

By: Representatives Brown (20th), Hopkins

To: Judiciary B

HOUSE BILL NO. 1274

1 AN ACT TO PRESCRIBE CONDITIONS UNDER WHICH STRICT CRIMINAL
 2 LIABILITY SHALL BE IMPOSED AND FOR WHICH A DEGREE OF MENTAL
 3 CULPABILITY IS REQUIRED FOR COMMISSION OF AN OFFENSE; TO DEFINE
 4 TERMS RELATED TO DETERMINING THE LEVEL OF MENTAL CULPABILITY TO BE
 5 IMPOSED FOR CRIMINAL OFFENSES; TO PROVIDE THAT THE REQUIREMENT FOR
 6 THE SPECIFICATION OF THE REQUISITE DEGREE OF CULPABILITY SHALL NOT
 7 APPLY RETROACTIVELY TO CRIMINAL OFFENSES ESTABLISHED BEFORE THE
 8 EFFECTIVE DATE OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) From and after the effective date of this
 11 act, every statute, rule or regulation that creates a new criminal
 12 offense shall specify the degree of mental culpability required
 13 for commission of the offense. Any statute, rule or regulation
 14 adopted in violation of this section for which no degree of mental
 15 culpability is specified for a criminal offense shall be void.

16 (2) The provisions of subsection (1) of this section shall
 17 not apply to any amendment to a criminal offense that was
 18 effective before the effective date of this act, but shall apply
 19 only to new criminal offenses added to a statutory provision, rule
 20 or regulation that existed on or after the effective date of this
 21 act.



22 **SECTION 2.** As used in Chapter 3, Title 97, Mississippi Code
23 of 1972, the following words shall have the meaning ascribed in
24 this section, unless context clearly requires otherwise:

25 (a) "Voluntary act" means a bodily movement performed
26 consciously as a result of effort or determination, and includes
27 the possession of property if the actor was aware of his physical
28 possession or control thereof for a sufficient period to have been
29 able to terminate it.

30 (b) "Omission" means a failure to perform an act as to
31 which a duty of performance is imposed by law.

32 (c) "Conduct" means an act or omission and its
33 accompanying mental state.

34 (d) "To act" means either to perform an act or to omit
35 to perform an act.

36 (e) "Culpability" or "culpable mental state" means
37 purposely, knowingly, recklessly or with criminal negligence as
38 defined in Section 4 of this act.

39 **SECTION 3.** (1) Except as provided in subsection (2) of this
40 section, a person is not guilty of a criminal offense unless both
41 of the following shall apply:

42 (a) The individual's liability is based on conduct that
43 included either a voluntary act, or an omission to perform an act
44 or duty that the person is capable of performing; and

45 (b) The individual has the requisite degree of
46 culpability for each element as to which a culpable mental state



47 is specified in the statutory provision creating and defining the
48 offense.

49 (2) When the statutory provision creating and defining an
50 offense does not specify any degree of culpability, and plainly
51 indicates a purpose to impose strict criminal liability for the
52 conduct, then culpability is not required for a person to be
53 guilty of the offense. Any subpart of statutory provision which
54 imposed strict criminal liability for an offense created
55 thereunder, shall not impose strict criminal liability for an
56 offense created in other subparts of the same statutory provision
57 which do not specify a degree of culpability.

58 (3) (a) When a statutory provision creating and defining an
59 element of an offense that is related to knowledge or intent or to
60 which mens rea could fairly be applied neither specifies
61 culpability nor indicates a purpose to impose strict criminal
62 liability, the element of the offense is established only if an
63 individual acts recklessly.

64 (b) Paragraph (a) of this subsection (3) shall not
65 relieve the prosecution of the burden of proving the culpable
66 mental state required by any definition incorporated into the
67 offense.

68 (4) Voluntary intoxication may not be considered in
69 determining the existence of a mental state that is an element of
70 a criminal offense. Voluntary intoxication does not relieve a
71 person of a duty to act if failure to act constitutes a criminal



72 offense. Evidence that a person was voluntarily intoxicated may
73 be admissible to show whether or not the person was physically
74 capable of performing the act with which the person is charged.

75 **SECTION 4.** (1) An individual acts purposely when it is the
76 individual's specific intention to cause a certain result, or,
77 when the essence of the offense is a prohibition against conduct
78 of a certain nature, regardless of what the offender intends to
79 accomplish thereby, it is the offender's specific intention to
80 engage in conduct of that nature.

81 (2) An individual acts knowingly, regardless of purpose,
82 when the individual is aware that his conduct will probably cause
83 a certain result or will probably be of a certain nature. An
84 individual has knowledge of circumstances when he is aware that
85 such circumstances probably exist. When knowledge of the
86 existence of a particular fact is an element of an offense, such
87 knowledge is established if an individual subjectively believes
88 that there is a high probability of its existence and fails to
89 make inquiry or acts with a conscious purpose to avoid learning
90 the fact.

91 (3) An individual acts recklessly when, with heedless
92 indifference to the consequences, the individual disregards a
93 substantial and unjustifiable risk that his conduct is likely to
94 cause a certain result or is likely to be of a certain nature. An
95 individual is reckless with respect to circumstances when, with
96 heedless indifference to the consequences, the individual



97 disregards a substantial and unjustifiable risk that such
98 circumstances are likely to exist.

99 (4) An individual acts negligently when, because of a
100 substantial lapse from due care, the individual fails to perceive
101 or avoid a risk that his conduct may cause a certain result or may
102 be of a certain nature. An individual is negligent with respect
103 to circumstances when, because of a substantial lapse from due
104 care, he fails to perceive or avoid a risk that such circumstances
105 may exist.

106 (5) When a statutory provision defining an offense provides
107 that negligence suffices to establish an element thereof, then
108 recklessness, knowledge or purpose are also sufficient culpability
109 standards for such element. When recklessness suffices to
110 establish an element of an offense, then knowledge or purpose are
111 also sufficient culpability standards for such element. When
112 knowledge suffices to establish an element of an offense, then
113 purpose is also sufficient culpability standard for such element.

114 **SECTION 5.** Sections 1 through 4 of this act shall be
115 codified in Chapter 3, Title 97, Mississippi Code of 1972.

116 **SECTION 6.** This act shall take effect and be in force from
117 and after July 1, 2023.

