

By: Representatives Williams-Barnes, Summers To: Judiciary B

HOUSE BILL NO. 1043

1 AN ACT TO AMEND SECTIONS 97-37-5 AND 45-9-101, MISSISSIPPI
2 CODE OF 1972, TO PROHIBIT ANY PERSON CONVICTED OF DOMESTIC
3 VIOLENCE FROM CARRYING A WEAPON; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 97-37-5, Mississippi Code of 1972, is
6 amended as follows:

7 97-37-5. (1) It shall be unlawful for any person who has
8 been convicted of domestic violence or a felony under the laws of
9 this state, any other state, or of the United States to possess
10 any firearm or any bowie knife, dirk knife, butcher knife,
11 switchblade knife, metallic knuckles, blackjack, or any muffler or
12 silencer for any firearm unless such person has received a pardon
13 for such felony, has received a relief from disability pursuant to
14 Section 925(c) of Title 18 of the United States Code, or has
15 received a certificate of rehabilitation pursuant to subsection
16 (3) of this section.

17 (2) Any person violating this section shall be guilty of a
18 felony and, upon conviction thereof, shall be fined not more than



19 Five Thousand Dollars (\$5,000.00), or committed to the custody of
20 the State Department of Corrections for not less than one (1) year
21 nor more than ten (10) years, or both.

22 (3) A person who has been convicted of a felony under the
23 laws of this state, under the laws of another state, under federal
24 law or in state military court may apply for a certificate of
25 rehabilitation as provided in this section. If the person was
26 convicted of a felony under the laws of this state, he or she may
27 apply to the court in which he was convicted for a certificate of
28 rehabilitation. If the person was convicted of a felony under the
29 laws of another state, under federal law or in state military
30 court, he or she may apply to the court in the person's county of
31 residence for a certificate of rehabilitation. A person convicted
32 of a felony under the laws of another state, under federal law or
33 in state military court shall attach a certified copy of his or
34 her judgment and a certified copy of his or her completion of
35 sentence to the petition for a certificate of rehabilitation. The
36 court may grant such certificate in its discretion upon a showing
37 to the satisfaction of the court that the applicant has been
38 rehabilitated and has led a useful, productive and law-abiding
39 life since the completion of his or her sentence and upon the
40 finding of the court that he or she will not be likely to act in a
41 manner dangerous to public safety.

42 (4) (a) A person who is discharged from court-ordered
43 mental health treatment may petition the court which entered the



44 commitment order for an order stating that the person qualifies
45 for relief from a firearms disability.

46 (b) In determining whether to grant relief, the court
47 must hear and consider evidence about:

48 (i) The circumstances that led to imposition of
49 the firearms disability under 18 USCS, Section 922(d)(4);

50 (ii) The person's mental history;

51 (iii) The person's criminal history; and

52 (iv) The person's reputation.

53 (c) A court may not grant relief unless it makes and
54 enters in the record the following affirmative findings:

55 (i) That the person is no longer likely to act in
56 a manner dangerous to public safety; and

57 (ii) Removing the person's disability to purchase
58 a firearm is not against the public interest.

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

61 45-9-101. (1) (a) Except as otherwise provided, the
62 Department of Public Safety is authorized to issue licenses to
63 carry stun guns, concealed pistols or revolvers to persons
64 qualified as provided in this section. Such licenses shall be
65 valid throughout the state for a period of five (5) years from the
66 date of issuance, except as provided in subsection (25) of this
67 section. Any person possessing a valid license issued pursuant to



68 this section may carry a stun gun, concealed pistol or concealed
69 revolver.

70 (b) The licensee must carry the license, together with
71 valid identification, at all times in which the licensee is
72 carrying a stun gun, concealed pistol or revolver and must display
73 both the license and proper identification upon demand by a law
74 enforcement officer. A violation of the provisions of this
75 paragraph (b) shall constitute a noncriminal violation with a
76 penalty of Twenty-five Dollars (\$25.00) and shall be enforceable
77 by summons.

