

By: Representative Harris

To: Judiciary B

## HOUSE BILL NO. 1301

1       AN ACT TO CREATE AN ENHANCED PENALTY FOR ANY FELONY OR  
2 MISDEMEANOR IF THE CRIME IS COMMITTED WITH THE INTENT TO DERIVE  
3 SADISTIC PLEASURE; TO DESCRIBE THE PROCESS FOR THE SENTENCING FOR  
4 SUCH ENHANCEMENT; AND FOR RELATED PURPOSES.

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

6       SECTION 1. (1) (a) The penalty for any felony or  
7 misdemeanor shall be subject to enhancement as provided in this  
8 section if the felony or misdemeanor was committed by inflicting  
9 pain or bodily harm by burning, cutting or any other physical harm  
10 with sadistic intent to derive pleasure from the infliction of  
11 such acts.

12       (b) The penalty for any felony or misdemeanor shall be  
13 subject to enhancement if the felony or misdemeanor was committed  
14 with the specific intent to derive pleasure from inflicting the  
15 physical harm.

16       (2) (a) For enhancement of the penalty for a felony offense  
17 to apply, the prosecuting attorney if the defendant is charged by  
18 information, or grand jury if an indictment is returned, shall  
19 provide notice upon the information or indictment that the

20 prosecutor will seek the enhanced penalty authorized by this  
21 section. The notice shall be in a clause separate from and in  
22 addition to the substantive offense charged and shall not be  
23 considered as an element of the offense charged.

24 (b) For enhancement of the penalty for a misdemeanor to  
25 apply, the affiant, the prosecuting attorney if the defendant is  
26 charged by information, or grand jury if an indictment is  
27 returned, shall provide written notice that the enhanced penalty  
28 will be sought as provided in this section. The notice shall be  
29 in a clause separate from and in addition to the substantive  
30 offense charge and shall not be considered as an element of the  
31 offense charged.

32 (c) There shall be no mention in the guilt or innocence  
33 phase of the trial or in any documents or evidence seen by the  
34 jury that an enhanced penalty may be sought.

35 (3) Upon conviction or adjudication of guilt of a defendant  
36 where notice has been duly given that an enhanced penalty will be  
37 sought as provided in this section, the court shall conduct a  
38 separate sentencing proceeding to determine the sentence. The  
39 proceeding shall be conducted by the trial judge before the trial  
40 jury as soon as practicable. If, through impossibility or  
41 inability, the trial jury is unable to reconvene for a hearing on  
42 the issue of penalty, having determined the guilt of the accused,  
43 the trial judge shall summon a jury to determine whether an  
44 enhanced penalty should be imposed. If trial by jury has been



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

58 (4) In order to impose an enhanced penalty under the  
59 provisions of this section, the jury must find beyond a reasonable  
60 doubt that the defendant maliciously and with specific intent  
61 inflicted criminal acts with a sadistic intent to derive pleasure  
62 from the acts.

63 (5) If it is found beyond a reasonable doubt that the  
64 offense was committed by reason with a sadistic intent to derive  
65 pleasure from the acts, then the penalty for the offense may be  
66 enhanced by punishment for a term of imprisonment of up to twice  
67 that authorized by law for the offense committed, or a fine of up  
68 to twice that authorized by law for the offense committed, or  
69 both.



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

