

By: Representative Yancey

To: Judiciary B

HOUSE BILL NO. 117

1 AN ACT TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE CRIMINAL AND CIVIL IMMUNITY WHEN A COURT DETERMINES  
3 JUSTIFIABLE HOMICIDE; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 97-3-15, Mississippi Code of 1972, is  
6 amended as follows:

7 97-3-15. (1) The killing of a human being by the act,  
8 procurement or omission of another shall be justifiable in the  
9 following cases:

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

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



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

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

23           (e) When committed by any person in resisting any  
24 attempt unlawfully to kill such person or to commit any felony  
25 upon him, or upon or in any dwelling, in any occupied vehicle, in  
26 any place of business, in any place of employment or in the  
27 immediate premises thereof in which such person shall be;

28           (f) When committed in the lawful defense of one's own  
29 person or any other human being, where there shall be reasonable  
30 ground to apprehend a design to commit a felony or to do some  
31 great personal injury, and there shall be imminent danger of such  
32 design being accomplished;

33           (g) When necessarily committed in attempting by lawful  
34 ways and means to apprehend any person for any felony committed;

35           (h) When necessarily committed in lawfully suppressing  
36 any riot or in lawfully keeping and preserving the peace;

37           (i) When necessarily committed in the performance of  
38 duty as a member of a church or place of worship security program  
39 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



65 offense which is punishable, upon conviction, by death or  
66 confinement in the Penitentiary.

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

73 (3) A person who uses defensive force shall be presumed to  
74 have reasonably feared imminent death or great bodily harm, or the  
75 commission of a felony upon him or another or upon his dwelling,  
76 or against a vehicle which he was occupying, or against his  
77 business or place of employment or the immediate premises of such  
78 business or place of employment, if the person against whom the  
79 defensive force was used, was in the process of unlawfully and  
80 forcibly entering, or had unlawfully and forcibly entered, a  
81 dwelling, occupied vehicle, business, place of employment or the  
82 immediate premises thereof or if that person had unlawfully  
83 removed or was attempting to unlawfully remove another against the  
84 other person's will from that dwelling, occupied vehicle,  
85 business, place of employment or the immediate premises thereof  
86 and the person who used defensive force knew or had reason to  
87 believe that the forcible entry or unlawful and forcible act was  
88 occurring or had occurred. This presumption shall not apply if  
89 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 and criminal 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.

(6) (a) A person who uses force as permitted in this section is justified in such conduct and is immune from criminal prosecution and civil action for the use of such force by the person, personal representative, or heirs of the person against whom the force was used, unless the person against whom force was used is a law enforcement officer, as defined in Section 45-6-3, who was acting in the performance of his or her official duties, and the officer identified himself or herself in accordance with any applicable law, or the person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term "criminal prosecution" includes arresting, detaining in custody, and charging or prosecuting the defendant.

(b) A law enforcement agency may use standard procedures for investigating the use of force as described in this section, but the agency may not arrest the person for using force unless it determines that there is probable cause that the force that was used or threatened was unlawful.

(c) Prior to the commencement of a criminal trial in a case in which a defense is claimed under this section, the court having jurisdiction over the case, upon motion of the defendant, shall conduct a pretrial hearing to determine whether force,



138 including deadly force, used by the defendant was justified or  
139 whether it was unlawful under this section.

140 (d) Once a prima facie claim of self-defense immunity  
141 from criminal prosecution has been raised by the defendant at a  
142 pretrial immunity hearing, the burden of proof by clear and  
143 convincing evidence is on the party seeking to overcome the  
144 immunity from criminal prosecution.

145 (e) After a pretrial hearing under subsection (c), if the  
146 court concludes that the party opposing immunity has failed to prove  
147 that the force, including deadly force, was unlawful, the court  
148 shall enter an order finding the defendant immune from criminal  
149 prosecution and dismissing the criminal charges. If the court  
150 concludes that the defendant is not immune from criminal  
151 prosecution, the defendant may continue to pursue at trial any  
152 defense that the force used, including deadly force, was justified,  
153 and the state continues to bear the burden of proving beyond a  
154 reasonable doubt all of the elements of the charged conduct.

155 **SECTION 2.** This act shall take effect and be in force from  
156 and after July 1, 2025.