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

80 (a) Is a resident of the state. However, this
81 residency requirement may be waived if the applicant possesses a
82 valid permit from another state, is a member of any active or
83 reserve component branch of the United States of America Armed
84 Forces stationed in Mississippi, is the spouse of a member of any
85 active or reserve component branch of the United States of America
86 Armed Forces stationed in Mississippi, or is a retired law
87 enforcement officer establishing residency in the state;

88 (b) (i) Is twenty-one (21) years of age or older; or
89 (ii) Is at least eighteen (18) years of age but
90 not yet twenty-one (21) years of age and the applicant:

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



93 2. Holds a valid Mississippi driver's license
94 or identification card issued by the Department of Public Safety
95 or a valid and current tribal identification card issued by a
96 federally recognized Indian tribe containing a photograph of the
97 holder;

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

100 (d) Is not ineligible to possess a firearm by virtue of
101 having been convicted of domestic violence or a felony in a court
102 of this state, of any other state, or of the United States without
103 having been pardoned or without having been expunged for same;

104 (e) Does not chronically or habitually abuse controlled
105 substances to the extent that his normal faculties are impaired.
106 It shall be presumed that an applicant chronically and habitually
107 uses controlled substances to the extent that his faculties are
108 impaired if the applicant has been voluntarily or involuntarily
109 committed to a treatment facility for the abuse of a controlled
110 substance or been found guilty of a crime under the provisions of
111 the Uniform Controlled Substances Law or similar laws of any other
112 state or the United States relating to controlled substances
113 within a three-year period immediately preceding the date on which
114 the application is submitted;

115 (f) Does not chronically and habitually use alcoholic
116 beverages to the extent that his normal faculties are impaired.
117 It shall be presumed that an applicant chronically and habitually



118 uses alcoholic beverages to the extent that his normal faculties
119 are impaired if the applicant has been voluntarily or
120 involuntarily committed as an alcoholic to a treatment facility or
121 has been convicted of two (2) or more offenses related to the use
122 of alcohol under the laws of this state or similar laws of any
123 other state or the United States within the three-year period
124 immediately preceding the date on which the application is
125 submitted;

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

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

131 (i) Has not been voluntarily or involuntarily committed
132 to a mental institution or mental health treatment facility unless
133 he possesses a certificate from a psychiatrist licensed in this
134 state that he has not suffered from disability for a period of
135 five (5) years;

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

140 (k) Is not a fugitive from justice; and

141 (l) Is not disqualified to possess a weapon based on
142 federal law.



143 (3) The Department of Public Safety may deny a license if
144 the applicant has been found guilty of one or more crimes of
145 violence constituting a misdemeanor unless three (3) years have
146 elapsed since probation or any other conditions set by the court
147 have been fulfilled or expunction has occurred prior to the date
148 on which the application is submitted, or may revoke a license if
149 the licensee has been found guilty of one or more crimes of
150 violence within the preceding three (3) years. The department
151 shall, upon notification by a law enforcement agency or a court
152 and subsequent written verification, suspend a license or the
153 processing of an application for a license if the licensee or
154 applicant is arrested or formally charged with a crime which would
155 disqualify such person from having a license under this section,
156 until final disposition of the case. The provisions of subsection
157 (7) of this section shall apply to any suspension or revocation of
158 a license pursuant to the provisions of this section.

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

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

164 (b) The driver's license number or social security
165 number of applicant;

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



168 (d) A statement that the applicant is in compliance
169 with criteria contained within subsections (2) and (3) of this
170 section;

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

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

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

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

182 (a) A completed application as described in subsection
183 (4) of this section;

184 (b) A full-face photograph of the applicant taken
185 within the preceding thirty (30) days in which the head, including
186 hair, in a size as determined by the Department of Public Safety,
187 except that an applicant who is younger than twenty-one (21) years
188 of age must submit a photograph in profile of the applicant;

189 (c) A nonrefundable license fee of Eighty Dollars
190 (\$80.00). Costs for processing the set of fingerprints as
191 required in paragraph (d) of this subsection shall be borne by the
192 applicant. Honorably retired law enforcement officers, disabled



193 veterans and active duty members of the Armed Forces of the United
194 States, and law enforcement officers employed with a law
195 enforcement agency of a municipality, county or state at the time
196 of application for the license, shall be exempt from the payment
197 of the license fee;

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

200 (e) A waiver authorizing the Department of Public
201 Safety access to any records concerning commitments of the
202 applicant to any of the treatment facilities or institutions
203 referred to in subsection (2) of this section and permitting
204 access to all the applicant's criminal records.

