

House Amendments to Senate Bill No. 2101

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

16 **SECTION 1.** Section 97-9-72, Mississippi Code of 1972, is
17 amended as follows:

18 97-9-72. (1) The driver of a motor vehicle who is given a
19 visible or audible signal by a law enforcement officer by hand,
20 voice, emergency light or siren directing the driver to bring his
21 motor vehicle to a stop when such signal is given by a law
22 enforcement officer acting in the lawful performance of duty who
23 has a reasonable suspicion to believe that the driver in question
24 has committed a crime, and who willfully fails to obey such
25 direction shall be guilty of a misdemeanor, and upon conviction
26 shall be punished by a fine not to exceed One Thousand Dollars
27 (\$1,000.00) or imprisoned in the county jail for a term not to
28 exceed six (6) months, or both.

29 (2) Any person who is guilty of violating subsection (1) of
30 this section by operating a motor vehicle in such a manner as to
31 indicate a reckless or willful disregard for the safety of persons
32 or property, or who so operates a motor vehicle in a manner

33 manifesting extreme indifference to the value of human life, shall
34 be guilty of a felony, and upon conviction thereof, shall be
35 punished by a fine not to exceed Five Thousand Dollars
36 (\$5,000.00), or by commitment to the custody of the Mississippi
37 Department of Corrections for not more than * * * ten (10) years,
38 or both.

39 (3) Any person who is guilty of violating subsection (1) of
40 this section, which violation results in serious bodily injury of
41 another, upon conviction, shall be committed to the custody of the
42 Department of Corrections for not less than three (3) nor more
43 than twenty (20) years of imprisonment.

44 (4) Any person who is guilty of violating subsection (1) of
45 this section, which violation results in the death of another,
46 upon conviction, shall be committed to the custody of the
47 Department of Corrections for not less than five (5) nor more than
48 forty (40) years.

49 (5) It is a defense to prosecution under this section:

50 (a) That the law enforcement officer was not in uniform
51 or that no law enforcement vehicle used in the attempted stop was
52 clearly marked as a law enforcement vehicle; or

53 (b) That the driver proceeded in a safe manner to a
54 reasonably near well-lit public place before stopping.

55 (6) In determining whether a law enforcement officer was
56 reckless in his or her pursuit of a suspect, a court shall
57 consider the following factors:

58 (a) The length of the chase;

- 59 (b) The characteristics of the streets;
60 (c) The type of neighborhood;
61 (d) The seriousness of the suspect's offense;
62 (e) The experience and training of the officer;
63 (f) Whether the officer had available alternatives
64 which would lead to the apprehension of the suspect besides the
65 pursuit;
66 (g) The existence of police policy which prohibits
67 pursuit under the circumstances;
68 (h) The presence of vehicular or pedestrian traffic;
69 (i) The weather conditions and visibility;
70 (j) Whether the officer proceeded with sirens and blue
71 lights; and
72 (k) The rate of speed of the officer in comparison to
73 the posted speed limit.

74 **SECTION 2.** Section 97-9-73, Mississippi Code of 1972, is
75 amended as follows:

76 97-9-73. (1) It shall be unlawful for any person to
77 obstruct or resist by force, or violence, or threats, or in any
78 other manner, his lawful arrest or the lawful arrest of another
79 person by any state, local or federal law enforcement officer, and
80 any person or persons so doing shall be guilty of a misdemeanor,
81 and upon conviction thereof, shall be punished by a fine of not
82 more than Five Hundred Dollars (\$500.00), or by imprisonment in
83 the county jail not more than six (6) months, or both.

84 (2) If any person commits an unlawful act under subsection
85 (1) of this section and serious bodily harm to any state, local or
86 federal law enforcement officer occurs, any person or persons so
87 doing shall be guilty of a felony, and upon conviction thereof,
88 shall be punished by a fine of not more than Five Hundred Dollars
89 (\$500.00), or by imprisonment in the custody of the Mississippi
90 Department of Corrections for not more than two (2) years, or
91 both.

92 **SECTION 3.** Section 97-3-117, Mississippi Code of 1972, is
93 amended as follows:

94 97-3-117. (1) Whoever shall knowingly or recklessly by
95 force or violence, whether against resistance or by sudden or
96 stealthy seizure or snatching, or by putting in fear, or
97 attempting to do so, or by any other means shall take a motor
98 vehicle from another person's immediate actual possession shall be
99 guilty of carjacking.

100 (a) A person who is convicted of carjacking shall be
101 fined not more than Five Thousand Dollars (\$5,000.00) and be
102 committed to the custody of the State Department of Corrections
103 for not less than five (5) years nor more than fifteen (15) years.

104 (b) A person who is convicted of attempted carjacking
105 shall receive the same punishment as the person who is convicted
106 of carjacking.

