MISSISSIPPI LEGISLATURE

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REGULAR SESSION 2023

To: Education; Judiciary, Division A

SENATE BILL NO. 2079
(As Sent to Governor)

AN ACT TO CREATE NEW SECTION 45-9-181, MISSISSIPPI CODE OF 1972, TO ENACT THE MISSISSIPPI SCHOOL SAFETY GUARDIAN ACT; TO DEFINE TERMS; TO ESTABLISH THE SCHOOL SAFETY GUARDIAN TRAINING PROGRAM WITHIN THE OFFICE OF HOMELAND SECURITY WITHIN THE DEPARTMENT OF PUBLIC SAFETY; TO AUTHORIZE THE GOVERNING BODY OF A SCHOOL TO ESTABLISH A SCHOOL SAFETY GUARDIAN PROGRAM; TO PROVIDE CIVIL IMMUNITY UNDER CERTAIN CIRCUMSTANCES FOR SCHOOL SAFETY GUARDIANS WHO COMPLY WITH THE ACT; TO EXEMPT THE IDENTITY OF SCHOOL SAFETY GUARDIANS FROM PUBLIC DISCLOSURE; TO PROVIDE MINIMUM REQUIREMENT FOR THE TRAINING PROGRAM; TO ENACT STANDARDS; TO PROVIDE THAT SUBJECT TO APPROPRIATION AND ANY OTHER REQUIREMENTS PROVIDED BY LAW, THE OFFICE OF HOMELAND SECURITY MAY CONTRACT WITH A THIRD-PARTY VENDOR FOR MOBILE PHONE APPLICATIONS AND/OR COMPUTER EQUIPMENT OR SERVICES TO ACCOMPLISH THE PURPOSES OF THIS ACT; TO AMEND SECTION 45-1-2, MISSISSIPPI CODE OF 1972, TO DIRECT THE COMMISSIONER TO ESTABLISH GUIDELINES FOR ACTIVE SHOOTER SITUATIONS; TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO CONFORM THE INSTANCES OF JUSTIFIABLE HOMICIDE; TO AMEND SECTION 97-37-9, MISSISSIPPI CODE OF 1972, TO CONFORM THE DEFENSES TO A CHARGE OF UNLAWFULLY CARRYING OF A CONCEALED WEAPON; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 45-9-181, Mississippi Code of 1972:

45-9-181. (1) This section shall be known and may be cited as the "Mississippi School Safety Guardian Act."

(2) For purposes of this section:
(a) "Department" means the Department of Public Safety.
(b) "Governing body" means with respect to any public
school district or public charter school, the local school board
or charter school board, as applicable; with respect to any
private school, the board or other governing body of the private
school as provided in the charter, bylaws, or other governing
documents of the school.
(c) "Program" means a school safety guardian program
established by the governing body of a school in accordance with
this act.
(d) "School" means any public or private educational
institution within the State of Mississippi and includes any
elementary or secondary school.
(e) "Training program" means the School Safety Guardian
Training Program established in subsection (3) of this section.
(3) There is hereby established the School Safety Guardian
Program in the Office of Homeland Security within the department.
The department shall administer the program through the Office of
Homeland Security. In consultation with the Mississippi
Department of Education, the department shall establish the
program and promulgate rules, regulations, and establish training
requirements.
(4) The governing body of a school, in consultation with
school administrators and the department, may establish a program
under this act. The department or the governing body of a school
may discontinue a school's participation in the program at any time. If the governing body of a school establishes a program under this act, the governing body of a school shall designate employees to participate in the training program developed by the department by which designated and trained school employees are authorized to carry concealed firearms for the protection of the students, employees and others on the campus of the school. The scope and purpose of each program shall include responding to an active shooter situation or other situation that would cause death or serious bodily harm on the school campus or in the immediate vicinity of the school campus. The school safety guardian's weapon shall always remain under his or her physical control on campus.