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

209 (b) The Department of Public Safety shall forward a
210 copy of the applicant's application to the sheriff of the
211 applicant's county of residence and, if applicable, the police
212 chief of the applicant's municipality of residence. The sheriff
213 of the applicant's county of residence, and, if applicable, the
214 police chief of the applicant's municipality of residence may, at
215 his discretion, participate in the process by submitting a
216 voluntary report to the Department of Public Safety containing any
217 readily discoverable prior information that he feels may be



218 pertinent to the licensing of any applicant. The reporting shall
219 be made within thirty (30) days after the date he receives the
220 copy of the application. Upon receipt of a response from a
221 sheriff or police chief, such sheriff or police chief shall be
222 reimbursed at a rate set by the department.

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

226 (i) Issue the license;

227 (ii) Deny the application based solely on the
228 ground that the applicant fails to qualify under the criteria
229 listed in subsections (2) and (3) of this section. If the
230 Department of Public Safety denies the application, it shall
231 notify the applicant in writing, stating the ground for denial,
232 and the denial shall be subject to the appeal process set forth in
233 subsection (7); or

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

239 (d) In the event a legible set of fingerprints, as
240 determined by the Department of Public Safety and the Federal
241 Bureau of Investigation, cannot be obtained after a minimum of two
242 (2) attempts, the Department of Public Safety shall determine



243 eligibility based upon a name check by the Mississippi Highway
244 Safety Patrol and a Federal Bureau of Investigation name check
245 conducted by the Mississippi Highway Safety Patrol at the request
246 of the Department of Public Safety.

247 (7) (a) If the Department of Public Safety denies the
248 issuance of a license, or suspends or revokes a license, the party
249 aggrieved may appeal such denial, suspension or revocation to the
250 Commissioner of Public Safety, or his authorized agent, within
251 thirty (30) days after the aggrieved party receives written notice
252 of such denial, suspension or revocation. The Commissioner of
253 Public Safety, or his duly authorized agent, shall rule upon such
254 appeal within thirty (30) days after the appeal is filed and
255 failure to rule within this thirty-day period shall constitute
256 sustaining such denial, suspension or revocation. Such review
257 shall be conducted pursuant to such reasonable rules and
258 regulations as the Commissioner of Public Safety may adopt.

259 (b) If the revocation, suspension or denial of issuance
260 is sustained by the Commissioner of Public Safety, or his duly
261 authorized agent pursuant to paragraph (a) of this subsection, the
262 aggrieved party may file within ten (10) days after the rendition
263 of such decision a petition in the circuit or county court of his
264 residence for review of such decision. A hearing for review shall
265 be held and shall proceed before the court without a jury upon the
266 record made at the hearing before the Commissioner of Public
267 Safety or his duly authorized agent. No such party shall be



268 allowed to carry a stun gun, concealed pistol or revolver pursuant
269 to the provisions of this section while any such appeal is
270 pending.

271 (8) The Department of Public Safety shall maintain an
272 automated listing of license holders and such information shall be
273 available online, upon request, at all times, to all law
274 enforcement agencies through the Mississippi Crime Information
275 Center. However, the records of the department relating to
276 applications for licenses to carry stun guns, concealed pistols or
277 revolvers and records relating to license holders shall be exempt
278 from the provisions of the Mississippi Public Records Act of 1983,
279 and shall be released only upon order of a court having proper
280 jurisdiction over a petition for release of the record or records.

281 (9) Within thirty (30) days after the changing of a
282 permanent address, or within thirty (30) days after having a
283 license lost or destroyed, the licensee shall notify the
284 Department of Public Safety in writing of such change or loss.
285 Failure to notify the Department of Public Safety pursuant to the
286 provisions of this subsection shall constitute a noncriminal
287 violation with a penalty of Twenty-five Dollars (\$25.00) and shall
288 be enforceable by a summons.

289 (10) In the event that a stun gun, concealed pistol or
290 revolver license is lost or destroyed, the person to whom the
291 license was issued shall comply with the provisions of subsection
292 (9) of this section and may obtain a duplicate, or substitute



293 thereof, upon payment of Fifteen Dollars (\$15.00) to the
294 Department of Public Safety, and furnishing a notarized statement
295 to the department that such license has been lost or destroyed.

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

299 (12) (a) Except as provided in subsection (25) of this
300 section, no less than ninety (90) days prior to the expiration
301 date of the license, the Department of Public Safety shall mail to
302 each licensee a written notice of the expiration and a renewal
303 form prescribed by the department. The licensee must renew his
304 license on or before the expiration date by filing with the
305 department the renewal form, a notarized affidavit stating that
306 the licensee remains qualified pursuant to the criteria specified
307 in subsections (2) and (3) of this section, and a full set of
308 fingerprints administered by the Department of Public Safety or
309 the sheriff of the county of residence of the licensee. The first
310 renewal may be processed by mail and the subsequent renewal must
311 be made in person. Thereafter every other renewal may be
312 processed by mail to assure that the applicant must appear in
313 person every ten (10) years for the purpose of obtaining a new
314 photograph.

