

By: Representative Calhoun

To: Judiciary B

HOUSE BILL NO. 798

1 AN ACT TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE USE OF DEADLY FORCE FOR THE PROTECTION OF PROPERTY; AND
3 FOR RELATED PURPOSES.

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

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

7 97-3-15. (1) The killing of a human being by the act,
8 procurement, or omission of another shall be justifiable in the
9 following cases:

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

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

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

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

23 (e) When committed by any person in resisting any
24 attempt unlawfully to kill such person or to commit any felony
25 upon him, or upon or in any dwelling house in which such person
26 shall be;

27 (f) When committed in the lawful defense of one's own
28 person or any other human being, where there shall be reasonable
29 ground to apprehend a design to commit a felony or to do some
30 great personal injury, and there shall be imminent danger of such
31 design being accomplished;

32 (g) When necessarily committed in attempting by lawful
33 ways and means to apprehend any person for any felony committed;

34 (h) When necessarily committed in lawfully suppressing
35 any riot or in lawfully keeping and preserving the peace.

36 (2) A person is justified in using deadly force against
37 another to protect land or tangible, movable property:

38 (a) When and to the degree he reasonably believes the
39 deadly force is immediately necessary:

40 (i) To prevent the other's imminent commission of
41 arson, burglary, robbery, aggravated robbery, theft during the
42 nighttime, or criminal mischief during the nighttime; or

43 (ii) To prevent the other who is fleeing
44 immediately after committing burglary, robbery, aggravated
45 robbery, or theft during the nighttime from escaping with the
46 property; and

47 (b) He reasonably believes that:

48 (i) The land or property cannot be protected or
49 recovered by any other means; or

50 (ii) The use of force other than deadly force to
51 protect or recover the land or property would expose the actor or
52 another to a substantial risk of death or serious bodily injury.

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

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

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

77 **SECTION 2.** This act shall take effect and be in force from
78 and after July 1, 2005.