(5) A designated school safety guardian is immune from civil liability for any action taken by the school safety guardian if the action in question occurs during the reasonable exercise of and within the course and scope of the designated School Safety Guardian's official duties. School Safety Guardians are charged with these duties and must act in accordance with these duties to maintain their immunity. If a School Safety Guardian is found to have failed to carry out their official duties, the immunity described in this subsection shall be waived.

(6) School Safety Guardians shall be paid a monthly stipend in an amount not less than One Hundred Dollars ($100.00), but not more than Five Hundred Dollars ($500.00) by the school district,
however, no funds received by school districts under the Elementary and Secondary Education Act (ESEA) shall be used to pay the stipends authorized under this subsection in accordance with the prohibition on the use of such funds as prescribed in Section 13401 of the Bipartisan Safer Communities Act, Public Law 117-159, 117th Congress of the United States, which amends the ESEA (20 USCS Section 7906 (Supp. 2022)).

(7) To be eligible for the immunity provided in this section:

(a) The program, at a minimum, shall require that each designated member of the program who is not a law enforcement officer, as defined in Section 45-6-3, possess a firearms license issued under Section 45-9-101 and the endorsement authorized in Section 97-37-7; has completed instructional training through a law enforcement training academy approved department not less than once every twelve (12) months; and has been CPR and First Aid certified; and

(b) The identities of any person designated by the school's governing body to serve as a School Safety Guardian must be documented at the time of the designation and shall be communicated to school administrators and local law enforcement.

(8) The department may authorize and certify Mississippi law enforcement training academies to offer the training program to the governing body of a school.

(a) The training program, at a minimum, must include:
(i) An instructional course developed by the department;

(ii) A criminal background check;

(iii) A psychological screening;

(iv) A shooting proficiency test; and

(v) An annual recertification training.

(b) A law enforcement training academy may provide School Safety Guardian training to any employee of a school or school district who:

(i) Holds a license to carry a concealed handgun issued under Section 45-9-101;

(ii) Has an endorsement authorized by Section 97-37-7; and

(iii) Has current certification in CPR and First Aid.

(c) The department may establish a fee in an amount that is sufficient to cover the costs of the training program under this section to be paid to the training academy by the governing body of the school.

(d) The department shall adopt rules to administer this section, including a method to identify license holders who have completed a School Safety Guardian training certification course and setting a fee to be charged by the department for the issuance or reissuance of identification of the license holder as being certified.
The department shall adopt rules and regulations that require review of the firearms training policies and procedures of school districts that authorized its employees to carry concealed firearms as part of a school safety program before the effective date of this act. Upon review of such rules and regulations, if the department determines that such district's policies and procedures conform to the department's training standards under the authority of this act, the department shall approve such district's policies and procedures and all employees of such school district that have completed the approved training shall receive all authority and protections provided by this act to carry concealed firearms as part of an approved school safety guardian program. However, if the department determines that such district's policies and procedures fail to conform to the department's training standards under the authority of this act, the employees of the district shall be required to comply with the requirements under this act to carry concealed firearms as part of an approved school safety guardian program.

(9) A person who is indicted or charged with a violation of criminal law while acting as a School Safety Guardian may assert as a defense, in addition to any other defense available, that, at the time of the action in question, the person was a certified School Safety Guardian, was then actually engaged in the performance of the person's duties as a School Safety Guardian,
and had met the requirements of this section at the time of the
action in question.

(10) Records relating to the identities of any person
designated by the school's governing body to serve as a School
Safety Guardian shall be exempt from the provisions of the

(11) Subject to appropriation and any other requirements
provided by law, the Office of Homeland Security may contract with
a third-party vendor for mobile phone applications and/or computer
equipment or services to accomplish the purposes of this act.

SECTION 2. Section 45-1-2, Mississippi Code of 1972, is
amended as follows:

45-1-2. (1) The Executive Director of the Department of
Public Safety shall be the Commissioner of Public Safety.

