

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2193

1 AN ACT TO AMEND SECTION 97-44-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN ADDITIONAL PENALTY FOR ANY PERSON WHO INTENTIONALLY
3 DIRECTS, PARTICIPATES, CONDUCTS, FURTHERS, OR ASSISTS IN THE
4 COMMISSION OF ILLEGAL GANG ACTIVITY BY USE OF AN UNCREWED AIRCRAFT
5 OR UNCREWED AIRCRAFT SYSTEM; TO AMEND SECTION 97-44-17,
6 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE FORFEITURE OF AN
7 UNCREWED AIRCRAFT OR AN UNCREWED AIRCRAFT SYSTEM IN THE POSSESSION
8 OF A MEMBER OF A CRIMINAL STREET GANG; TO AMEND SECTION 97-44-3,
9 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "UNCREWED AIRCRAFT"
10 AND "UNCREWED AIRCRAFT SYSTEM" WITHIN THE MISSISSIPPI STREETGANG
11 ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 97-44-19, Mississippi Code of 1972, is
14 amended as follows:

15 97-44-19. (1) Any person who intentionally directs,
16 participates, conducts, furthers, or assists in the commission of
17 illegal gang activity shall be punished by imprisonment for not
18 less than one (1) year nor more than one-half (1/2) of the maximum
19 term of imprisonment provided for an underlying offense and may be
20 fined an amount not to exceed Ten Thousand Dollars (\$10,000.00).



21 (2) Any sentence of imprisonment imposed pursuant to this
22 section shall be in addition and consecutive to any sentence
23 imposed for the underlying offense.

24 (* * *3) Any person who is convicted of a felony or an
25 attempted felony which is committed for the benefit of, at the
26 direction of, or in association with any criminal street gang,
27 with the intent to promote, further, or assist in the affairs of a
28 criminal gang, shall, upon conviction of that felony, in addition
29 and consecutive to the punishment prescribed for the felony or
30 attempted felony of which he or she has been convicted, be
31 imprisoned for not less than one (1) year nor more than one-half
32 (1/2) of the maximum term of imprisonment provided for that
33 offense.

34 (* * *4) Any person who is convicted of an offense other
35 than a felony which is committed for the benefit of, at the
36 direction of, or in association with, any criminal street gang,
37 with the specific intent to promote, further or assist in any
38 criminal conduct or enterprise by gang members, shall, in addition
39 and consecutive to the penalty provided for that offense, be
40 imprisoned for an additional period of not more than one (1) year.

41 (* * *5) Any person who knowingly and willfully sells or
42 buys goods or performs services for a criminal street gang in
43 furtherance of illegal activity shall be punished by imprisonment
44 for not less than one (1) year nor more than one-half (1/2) of the
45 maximum term of imprisonment provided for the underlying offense



and may be fined an amount not to exceed Ten Thousand Dollars (\$10,000.00).

(6) Any person who intentionally directs, participates, conducts, furthers, or assists in the commission of illegal gang activity by use of an uncrewed aircraft or uncrewed aircraft system shall be punished by imprisonment for not less than one (1) year nor more than one-half (1/2) of the maximum term of imprisonment provided for an underlying offense and may be fined an amount not to exceed Ten Thousand Dollars (\$10,000.00). Any sentence of imprisonment imposed pursuant to this subsection shall be in addition and consecutive to any sentence imposed for the underlying offense and any sentence of imprisonment otherwise imposed under this section.

(* * *7) The court may elect to suspend all or a part of any additional mandatory punishment or enhanced punishment provided for in this chapter to impose alternative punishment in the form of properly supervised community service or placement in an appropriate adolescent offender program, if available, only in an unusual case where the interest of justice would best be served, and if the court specifies on the record and enters into the minutes the circumstances and reasons that the interests of justice would best be served by that suspension of enhanced punishment.

SECTION 2. Section 97-44-17, Mississippi Code of 1972, is amended as follows:



97-44-17. (1) Any firearm, ammunition to be used in a
firearm, uncrewed aircraft, uncrewed aircraft system, or dangerous
weapon in the possession of a member of a criminal street gang may
be seized by any law enforcement agency or peace officer when the
law enforcement agency or peace officer has probable cause to
believe that the firearm, ammunition to be used in a firearm, or
dangerous weapon is or has been used by a gang in the commission
of illegal activity.

(2) The district attorney or an attorney for the seizing
agency shall initiate, in a civil action, forfeiture proceedings
by petition in the circuit courts as to any property seized
pursuant to the provisions of this section within thirty (30) days
of seizure. The district attorney shall provide notice of the
filing of the petition to those members of the gang who become
known to law enforcement officials as a result of the seizure and
any related arrests, and to any person determined by law
enforcement officials to be the owner of any of the property
involved. After initial notice of the filing of the petition, the
court shall assure that all persons so notified continue to
receive notice of all subsequent proceedings related to the
property.

(3) Any person who claims an interest in any seized property
shall, in order to assert a claim that the property should not be
forfeited, file a notice with the court, without necessity of
paying costs, of the intent to establish either of the following:



96 (a) That the persons asserting the claim did not know
97 of, could not have known of, or had no reason to believe in its
98 use by a gang in the commission of illegal activity; or

99 (b) That the law enforcement officer lacked the
100 requisite reasonable belief that the property was or had been used
101 by a gang in the commission of illegal activity.

