

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



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

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

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



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