(2) The Commissioner of Public Safety shall establish the
organizational structure of the Department of Public Safety, which
shall include the creation of any units necessary to implement the
duties assigned to the department and consistent with specific
requirements of law including, but not limited to:

(a) Office of Public Safety Planning;

(b) Office of Mississippi Highway Safety Patrol;

(c) Office of Mississippi Bureau of Investigation (to
be directed by a Lieutenant Colonel of the Mississippi Highway
Safety Patrol);
(d) Office of Forensic Laboratories, which includes the Mississippi Forensics Laboratory and the Office of the State Medical Examiner;

(e) Office of Law Enforcement Officers' Training Academy;

(f) Office of Support Services;

(g) Office of Narcotics, which shall be known as the Bureau of Narcotics;

(h) Office of Homeland Security;

(i) Office of Capitol Police;

(j) Office of Driver Service Bureau; and

(k) Office of Commercial Transportation Enforcement Division.

(3) The department shall be headed by a commissioner, who shall be appointed by and serve at the pleasure of the Governor. The appointment of the commissioner shall be made with the advice and consent of the Senate. The commissioner shall have, at a minimum, a bachelor's degree from an accredited college or university.

(4) Notwithstanding any provision of law to the contrary, the commissioner shall appoint heads of offices, who shall serve at the pleasure of the commissioner. The commissioner shall have the authority to organize the offices established by subsection (2) of this section as deemed appropriate to carry out the responsibilities of the department. The commissioner may assign
to the appropriate offices such powers and duties as deemed appropriate to carry out the department's lawful functions. The organization charts of the department shall be presented annually with the budget request of the Governor for review by the Legislature.

(5) The commissioner shall appoint, from within the Department of Public Safety, a statewide safety training officer who shall serve at the pleasure of the commissioner and whose duty it shall be to perform public training for both law enforcement and private persons throughout the state concerning proper emergency response to the mentally ill, terroristic threats or acts, domestic conflict, other conflict resolution, and such other matters as the commissioner may direct.

(6) The commissioner, after consultation with the Mississippi Association of Chiefs of Police and the Mississippi Sheriffs' Association, shall be responsible for establishing guidelines for response to active shooter situations and any related jurisdictional issues.

(***7) The commissioner shall establish within the department the Mississippi Office of Homeland Security for the purpose of seeing that the laws are faithfully executed and for the purpose of investigating cyber-related crimes and suppressing crimes of violence and acts of intimidation and terror. The commissioner is hereby authorized to employ within the Office of Homeland Security a director, investigators and other qualified
personnel as he may deem necessary to make investigation of cyber-related crimes, crimes of violence and acts of terrorism or intimidation, to aid in the arrest and prosecution of persons charged with such cyber-related crimes, crimes of violence, acts of terrorism or intimidation, or threats of violence and to perform other duties as necessary to accomplish these purposes. Investigators and other law enforcement personnel employed by the commissioner shall have full power to investigate, apprehend, and arrest persons committing cyber-related crimes, acts of violence, intimidation, or terrorism anywhere in the state, and shall be vested with the power of police officers in the performance of such duties as provided herein. Such investigators and other personnel shall perform their duties under the direction of the commissioner, or his designee. The commissioner shall be authorized to offer and pay suitable rewards to other persons for aiding in such investigation and in the apprehension and conviction of persons charged with cyber-related crimes, acts of violence, or threats of violence, or intimidation, or acts of terrorism.

(* * *8) The commissioner shall establish within the Office of Homeland Security a Mississippi Analysis and Information Center (MSAIC Fusion Center) which shall be the highest priority for the allocation of available federal resources for statewide information sharing, including the deployment of personnel and connectivity with federal data systems. Subject to appropriation
therefor, the Mississippi Fusion Center shall employ three (3) regional analysts dedicated to analyzing and resolving potential threats identified by the agency's statewide social media intelligence platform and the dissemination of school safety information.

