

By: Representative Hamilton (6th)

To: Judiciary B

HOUSE BILL NO. 1153

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; AND 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) Any person using force intended or likely to cause death
37 or serious bodily injury within the person's own residence is
38 presumed to have held a reasonable fear of imminent peril of death
39 or serious bodily injury to self, family or a member of the
40 household when that force is used against another person, not a
41 member of the family or household, who unlawfully and forcibly
42 enters or has unlawfully and forcibly entered the residence, and
43 the person using the force knew or had reason to believe that an
44 unlawful and forcible entry occurred. There is no duty to retreat
45 before a person threatens or uses force.

46 (3) As used in paragraphs (1)(c) and (1)(d) of this section,
47 the term "when necessarily committed" means that a public officer
48 or a person acting by or at the officer's command, aid or
49 assistance is authorized to use such force as necessary in
50 securing and detaining the felon offender, overcoming the
51 offender's resistance, preventing the offender's escape,
52 recapturing the offender if the offender escapes or in protecting
53 himself or others from bodily harm; but such officer or person
54 shall not be authorized to resort to deadly or dangerous means
55 when to do so would be unreasonable under the circumstances. The
56 public officer or person acting by or at the officer's command may
57 act upon a reasonable apprehension of the surrounding
58 circumstances; however, such officer or person shall not use
59 excessive force or force that is greater than reasonably necessary

60 in securing and detaining the offender, overcoming the offender's
61 resistance, preventing the offender's escape, recapturing the
62 offender if the offender escapes or in protecting himself or
63 others from bodily harm.

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

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