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



318 (ii) Honorably retired law enforcement officers,
319 disabled veterans, active duty members of the Armed Forces of the
320 United States and law enforcement officers employed with a law
321 enforcement agency of a municipality, county or state at the time
322 of renewal, shall be exempt from the renewal fee; and

323 (iii) The renewal fee for a Mississippi resident
324 aged sixty-five (65) years of age or older shall be Twenty Dollars
325 (\$20.00).

326 (b) The Department of Public Safety shall forward the
327 full set of fingerprints of the applicant to the appropriate
328 agencies for state and federal processing. The license shall be
329 renewed upon receipt of the completed renewal application and
330 appropriate payment of fees.

331 (c) A licensee who fails to file a renewal application
332 on or before its expiration date must renew his license by paying
333 a late fee of Fifteen Dollars (\$15.00). No license shall be
334 renewed six (6) months or more after its expiration date, and such
335 license shall be deemed to be permanently expired. A person whose
336 license has been permanently expired may reapply for licensure;
337 however, an application for licensure and fees pursuant to
338 subsection (5) of this section must be submitted, and a background
339 investigation shall be conducted pursuant to the provisions of
340 this section.

341 (13) No license issued pursuant to this section shall
342 authorize any person, except a law enforcement officer as defined



343 in Section 45-6-3 with a distinct license authorized by the
344 Department of Public Safety, to carry a stun gun, concealed pistol
345 or revolver into any place of nuisance as defined in Section
346 95-3-1, Mississippi Code of 1972; any police, sheriff or highway
347 patrol station; any detention facility, prison or jail; any
348 courthouse; any courtroom, except that nothing in this section
349 shall preclude a judge from carrying a concealed weapon or
350 determining who will carry a concealed weapon in his courtroom;
351 any polling place; any meeting place of the governing body of any
352 governmental entity; any meeting of the Legislature or a committee
353 thereof; any school, college or professional athletic event not
354 related to firearms; any portion of an establishment, licensed to
355 dispense alcoholic beverages for consumption on the premises, that
356 is primarily devoted to dispensing alcoholic beverages; any
357 portion of an establishment in which beer, light spirit product or
358 light wine is consumed on the premises, that is primarily devoted
359 to such purpose; any elementary or secondary school facility; any
360 junior college, community college, college or university facility
361 unless for the purpose of participating in any authorized
362 firearms-related activity; inside the passenger terminal of any
363 airport, except that no person shall be prohibited from carrying
364 any legal firearm into the terminal if the firearm is encased for
365 shipment, for purposes of checking such firearm as baggage to be
366 lawfully transported on any aircraft; any church or other place of
367 worship, except as provided in Section 45-9-171; or any place



368 where the carrying of firearms is prohibited by federal law. In
369 addition to the places enumerated in this subsection, the carrying
370 of a stun gun, concealed pistol or revolver may be disallowed in
371 any place in the discretion of the person or entity exercising
372 control over the physical location of such place by the placing of
373 a written notice clearly readable at a distance of not less than
374 ten (10) feet that the "carrying of a pistol or revolver is
375 prohibited." No license issued pursuant to this section shall
376 authorize the participants in a parade or demonstration for which
377 a permit is required to carry a stun gun, concealed pistol or
378 revolver.

379 (14) A law enforcement officer as defined in Section 45-6-3,
380 chiefs of police, sheriffs and persons licensed as professional
381 bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
382 1972, shall be exempt from the licensing requirements of this
383 section.

384 (a) The Commissioner of Public Safety shall promulgate
385 rules and regulations to provide licenses to law enforcement
386 officers as defined in Section 45-6-3 who choose to obtain a
387 license under the provisions of this section, which shall include
388 a distinction that the officer is an "active duty" law enforcement
389 officer and an endorsement that such officer is authorized to
390 carry in the locations listed in subsection (13). A law
391 enforcement officer shall provide the following information to
392 receive the license described in this subsection: (i) a letter,



393 with the official letterhead of the agency or department for which
394 the officer is employed at the time of application and (ii) a
395 letter with the official letterhead of the agency or department,
396 which explains that such officer has completed a certified law
397 enforcement training academy.