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

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

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

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

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

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

(e) When committed by any person in resisting any attempt unlawfully to kill such person or to commit any felony
upon him, or upon or in any dwelling, in any occupied vehicle, in
any place of business, in any place of employment or in the
immediate premises thereof in which such person shall be;
(f) When committed in the lawful defense of one's own
person or any other human being, where there shall be reasonable
ground to apprehend a design to commit a felony or to do some
great personal injury, and there shall be imminent danger of such
design being accomplished;
(g) When necessarily committed in attempting by lawful
ways and means to apprehend any person for any felony committed;
(h) When necessarily committed in lawfully suppressing
any riot or in lawfully keeping and preserving the peace; * * *
(i) When necessarily committed in the performance of
duty as a member of a church or place of worship security program
as described in Section 45-9-171 * * *; and
(j) When necessarily committed in the performance of
duty as a member of a School Safety Guardian Program as described
in Section 45-9-181.
(2) (a) As used in subsection (1)(c) and (d) of this
section, the term "when necessarily committed" means that a public
officer or a person acting by or at the officer's command, aid or
assistance is authorized to use such force as necessary in
securing and detaining the felon offender, overcoming the
offender's resistance, preventing the offender's escape,
recapturing the offender if the offender escapes or in protecting
himself or others from bodily harm; but such officer or person shall not be authorized to resort to deadly or dangerous means when to do so would be unreasonable under the circumstances. The public officer or person acting by or at the officer's command may act upon a reasonable apprehension of the surrounding circumstances; however, such officer or person shall not use excessive force or force that is greater than reasonably necessary in securing and detaining the offender, overcoming the offender's resistance, preventing the offender's escape, recapturing the offender if the offender escapes or in protecting himself or others from bodily harm.

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

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

(3) A person who uses defensive force shall be presumed to have reasonably feared imminent death or great bodily harm, or the
commission of a felony upon him or another or upon his dwelling,
or against a vehicle which he was occupying, or against his
business or place of employment or the immediate premises of such
business or place of employment, if the person against whom the
defensive force was used, was in the process of unlawfully and
forcibly entering, or had unlawfully and forcibly entered, a
dwelling, occupied vehicle, business, place of employment or the
immediate premises thereof or if that person had unlawfully
removed or was attempting to unlawfully remove another against the
other person's will from that dwelling, occupied vehicle,
business, place of employment or the immediate premises thereof
and the person who used defensive force knew or had reason to
believe that the forcible entry or unlawful and forcible act was
occurring or had occurred. This presumption shall not apply if
the person against whom defensive force was used has a right to be
in or is a lawful resident or owner of the dwelling, vehicle,
business, place of employment or the immediate premises thereof or
is the lawful resident or owner of the dwelling, vehicle,
business, place of employment or the immediate premises thereof or
if the person who uses defensive force is engaged in unlawful
activity or if the person is a law enforcement officer engaged in
the performance of his official duties.

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

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

(b) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant acted in accordance with subsection (1)(e) or (f) of this section. A defendant who has previously been adjudicated "not guilty" of any crime by reason of subsection (1)(e) or (f) of this section shall be immune from any civil action for damages arising from the same conduct.

SECTION 4. Section 97-37-9, Mississippi Code of 1972, is amended as follows:

97-37-9. Any person indicted or charged for a violation of Section 97-37-1 may show as a defense:

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or
(c) That he was a law enforcement or peace officer in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was a member of the Armed Forces of the United States, National Guard, State Militia, Emergency Management Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or

(g) That he was in lawful pursuit of a felon; or

(h) That he was lawfully engaged in legitimate sports;

or

(i) That at the time he was a company guard, bank guard, watchman, or other person enumerated in Section 97-37-7, and was then actually engaged in the performance of his duties as such, and then held a valid permit from the sheriff, the commissioner of public safety, or a valid permit issued by the Secretary of State prior to May 1, 1974, to carry the weapon; and the burden of proving either of said defenses shall be on the accused; or

(j) That at the time he or she was a member of a church or place of worship security program, and was then actually engaged in the performance of his or her duties as such and met the requirements of Section 45-9-171 ** * ; or
(k) That at the time he or she was certified under a School Safety Guardian Program, and was then actually engaged in the performance of his or her duties under the program and met the requirements of Section 45-9-181.

SECTION 5. This act shall take effect and be in force from and after July 1, 2023.