

By: Representative Wells-Smith

To: Judiciary B

HOUSE BILL NO. 1297

1 AN ACT TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO
2 CREATE A PRESUMPTION OF SELF DEFENSE WHEN DEADLY FORCE IS USED IN
3 DEFENSE OF THE HOME; TO PROVIDE IMMUNITY FOR THE USE OF SUCH
4 FORCE; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

24 (e) When committed by any person in resisting any
25 attempt unlawfully to kill such person or to commit any felony
26 upon him, or upon or in any dwelling house in which such person
27 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 (2) Any person using force intended or likely to cause death
38 or serious bodily injury within the person's own residence is
39 presumed to have held a reasonable fear of imminent peril of death
40 or serious bodily injury to self, family or a member of the
41 household when that force is used against another person, not a
42 member of the family or household, who unlawfully and forcibly
43 enters or has unlawfully and forcibly entered the residence, and
44 the person using the force knew or had reason to believe that an
45 unlawful and forcible entry occurred.

46 (3) Any person using physical force, including deadly
47 physical force, in accordance with the provisions of subsection
48 (2) of this section shall be immune from criminal prosecution for
49 the use of such force.

50 (4) Any person using physical force, including deadly
51 physical force, in accordance with the provisions of subsection
52 (2) of this section shall be immune from any civil liability for
53 injuries or death resulting from the use of such force.

54 (5) As used in paragraphs (1)(c) and (1)(d) of this section,
55 the term "when necessarily committed" means that a public officer
56 or a person acting by or at the officer's command, aid or
57 assistance is authorized to use such force as necessary in
58 securing and detaining the felon offender, overcoming the
59 offender's resistance, preventing the offender's escape,
60 recapturing the offender if the offender escapes or in protecting



61 himself or others from bodily harm; but such officer or person
62 shall not be authorized to resort to deadly or dangerous means
63 when to do so would be unreasonable under the circumstances. The
64 public officer or person acting by or at the officer's command may
65 act upon a reasonable apprehension of the surrounding
66 circumstances; however, such officer or person shall not use
67 excessive force or force that is greater than reasonably necessary
68 in securing and detaining the offender, overcoming the offender's
69 resistance, preventing the offender's escape, recapturing the
70 offender if the offender escapes or in protecting himself or
71 others from bodily harm.

72 (6) As used in paragraphs (1)(c) and (1)(d) of this section,
73 the term "felon" shall include an offender who has been convicted
74 of a felony and shall also include an offender who is in custody,
75 or whose custody is being sought, on a charge or for an offense
76 which is punishable, upon conviction, by death or confinement in
77 the Penitentiary.

78 **SECTION 2.** This act shall take effect and be in force from
79 and after July 1, 2002.

