

By: Representative Bell (65th)

To: Judiciary B

HOUSE BILL NO. 490

1 AN ACT TO AMEND SECTIONS 99-19-301, 99-19-305 AND 99-19-307,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE ENHANCED PENALTIES WHEN A
3 FELONY OR MISDEMEANOR IS COMMITTED BY A LAW ENFORCEMENT OFFICER,
4 FIREFIGHTER OR EMERGENCY MEDICAL TECHNICIAN AND THE VICTIM WAS
5 UNARMED, THE VISUAL, AUDIO OR BODY CAMERA WAS OFF OR UNABLE TO
6 CAPTURE IMAGES DURING THE TIME OF THE FELONY OR MISDEMEANOR, OR
7 THE FELONY OR MISDEMEANOR WAS COMMITTED BECAUSE OF THE ACTUAL OR
8 PERCEIVED RACE, COLOR, ANCESTRY, ETHNICITY, RELIGION, NATIONAL
9 ORIGIN OR GENDER OF THE VICTIM; AND FOR RELATED PURPOSES.

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

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

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

18 (2) The penalty for any felony or misdemeanor shall be
19 subject to enhancement as provided in Sections 99-19-301 through
20 99-19-307 if the felony or misdemeanor was committed with the
21 specific intent to target an individual or group because of actual



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

(3) The penalty for any felony or misdemeanor shall be subject to enhancement as provided in Section 99-19-301 through 99-19-307 if the felony or misdemeanor was committed by a law enforcement officer, firefighter or emergency medical technician and the victim was unarmed, the visual, audio or body camera was off or unable to capture images during the time of the felony or misdemeanor; or the felony or misdemeanor was committed because of the actual or perceived race, color, ancestry, ethnicity, religion, national origin or gender of the victim.

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

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

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



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

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

99-19-305. (1) Upon conviction or adjudication of guilt of a defendant where notice has been duly given that an enhanced penalty will be sought as provided in Sections 99-19-301 through 99-19-307, the court shall conduct a separate sentencing proceeding to determine the sentence. The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge shall summon a jury to determine whether an enhanced penalty should be imposed. If trial by jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose. Provided, however, that if the defendant enters a plea of guilty and waives trial by jury for the sentencing proceeding, the sentencing proceeding shall be conducted before the trial judge sitting without a jury. In the proceeding, evidence may be presented as to any matter that the court deems relevant to sentence. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Mississippi. The state and the defendant or his



counsel or both defendant and counsel shall be permitted to present arguments for or against any sentence sought.

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

(* * *i) That the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated; and

(* * *ii) That the defendant maliciously and with specific intent committed the offense because the victim was within the class delineated.

(b) In order to impose an enhanced penalty under the provisions of Sections 99-19-301 through 99-19-307, against a law enforcement officer, firefighter or emergency medical technician, the jury must find beyond a reasonable doubt:

(i) That the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was within the class delineated; and that the defendant maliciously and with specific intent committed the offense because the victim was within the class delineated;

(ii) The victim was unarmed at the time of the injury; or

(iii) The visual, audio or body camera of the law enforcement officer, firefighter or emergency medical technician



was off or unable to capture images during the time of the felony or misdemeanor.

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

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

99-19-307. If it is found beyond a reasonable doubt that the offense was committed by reason of (a) the actual or perceived race, color, ancestry, ethnicity, religion, national origin or gender of the victim, or (b) the victim's actual or perceived employment as a law enforcement officer, firefighter or emergency medical technician, or (c) if the felony or misdemeanor was committed by a law enforcement officer, firefighter or emergency medical technician and the victim was unarmed, the visual, audio or body camera was off or unable to capture images during the time of the felony or misdemeanor or the felony or misdemeanor was committed because of the actual or perceived race, color, ancestry, ethnicity, religion, national origin or gender of the victim, then the penalty for the offense may be enhanced by punishment for a term of imprisonment of up to twice that



120 authorized by law for the offense committed, or a fine of up to
121 twice that authorized by law for the offense committed, or both.

122 **SECTION 4.** This act shall take effect and be in force from
123 and after July 1, 2021.

