

By: Representative Fleming

To: Judiciary En Banc

HOUSE BILL NO. 37

1 AN ACT TO ABOLISH THE DEATH PENALTY AND IMPOSE HARD LABOR; TO
2 AMEND SECTIONS 97-3-21, 99-19-101 AND 99-35-135, MISSISSIPPI CODE
3 OF 1972, IN CONFORMITY THERETO, TO REPEAL SECTIONS 99-19-49,
4 99-19-51, 99-19-53, 99-19-55, 99-19-57, 99-19-103 AND 99-19-105,
5 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE EXECUTION OF THE
6 DEATH SENTENCE, INSTRUCTIONS REGARDING THE DEATH PENALTY AND
7 JUDICIAL REVIEW OF THE DEATH PENALTY; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** The death penalty is hereby abolished. Any
10 person who is under penalty of death shall have that sentence
11 reduced to life without parole with hard labor imposed.

12 **SECTION 2.** Section 97-3-21, Mississippi Code of 1972, is
13 amended as follows:

14 97-3-21. Every person who shall be convicted of murder shall
15 be sentenced by the court to imprisonment for life in the State
16 Penitentiary.

17 Every person who shall be convicted of capital murder shall
18 be sentenced (a) * * * to imprisonment for life in the State
19 Penitentiary without parole with hard labor imposed; or (b) to
20 imprisonment for life in the State Penitentiary with eligibility
21 for parole as provided in Section 47-7-3(1)(f).

22 **SECTION 3.** Section 99-19-101, Mississippi Code of 1972, is
23 amended as follows:

24 99-19-101. (1) Upon conviction or adjudication of guilt of
25 a defendant of capital murder or other capital offense, the court
26 shall conduct a separate sentencing proceeding to determine
27 whether the defendant should be sentenced to * * * life
28 imprisonment without eligibility for parole or life imprisonment.
29 The proceeding shall be conducted by the trial judge before the



30 trial jury as soon as practicable. If, through impossibility or
31 inability, the trial jury is unable to reconvene for a hearing on
32 the issue of penalty, having determined the guilt of the accused,
33 the trial judge may summon a jury to determine the issue of the
34 imposition of the penalty. If the trial jury has been waived, or
35 if the defendant pleaded guilty, the sentencing proceeding shall
36 be conducted before a jury impaneled for that purpose or may be
37 conducted before the trial judge sitting without a jury if both
38 the State of Mississippi and the defendant agree thereto in
39 writing. In the proceeding, evidence may be presented as to any
40 matter that the court deems relevant to sentence * * *. However,
41 this subsection shall not be construed to authorize the
42 introduction of any evidence secured in violation of the
43 Constitution of the United States or of the State of
44 Mississippi. * * *

45 * * *

46 **SECTION 4.** Section 99-35-135, Mississippi Code of 1972, is
47 amended as follows:

48 99-35-135. * * * If the sentence be for confinement in the
49 Penitentiary, and the defendant be not present, but in custody,
50 the Clerk of the Supreme Court shall forthwith notify the legal
51 authorities of the Penitentiary as in cases of conviction for
52 Penitentiary offenses in the circuit court, who shall send for the
53 convict as provided in such cases.

54 **SECTION 5.** Sections 99-19-49, 99-19-51, 99-19-53, 99-19-55
55 and 99-19-57, Mississippi Code of 1972, which provide for the
56 execution of the death sentence, are repealed.

57 **SECTION 6.** Sections 99-19-103 and 99-19-105, Mississippi
58 Code of 1972, which provide for instructions regarding the death
59 penalty and judicial review of the death penalty, are repealed.

60 **SECTION 7.** This act shall take effect and be in force from
61 and after July 1, 2002.

