

By: Representative Calvert

To: Judiciary B

HOUSE BILL NO. 613

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 71-5-13, 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



134 more than six (6) months, fined not more than Five Hundred Dollars
135 (\$500.00), or both.

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

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

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

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

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



159 (5) 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 (6) 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



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

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

189 97-17-65. (1) A person commits looting when he knowingly
190 without authority of law or of the owner enters any home or
191 dwelling, or upon any premises of another, or enters any
192 commercial, mercantile, business or industrial building, plant or
193 establishment, in which a normal security of property is not
194 present by virtue of a hurricane, fire or vis major of any kind or
195 by virtue of a riot, mob, or closure of such for any reason, or
196 other human agency and obtains or exerts control over or injures
197 or removes property of the owner.

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

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



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

210 97-17-67. (1) Every person who shall maliciously or
211 mischievously destroy, disfigure, or injure, or cause to be
212 destroyed, disfigured, or injured, any property of another, either
213 real or personal, shall be guilty of malicious mischief.

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

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



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

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

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

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

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

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



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

260 97-43-3. The following terms shall have the meanings
261 ascribed to them herein unless the context requires otherwise:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

326 97-3-15. (1) The killing of a human being by the act,
327 procurement or omission of another shall be justifiable in the
328 following cases:

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



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

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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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

437 11-46-9. (1) A governmental entity and its employees acting
438 within the course and scope of their employment or duties shall
439 not be liable for any claim:

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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



552 (y) Arising out of the construction, maintenance or
553 operation of any highway, bridge or roadway project entered into
554 by the Mississippi Transportation Commission or other governmental
555 entity and a company under the provisions of Section 65-43-1 or
556 65-43-3, where the act or omission occurs during the term of any
557 such contract * * *; or

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

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

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

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

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

575 97-35-23. (1) (a) Except as otherwise provided in
576 paragraph (b) of this subsection, it shall be unlawful for any



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

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

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

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

599 97-35-25. (1) (a) It shall be unlawful for any person or
600 persons to * * * willfully obstruct the free, convenient and
601 normal use of any public sidewalk, street, highway, alley,



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

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

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

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

620 71-5-511. An unemployed individual shall be eligible to
621 receive benefits with respect to any week only if the department
622 finds that:

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



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

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

636 1. The individual has completed such
637 services; or

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

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

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

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

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



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

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

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



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

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

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



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

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

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

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



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

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



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

761 (v) With respect to services to which Sections
762 71-5-357 and 71-5-359 apply, if such services are provided to or
763 on behalf of an educational institution, benefits shall not be
764 payable under the same circumstances and subject to the same terms
765 and conditions as described in subparagraphs (i), (ii), (iii) and
766 (iv) of this paragraph (h).

767 (i) Subsequent to December 31, 1977, benefits shall not
768 be paid to any individual on the basis of any services
769 substantially all of which consist of participating in sports or
770 athletic events or training or preparing to so participate, for
771 any week which commences during the period between two (2)
772 successive sports seasons (or similar periods) if such individual
773 performs such services in the first of such seasons (or similar
774 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



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

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

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

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

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

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

817 71-5-13. (1) The department is hereby authorized to enter
818 into arrangements with the appropriate agencies of other states or
819 the federal government, whereby individuals performing services in
820 this and other states for a single employing unit under
821 circumstances not specifically provided for in Section 71-5-11,
822 subsection I, or under similar provisions in the unemployment
823 compensation laws of such other states, shall be deemed to be



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

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

835 (a) Whereby wages or services upon the basis of which
836 an individual may become entitled to benefits under the
837 unemployment compensation law of another state or of the federal
838 government shall be deemed to be wages for employment by employers
839 for the purposes of Sections 71-5-501 through 71-5-507 and Section
840 71-5-511(e), provided such other state agency or agency of the
841 federal government has agreed to reimburse the fund for such
842 portion of benefits paid under this chapter upon the basis of such
843 wages or services as the department finds will be fair and
844 reasonable as to all affected interests; and

845 (b) Whereby the department will reimburse other state
846 or federal agencies charged with the administration of
847 unemployment compensation laws with such reasonable portion of
848 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, 2022.

