

By: Representative Burnett

To: Judiciary B

HOUSE BILL NO. 851

1 AN ACT TO AMEND SECTION 97-37-5, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE ANY PERSON CONVICTED OF A NONVIOLENT FELONY TO POSSESS  
3 AND USE FIREARMS AND DEADLY WEAPONS TO DEFEND HIS OR HER HOME OR  
4 MOTOR VEHICLE; AND FOR RELATED PURPOSES.

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

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

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

18 (b) It shall be lawful for any person who has been  
19 convicted of a nonviolent felony under the laws of this state, any



20 other state, or of the United States to possess and use any  
21 firearm or any bowie knife, dirk knife, butcher knife, switchblade  
22 knife, metallic knuckles, blackjack, or any muffler or silencer in  
23 defense of the person's residence or motor vehicle. The  
24 provisions of this paragraph shall only apply if the person is  
25 able to prove that he or she resides in the home or owns the motor  
26 vehicle in which the firearm, bowie knife, dirk knife, butcher  
27 knife, switchblade knife, metallic knuckles, blackjack, muffler or  
28 silencer is located.

29 (2) Any person violating this section shall be guilty of a  
30 felony and, upon conviction thereof, shall be fined not more than  
31 Five Thousand Dollars (\$5,000.00), or committed to the custody of  
32 the State Department of Corrections for not less than one (1) year  
33 nor more than ten (10) years, or both.

34 (3) A person who has been convicted of a felony under the  
35 laws of this state, under the laws of another state, under federal  
36 law or in state military court may apply for a certificate of  
37 rehabilitation as provided in this section. If the person was  
38 convicted of a felony under the laws of this state, he or she may  
39 apply to the court in which he was convicted for a certificate of  
40 rehabilitation. If the person was convicted of a felony under the  
41 laws of another state, under federal law or in state military  
42 court, he or she may apply to the court in the person's county of  
43 residence for a certificate of rehabilitation. A person convicted  
44 of a felony under the laws of another state, under federal law or



45 in state military court shall attach a certified copy of his or  
46 her judgment and a certified copy of his or her completion of  
47 sentence to the petition for a certificate of rehabilitation. The  
48 court may grant such certificate in its discretion upon a showing  
49 to the satisfaction of the court that the applicant has been  
50 rehabilitated and has led a useful, productive and law-abiding  
51 life since the completion of his or her sentence and upon the  
52 finding of the court that he or she will not be likely to act in a  
53 manner dangerous to public safety.

54 (4) (a) A person who is discharged from court-ordered  
55 mental health treatment may petition the court which entered the  
56 commitment order for an order stating that the person qualifies  
57 for relief from a firearms disability.

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

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

62 (ii) The person's mental history;

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

64 (iv) The person's reputation.

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

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



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

71 **SECTION 2.** This act shall take effect and be in force from  
72 and after July 1, 2023.