107 (2) Whoever commits the offense of carjacking while armed
108 with or having readily available any pistol or other firearm or
109 imitation thereof or other dangerous or deadly weapon, including a

110 sawed-off shotgun, shotgun, machine gun, rifle, dirk, bowie knife,
111 butcher knife, switchblade, razor, blackjack, billy, or metallic
112 or other false knuckles, or any object capable of inflicting death
113 or serious bodily harm, shall be guilty of armed carjacking.

114 (a) Any person who is convicted of armed carjacking
115 shall be fined not more than Ten Thousand Dollars (\$10,000.00) and
116 be committed to the custody of the State Department of Corrections
117 for not less than ten (10) years nor more than thirty (30) years.

118 (b) Any person who is convicted of attempted armed
119 carjacking shall receive the same punishment as the person who is
120 convicted of armed carjacking.

121 (3) Any person convicted of a second or subsequent offense
122 under this section shall be fined an amount up to twice that
123 otherwise authorized and shall be imprisoned for a term of at
124 least twice the minimum term provided for the offense and up to
125 twice the maximum term otherwise authorized.

126 (4) Notwithstanding any other law to the contrary, the
127 minimum terms imposed under this section shall not be reduced or
128 suspended nor shall such person be eligible for probation or
129 parole before the expiration of the minimum term of incarceration
130 except as otherwise provided in this subsection.

131 The provisions of this subsection (4) shall not apply if the
132 sentencing judge determines that the interests of justice would
133 not be served by imposition of the proscribed mandatory portions
134 of the sentence. In determining whether to apply the departure
135 from the sentence prescribed, the court shall consider:

136 (a) The defendant's age at the time of the crime and
137 the hallmark characteristics of youth, including immaturity,
138 impetuosity, and the failure to appreciate risks and consequences.

139 (b) The defendant's family and home environment in
140 which the defendant was raised, and that children generally have
141 no control over their family and home environment.

142 (c) The circumstances of the crime, including the
143 nature and extent of the defendant's participation, and the way
144 familial and peer pressures may have affected him.

145 (d) Whether or not the defendant used violence or a
146 weapon during the crime.

147 (e) Whether or not the crime resulted in a death or
148 serious bodily injury of a person not a party to the crime.

149 (f) Whether or not the person provided information or
150 assistance to a law enforcement agency, or its designee, which, in
151 the opinion of the trial judge, objectively should or would have
152 aided in the arrest or prosecution of others who participated in
153 this crime.

154 (g) The possibility of rehabilitation if alternative
155 sentencing is imposed.

156 The defendant and prosecution shall have adequate opportunity
157 to develop and make a record of all information relevant to
158 sentencing.

159 The court shall specify on the record and in the sentencing
160 order the reasons for granting or denying the departure.

161 **SECTION 4.** Confidential informants shall be at least
162 eighteen (18) years of age, and notified of their right to contact
163 an attorney, and one or both parents if under the age of
164 twenty-one (21), and all notifications shall happen at least
165 twenty-four (24) hours before they agree to serve. Any deal,
166 arrangement, or agreement must be detailed and in writing,
167 and the constitutional right to contact an attorney shall not be
168 abridged or undermined, and exercising this right shall incur no
169 negative consequences on any deal, arrangement, or agreement
170 regarding informant work. To protect the safety of the
171 individuals involved, informants may make no more than
172 one (1) sale, purchase, or transfer from any individual person.

173 **SECTION 5.** This act shall take effect and be in force from
174 and after July 1, 2023, and shall stand repealed on June 30, 2023.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 97-9-72, MISSISSIPPI CODE OF 1972, TO
2 INCREASE PENALTIES FOR THE CRIME OF FLEEING FROM LAW ENFORCEMENT
3 IN A MOTOR VEHICLE; TO PROVIDE THE FACTORS THAT A COURT SHALL
4 CONSIDER WHEN DETERMINING WHETHER A LAW ENFORCEMENT OFFICER WAS
5 RECKLESS IN HIS OR HER PURSUIT OF A SUSPECT; TO AMEND SECTION
6 97-9-73, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
7 CONVICTED OF THE CRIME OF RESISTING OR OBSTRUCTING AN ARREST WHERE
8 SERIOUS BODILY HARM OCCURS TO THE OFFICER SHALL BE GUILTY OF A
9 FELONY; TO AMEND SECTION 97-3-117, MISSISSIPPI CODE OF 1972, TO
10 INCREASE THE MINIMUM TERM OF IMPRISONMENT FOR THE CRIMES OF
11 CARJACKING AND ARMED CARJACKING; TO PROVIDE THAT THE MINIMUM TERMS
12 IMPOSED UNDER THIS SECTION SHALL NOT BE REDUCED OR SUSPENDED OR
13 ELIGIBLE FOR PROBATION OR PAROLE EXCEPT WHEN THE SENTENCING JUDGE
14 MAKES CERTAIN FINDINGS; AND FOR RELATED PURPOSES.

HR26\SB2101A.2J

Andrew Ketchings
Clerk of the House of Representatives