was not
533 caused by the negligent or other wrongful conduct of an employee
534 of the governmental entity or of which the governmental entity did
535 not have notice, either actual or constructive, and adequate
536 opportunity to protect or warn against; provided, however, that a
537 governmental entity shall not be liable for the failure to warn of
538 a dangerous condition which is obvious to one exercising due care;

539 (w) Arising out of the absence, condition, malfunction
540 or removal by third parties of any sign, signal, warning device,
541 illumination device, guardrail or median barrier, unless the
542 absence, condition, malfunction or removal is not corrected by the
543 governmental entity responsible for its maintenance within a
544 reasonable time after actual or constructive notice;

545 (x) Arising out of the administration of corporal
546 punishment or the taking of any action to maintain control and
547 discipline of students, as defined in Section 37-11-57, by a
548 teacher, assistant teacher, principal or assistant principal of a
549 public school district in the state unless the teacher, assistant
550 teacher, principal or assistant principal acted in bad faith or
551 with malicious purpose or in a manner exhibiting a wanton and
552 willful disregard of human rights or safety; * * *~~or~~



(y) Arising out of the construction, maintenance or operation of any highway, bridge or roadway project entered into by the Mississippi Transportation Commission or other governmental entity and a company under the provisions of Section 65-43-1 or 65-43-3, where the act or omission occurs during the term of any such contract * * *~~;~~ or

(z) Arising out of the management of protecting the public during a riot or violent or disorderly assembly as defined in Section 1 of this act, unless the governmental entity fails or is grossly negligent in policing such.

(2) A governmental entity shall also not be liable for any claim where the governmental entity:

- (a) Is inactive and dormant;
- (b) Receives no revenue;
- (c) Has no employees; and
- (d) Owns no property.

(3) If a governmental entity exempt from liability by subsection (2) becomes active, receives income, hires employees or acquires any property, such governmental entity shall no longer be exempt from liability as provided in subsection (2) and shall be subject to the provisions of this chapter.

SECTION 8. Section 97-35-23, Mississippi Code of 1972, is amended as follows:

97-35-23. (1) (a) Except as otherwise provided in paragraph (b) of this subsection, it shall be unlawful for any



578 person or persons to intentionally obstruct, or interfere with the
579 normal or ordinary free use and passage of vehicles of or on, any
580 public street or highway provided for use by vehicular traffic, or
581 for any person or persons to intentionally obstruct, or interfere
582 with the normal or ordinary free use and passage of pedestrians of
583 or on any public sidewalk provided for foot travel by pedestrians,
584 and any person or persons who so do shall be guilty of a
585 misdemeanor and, upon conviction thereof, shall be punished by a
586 fine of not more than Four Hundred Dollars (\$400.00), or by
587 imprisonment in the county jail for not more than four (4) months,
588 or by both such fine and imprisonment.

589 (b) If violation of subsection (1) of this section is
590 committed during a violent or disorderly assembly as defined by
591 Section 1 of this act, the person shall be guilty of a misdemeanor
592 and, upon conviction thereof, be punished by imprisonment of no
593 less than four (4) months, nor more than twelve (12) months in the
594 county jail, or by a fine of no less than Five Hundred Dollars
595 (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or both.

596 (2) The provisions of this section are supplementary to the
597 provisions of any other statute of this state.

598 **SECTION 9.** Section 97-35-25, Mississippi Code of 1972, is
599 amended as follows:

600 97-35-25. (1) (a) It shall be unlawful for any person or
601 persons to * * *~~wilfully~~ willfully obstruct the free, convenient
602 and normal use of any public sidewalk, street, highway, alley,



603 road, or other passageway by impeding, hindering, stifling,
604 retarding or restraining traffic or passage thereon, and any
605 person or persons violating the provisions of this section shall
606 be guilty of a misdemeanor, and upon conviction thereof, shall be
607 punished by a fine of not more than Five Hundred Dollars (\$500.00)
608 or by confinement in the county jail not exceeding six (6) months,
609 or by both such fine and imprisonment.

610 (b) If violation of paragraph (a) of this section is
611 committed during a violent or disorderly assembly as defined by
612 Section 1 of this act, the person shall be guilty of a misdemeanor
613 and, upon conviction thereof, punished by imprisonment of no less
614 than four (4) months nor more than twelve (12) months in the
615 county jail, or by a fine of no less than Five Hundred Dollars
616 (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or both.

617 (2) The provisions of this section are supplementary to the
618 provisions of any other statute of this state.