398 (b) The licensing requirements of this section do not
399 apply to the carrying by any person of a stun gun, pistol or
400 revolver, knife, or other deadly weapon that is not concealed as
401 defined in Section 97-37-1.

402 (15) Any person who knowingly submits a false answer to any
403 question on an application for a license issued pursuant to this
404 section, or who knowingly submits a false document when applying
405 for a license issued pursuant to this section, shall, upon
406 conviction, be guilty of a misdemeanor and shall be punished as
407 provided in Section 99-19-31, Mississippi Code of 1972.

408 (16) All fees collected by the Department of Public Safety
409 pursuant to this section shall be deposited into a special fund
410 hereby created in the State Treasury and shall be used for
411 implementation and administration of this section. After the
412 close of each fiscal year, the balance in this fund shall be
413 certified to the Legislature and then may be used by the
414 Department of Public Safety as directed by the Legislature.

415 (17) All funds received by a sheriff or police chief
416 pursuant to the provisions of this section shall be deposited into
417 the general fund of the county or municipality, as appropriate,



418 and shall be budgeted to the sheriff's office or police department
419 as appropriate.

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

423 (19) Any person holding a valid unrevoked and unexpired
424 license to carry stun guns, concealed pistols or revolvers issued
425 in another state shall have such license recognized by this state
426 to carry stun guns, concealed pistols or revolvers. The
427 Department of Public Safety is authorized to enter into a
428 reciprocal agreement with another state if that state requires a
429 written agreement in order to recognize licenses to carry stun
430 guns, concealed pistols or revolvers issued by this state.

431 (20) The provisions of this section shall be under the
432 supervision of the Commissioner of Public Safety. The
433 commissioner is authorized to promulgate reasonable rules and
434 regulations to carry out the provisions of this section.

435 (21) For the purposes of this section, the term "stun gun"
436 means a portable device or weapon from which an electric current,
437 impulse, wave or beam may be directed, which current, impulse,
438 wave or beam is designed to incapacitate temporarily, injure,
439 momentarily stun, knock out, cause mental disorientation or
440 paralyze.

441 (22) (a) From and after January 1, 2016, the Commissioner
442 of Public Safety shall promulgate rules and regulations which



443 provide that licenses authorized by this section for honorably
444 retired law enforcement officers and honorably retired
445 correctional officers from the Mississippi Department of
446 Corrections shall (i) include the words "retired law enforcement
447 officer" on the front of the license, and (ii) unless the licensee
448 chooses to have this license combined with a driver's license or
449 identification card under subsection (25) of this section, that
450 the license itself have a red background to distinguish it from
451 other licenses issued under this section.

452 (b) An honorably retired law enforcement officer and
453 honorably retired correctional officer shall provide the following
454 information to receive the license described in this section: (i)
455 a letter, with the official letterhead of the agency or department
456 from which such officer is retiring, which explains that such
457 officer is honorably retired, and (ii) a letter with the official
458 letterhead of the agency or department, which explains that such
459 officer has completed a certified law enforcement training
460 academy.

461 (23) A disabled veteran who seeks to qualify for an
462 exemption under this section shall be required to provide a
463 veterans health services identification card issued by the United
464 States Department of Veterans Affairs indicating a
465 service-connected disability, which shall be sufficient proof of
466 such service-connected disability.



467 (24) A license under this section is not required for a
468 loaded or unloaded pistol or revolver to be carried upon the
469 person in a sheath, belt holster or shoulder holster or in a
470 purse, handbag, satchel, other similar bag or briefcase or fully
471 enclosed case if the person is not engaged in criminal activity
472 other than a misdemeanor traffic offense, is not otherwise
473 prohibited from possessing a pistol or revolver under state or
474 federal law, and is not in a location prohibited under subsection
475 (13) of this section.

476 (25) An applicant for a license under this section shall
477 have the option of, instead of being issued a separate card for
478 the license, having the license appear as a notation on the
479 individual's driver's license or identification card. If the
480 applicant chooses this option, the license issued under this
481 section shall have the same expiration date as the driver's
482 license or identification card, and renewal shall take place at
483 the same time and place as renewal of the driver's license or
484 identification card. The Commissioner of Public Safety shall have
485 the authority to promulgate rules and regulations which may be
486 necessary to ensure the effectiveness of the concurrent
487 application and renewal processes.

488 **SECTION 3.** This act shall take effect and be in force from
489 and after July 1, 2022.

