

By: Representative McGee

To: Judiciary B

HOUSE BILL NO. 364

1 AN ACT TO AMEND SECTIONS 99-19-301, 99-19-305 AND 99-19-307,
2 MISSISSIPPI CODE OF 1972, TO REVISE THE DELINEATION OF CLASSES OF
3 VICTIMS TRIGGERING AN ENHANCED PENALTY FOR A HATE CRIME; AND FOR
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 99-19-301, Mississippi Code of 1972, is
7 amended as follows:

8 99-19-301. (1) The penalty for any felony or misdemeanor
9 shall be subject to enhancement as provided in Sections 99-19-301
10 through 99-19-307 if the felony or misdemeanor was committed
11 because of the actual or perceived race, color, ancestry,
12 ethnicity, religion, disability, sexual orientation, gender
13 identity, national origin or gender of the victim.

14 (2) The penalty for any felony or misdemeanor shall be
15 subject to enhancement as provided in Sections 99-19-301 through
16 99-19-307 if the felony or misdemeanor was committed with the
17 specific intent to target an individual or group because of actual
18 or perceived employment as a law enforcement officer, firefighter
19 or emergency medical technician.



20 (3) As used in Sections 99-19-301 through 99-19-307:

21 (a) "Law enforcement officer" means any law enforcement
22 officer, part-time law enforcement officer or law enforcement
23 trainee as defined in Section 45-6-3, as well as any reserve or
24 volunteer law enforcement officer and any federal law enforcement
25 officer or employee whose permanent duties include making arrests,
26 performing search and seizures, execution of criminal arrest
27 warrants, execution of civil seizure warrants, or the care,
28 custody, control or supervision of inmates.

29 (b) "Firefighter" means any firefighter regularly
30 employed by a fire department of any municipality, county, or fire
31 protection district of the State of Mississippi and includes a
32 volunteer firefighter.

33 (c) "Emergency medical technician" means a person
34 qualified under Sections 41-59-33 and 41-59-35.

35 **SECTION 2.** Section 99-19-305, Mississippi Code of 1972, is
36 amended as follows:

37 99-19-305. (1) Upon conviction or adjudication of guilt of
38 a defendant where notice has been duly given that an enhanced
39 penalty will be sought as provided in Sections 99-19-301 through
40 99-19-307, the court shall conduct a separate sentencing
41 proceeding to determine the sentence. The proceeding shall be
42 conducted by the trial judge before the trial jury as soon as
43 practicable. If, through impossibility or inability, the trial
44 jury is unable to reconvene for a hearing on the issue of penalty,



45 having determined the guilt of the accused, the trial judge shall
46 summon a jury to determine whether an enhanced penalty should be
47 imposed. If trial by jury has been waived, or if the defendant
48 pleaded guilty, the sentencing proceeding shall be conducted
49 before a jury impaneled for that purpose. Provided, however, that
50 if the defendant enters a plea of guilty and waives trial by jury
51 for the sentencing proceeding, the sentencing proceeding shall be
52 conducted before the trial judge sitting without a jury. In the
53 proceeding, evidence may be presented as to any matter that the
54 court deems relevant to sentence. However, this subsection shall
55 not be construed to authorize the introduction of any evidence
56 secured in violation of the Constitution of the United States or
57 of the State of Mississippi. The state and the defendant or his
58 counsel or both defendant and counsel shall be permitted to
59 present arguments for or against any sentence sought.

60 (2) In order to impose an enhanced penalty under the
61 provisions of Sections 99-19-301 through 99-19-307, the jury must
62 find beyond a reasonable doubt:

63 (a) That the defendant perceived, knew, or had
64 reasonable grounds to know or perceive that the victim was within
65 the class delineated; and

66 (b) That the defendant maliciously and with specific
67 intent committed the offense because the victim was within the
68 class delineated.



69 (3) That the victim was within the class delineated means
70 that the reason the underlying crime was committed was the
71 victim's actual or perceived race, color, religion, disability,
72 sexual orientation, gender identity, ethnicity, ancestry, national
73 origin or gender, or that the reason the underlying crime was
74 committed was the victim's actual or perceived employment as a law
75 enforcement officer, firefighter or emergency medical technician.

76 **SECTION 3.** Section 99-19-307, Mississippi Code of 1972, is
77 amended as follows:

78 99-19-307. If it is found beyond a reasonable doubt that the
79 offense was committed by reason of (a) the actual or perceived
80 race, color, ancestry, ethnicity, religion, disability, sexual
81 orientation, gender identity, national origin or gender of the
82 victim, or (b) the victim's actual or perceived employment as a
83 law enforcement officer, firefighter or emergency medical
84 technician, then the penalty for the offense may be enhanced by
85 punishment for a term of imprisonment of up to twice that
86 authorized by law for the offense committed, or a fine of up to
87 twice that authorized by law for the offense committed, or both.

88 **SECTION 4.** This act shall take effect and be in force from
89 and after July 1, 2024.