619 **SECTION 10.** Section 71-5-511, Mississippi Code of 1972, is
620 amended as follows:

621 71-5-511. An unemployed individual shall be eligible to
622 receive benefits with respect to any week only if the department
623 finds that:

624 (a) (i) He has registered for work at and thereafter
625 has continued to report to the department in accordance with such
626 regulations as the department may prescribe; except that the
627 department may, by regulation, waive or alter either or both of



the requirements of this subparagraph as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this chapter; and

(ii) He participates in reemployment services, such as job search assistance services, if, in accordance with a profiling system established by the department, it has been determined that he is likely to exhaust regular benefits and needs reemployment services, unless the department determines that:

1. The individual has completed such services; or

2. There is justifiable cause for the claimant's failure to participate in such services.

(b) He has made a claim for benefits in accordance with the provisions of Section 71-5-515 and in accordance with such regulations as the department may prescribe thereunder.

(c) He is able to work, available for work and actively seeking work.

(d) He has been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purposes of this subsection:

(i) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;



652 (ii) If benefits have been paid with respect
653 thereto;

654 (iii) Unless the individual was eligible for
655 benefits with respect thereto, as provided in Sections 71-5-511
656 and 71-5-513, except for the requirements of this subsection.

657 (e) For weeks beginning on or before July 1, 1982, he
658 has, during his base period, been paid wages for insured work
659 equal to not less than thirty-six (36) times his weekly benefit
660 amount; he has been paid wages for insured work during at least
661 two (2) quarters of his base period; and he has, during that
662 quarter of his base period in which his total wages were highest,
663 been paid wages for insured work equal to not less than sixteen
664 (16) times the minimum weekly benefit amount. For benefit years
665 beginning after July 1, 1982, he has, during his base period, been
666 paid wages for insured work equal to not less than forty (40)
667 times his weekly benefit amount; he has been paid wages for
668 insured work during at least two (2) quarters of his base period,
669 and he has, during that quarter of his base period in which his
670 total wages were highest, been paid wages for insured work equal
671 to not less than twenty-six (26) times the minimum weekly benefit
672 amount. For purposes of this subsection, wages shall be counted
673 as "wages for insured work" for benefit purposes with respect to
674 any benefit year only if such benefit year begins subsequent to
675 the date on which the employing unit by which such wages were paid
676 has satisfied the conditions of Section 71-5-11, subsection H, or



677 Section 71-5-361, subsection (3), with respect to becoming an
678 employer.

679 (f) No individual may receive benefits in a benefit
680 year unless, subsequent to the beginning of the next preceding
681 benefit year during which he received benefits, he performed
682 service in "employment" as defined in Section 71-5-11, subsection
683 I, and earned remuneration for such service in an amount equal to
684 not less than eight (8) times his weekly benefit amount applicable
685 to his next preceding benefit year.

686 (g) Benefits based on service in employment defined in
687 Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361,
688 subsection (4) shall be payable in the same amount, on the same
689 terms, and subject to the same conditions as compensation payable
690 on the basis of other service subject to this chapter, except that
691 benefits based on service in an instructional, research or
692 principal administrative capacity in an institution of higher
693 learning (as defined in Section 71-5-11, subsection N) with
694 respect to service performed prior to January 1, 1978, shall not
695 be paid to an individual for any week of unemployment which begins
696 during the period between two (2) successive academic years, or
697 during a similar period between two (2) regular terms, whether or
698 not successive, or during a period of paid sabbatical leave
699 provided for in the individual's contract, if the individual has a
700 contract or contracts to perform services in any such capacity for



any institution or institutions of higher learning for both such academic years or both such terms.

(h) Benefits based on service in employment defined in Section 71-5-11, subsection I(3) and I(4), shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that:

(i) With respect to service performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual, if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and provided that subsection (g) of this section shall apply with respect to such services prior to January 1, 1978. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(ii) With respect to services performed in any other capacity for an educational institution, benefits shall not



726 be paid on the basis of such services to any individual for any
727 week which commences during a period between two (2) successive
728 academic years or terms, if such individual performs such services
729 in the first of such academic years or terms and there is a
730 reasonable assurance that such individual will perform such
731 services in the second of such academic years or terms, except
732 that if compensation is denied to any individual under this
733 subparagraph and such individual was not offered an opportunity to
734 perform such services for the educational institution for the
735 second of such academic years or terms, such individual shall be
736 entitled to a retroactive payment of compensation for each week
737 for which the individual filed a timely claim for compensation and
738 for which compensation was denied solely by reason of this clause.
739 In no event shall benefits be paid unless the individual employee
740 was terminated by the employer.