102 (4) An acquittal or dismissal in a criminal proceeding shall
103 not preclude civil proceedings under this section; however, for
104 good cause shown, on motion by the district attorney, the court
105 may stay civil forfeiture proceedings during the criminal trial
106 for related criminal indictment or information alleging a
107 violation of this section. Such a stay shall not be available
108 pending an appeal.

109 (5) Except as otherwise provided by this section, all
110 proceedings hereunder shall be governed by the provisions of the
111 Mississippi Rules of Civil Procedure.

112 (6) The issue shall be determined by the court alone, and
113 the hearing on the claim shall be held within sixty (60) days
114 after service of the petition unless continued for good cause.
115 The district attorney shall have the burden of showing by clear
116 and convincing proof that forfeiture of the property is
117 appropriate.

118 (7) Any person who asserts a successful claim in accordance
119 with subsection (3) of this section shall be awarded the seized
120 property by the court, together with costs of filing such action.



121 All property as to which no claim is filed, or as to which no
122 successful claim is made, may be destroyed, sold at a public sale,
123 retained for use by the seizing agency or transferred without
124 charge to any law enforcement agency of the state for use by it.
125 Property that is sold shall be sold by the circuit court at a
126 public auction for cash to the highest and best bidder after
127 advertising the sale for at least once each week for three (3)
128 consecutive weeks, the last notice to appear not more than ten
129 (10) days nor less than five (5) days prior to such sale in a
130 newspaper having a general circulation in the county. Such notice
131 shall contain a description of the property to be sold and a
132 statement of the time and place of sale. It shall not be
133 necessary to the validity of such sale either to have the property
134 present at the place of sale or to have the name of the owner
135 thereof stated in such notice. The proceeds of the sale, less any
136 expenses of concluding the sale, shall be deposited in the seizing
137 agency's general fund to be used only for approved law enforcement
138 activity affecting the agency's efforts to combat gang activities.

139 (8) Any action under the provisions of this section may be
140 consolidated with any other action or proceedings pursuant to this
141 section relating to the same property on motion of the district
142 attorney.

143 **SECTION 3.** Section 97-44-3, Mississippi Code of 1972, is
144 amended as follows:



145 97-44-3. For the purposes of this chapter, the following
146 words and phrases shall have the meanings ascribed herein, unless
147 the context clearly requires otherwise:

148 (a) "Streetgang" or "gang" or "organized gang" or
149 "criminal streetgang" means any combination, confederation,
150 alliance, network, conspiracy, understanding, or other similar
151 conjoining, in law or in fact, of three (3) or more persons with
152 an established hierarchy that, through its membership or through
153 the agency of any member, engages in felonious criminal activity.

154 For purposes of this chapter, it shall not be necessary to
155 show that a particular conspiracy, combination or conjoining of
156 persons possesses, acknowledges or is known by any common name,
157 insignia, flag, means of recognition, secret signal or code,
158 creed, belief, structure, leadership or command structure, method
159 of operation or criminal enterprise, concentration or specialty,
160 membership, age or other qualifications, initiation rites,
161 geographical or territorial situs or boundary or location, or
162 other unifying mark, manner, protocol or method of expressing or
163 indicating membership when the conspiracy's existence, in law or
164 in fact, can be demonstrated by a preponderance of the competent
165 evidence. However, any evidence reasonably tending to show or
166 demonstrate, in law or in fact, the existence of or membership in
167 any conspiracy, confederation or other association described
168 herein, or probative of the existence of or membership in any such



association, shall be admissible in any action or proceeding brought under this chapter.

(b) "Public authority" means the state and political subdivisions as defined in Section 11-46-1, Mississippi Code of 1972.

(c) "Streetgang member" or "gang member" means any person who actually and in fact belongs to a gang, and any person who knowingly acts in the capacity of an agent for or accessory to, or is legally accountable for, or voluntarily associates himself with a gang-related criminal activity, whether in a preparatory, executory or cover-up phase of any activity, or who knowingly performs, aids or abets any such activity.

(d) "Streetgang related" or "gang-related" means any criminal activity, enterprise, pursuit or undertaking directed by, ordered by, authorized by, consented to, agreed to, requested by, acquiesced in, or ratified by any gang leader, officer or governing or policymaking person or authority, or by any agent, representative or deputy of any such officer, person or authority:

(i) With intent to increase the gang's size, membership, prestige, dominance or control in any geographical area; or

(ii) With intent to exact revenge or retribution for the gang or any member of the gang; or

(iii) With intent to provide the gang with any advantage in, or any control or dominance over, any criminal



market sector, including but not limited to the unlawful manufacture, delivery, possession or sale of controlled substances; arson; traffic in stolen property or stolen credit cards; traffic in prostitution, obscenity or pornography; or that involves robbery, armed robbery, burglary or larceny; or

(iv) With intent to obstruct justice, or intimidate or eliminate any witness against the gang or any member of the gang; or

(v) With intent to otherwise, directly or indirectly, cause any benefit, aggrandizement, gain, profit or other advantage whatsoever to or for the gang, its reputation, influence or membership.

(e) "Uncrewed aircraft" shall have the meaning as defined in Section 61-21-3(b).

(f) "Uncrewed aircraft system" shall have the meaning as defined in Section 61-21-3(c).

SECTION 4. This act shall take effect and be in force from and after July 1, 2025.