741 (iii) With respect to services described in
742 subsection (h) (i) and (ii), benefits shall not be payable on the
743 basis of services in any such capacities to any individual for any
744 week which commences during an established and customary vacation
745 period or holiday recess if such individual performs such services
746 in the first of such academic years or terms, or in the period
747 immediately before such vacation period or holiday recess, and
748 there is a reasonable assurance that such individual will perform
749 such services in the period immediately following such vacation
750 period or holiday recess.



(iv) With respect to any services described in subsection (h) (i) and (ii), benefits shall not be payable on the basis of services in any such capacities as specified in subsection (h) (i), (ii) and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subsection, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(v) With respect to services to which Sections 71-5-357 and 71-5-359 apply, if such services are provided to or on behalf of an educational institution, benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in subsection (h) (i), (ii), (iii) and (iv).

(i) Subsequent to December 31, 1977, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual



775 will perform such services in the later of such seasons (or
776 similar periods).

777 (j) (i) Subsequent to December 31, 1977, benefits
778 shall not be payable on the basis of services performed by an
779 alien, unless such alien is an individual who was lawfully
780 admitted for permanent residence at the time such services were
781 performed, was lawfully present for purposes of performing such
782 services, or was permanently residing in the United States under
783 color of law at the time such services were performed (including
784 an alien who was lawfully present in the United States as a result
785 of the application of the provisions of Section 203(a)(7) or
786 Section 212(d)(5) of the Immigration and Nationality Act).

787 (ii) Any data or information required of
788 individuals applying for benefits to determine whether benefits
789 are not payable to them because of their alien status shall be
790 uniformly required from all applicants for benefits.

791 (iii) In the case of an individual whose
792 application for benefits would otherwise be approved, no
793 determination that benefits to such individual are not payable
794 because of his alien status shall be made, except upon a
795 preponderance of the evidence.

796 (k) An individual shall be deemed prima facie
797 unavailable for work, and therefore ineligible to receive
798 benefits, during any period which, with respect to his employment



status, is found by the department to be a holiday or vacation period.

(1) A temporary employee of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this paragraph unless the temporary employee has been advised in writing:

(i) That the temporary employee is obligated to contact the temporary help firm on completion of assignments; and

(ii) That unemployment benefits may be denied if the temporary employee fails to do so.

(m) Has not been convicted of violating Section 1 of this act.

SECTION 11. Section 71-5-13, Mississippi Code of 1972, is amended as follows:

71-5-13. (1) The department is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in Section 71-5-11, subsection I, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be



engaged in employment performed entirely within this state or within one (1) of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(2) The department is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

(a) Whereby wages or services upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government shall be deemed to be wages for employment by employers for the purposes of Sections 71-5-501 through 71-5-507 and Section 71-5-511(e), provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this chapter upon the basis of such wages or services as the department finds will be fair and reasonable as to all affected interests; and

(b) Whereby the department will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits paid under the law of any such other states or of the



849 federal government, upon the basis of employment or wages for
850 employment by employers, as the department finds will be fair and
851 reasonable as to all affected interests. Reimbursements so
852 payable shall be deemed to be benefits for the purposes of
853 Sections 71-5-451 through 71-5-459. The department is hereby
854 authorized to make to other state or federal agencies, and receive
855 from such other state or federal agencies, reimbursements from or
856 to the fund, in accordance with arrangements pursuant to this
857 section.

858 (c) Whereby the department ensures that the person
859 receiving benefits has not violated Section 1 of this act.

860 (3) The department is also authorized, in its discretion, to
861 enter into or cooperate in arrangements with any federal agency
862 whereby the facilities and services of the personnel of the
863 department may be utilized for the taking of claims and the
864 payment of unemployment compensation or allowances under any
865 federal law enacted for the benefit of discharged members of the
866 Armed Forces.

867 (4) The department shall participate in any arrangements for
868 the payment of compensation on the basis of combining an
869 individual's wages and employment covered under this chapter with
870 his wages and employment covered under the unemployment
871 compensation laws of other states which are approved by the United
872 States Secretary of Labor in consultation with the state
873 unemployment compensation agencies as reasonably calculated to



874 assure the prompt and full payment of compensation in such
875 situations and which include provisions for:

876 (a) Applying the base period of a single state law to a
877 claim involving the combining of an individual's wages and
878 employment covered under two (2) or more state unemployment
879 compensation laws; and

880 (b) Avoiding the duplicate use of wages and employment
881 by reason of such combining.

882 **SECTION 12.** This act shall take effect and be in force from
883 and after July 1, 2021.

