

By: Representatives Mayhall, Baker (8th),
Hamilton (6th), Jennings, Mayo, Woods

To: Judiciary B

HOUSE BILL NO. 1298

1 AN ACT TO AMEND SECTIONS 97-3-19 AND 97-3-21, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT SOLICITATION TO COMMIT MURDER SHALL
3 HAVE THE SAME CRIMINAL LIABILITY AS MURDER; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 97-3-19, Mississippi Code of 1972, is
7 amended as follows:

8 97-3-19. (1) The killing of a human being or the
9 solicitation therefor without the authority of law by any means or
10 in any manner shall be murder in the following cases:

11 (a) When done with deliberate design to effect the
12 death of the person killed, or of any human being;

13 (b) When done in the commission of an act eminently
14 dangerous to others and evincing a depraved heart, regardless of
15 human life, although without any premeditated design to effect the
16 death of any particular individual;

17 (c) When done without any design to effect death by any
18 person engaged in the commission of any felony other than rape,
19 kidnapping, burglary, arson, robbery, sexual battery, unnatural
20 intercourse with any child under the age of twelve (12), or
21 nonconsensual unnatural intercourse with mankind, or felonious
22 abuse and/or battery of a child in violation of subsection (2) of
23 Section 97-5-39, or in any attempt to commit such felonies;

24 (d) When done with deliberate design to effect the
25 death of an unborn child.

26 (2) The killing of a human being or the solicitation
27 therefor without the authority of law by any means or in any
28 manner shall be capital murder in the following cases:

29 (a) Murder which is perpetrated by killing a peace
30 officer or fireman while such officer or fireman is acting in his
31 official capacity or by reason of an act performed in his official
32 capacity, and with knowledge that the victim was a peace officer
33 or fireman. For purposes of this paragraph, the term "peace
34 officer" means any state or federal law enforcement officer,
35 including, but not limited to, a federal park ranger, the sheriff
36 of or police officer of a city or town, a conservation officer, a
37 parole officer, a judge, senior status judge, special judge,
38 district attorney, legal assistant to a district attorney, county
39 prosecuting attorney or any other court official, an agent of the
40 Alcoholic Beverage Control Division of the State Tax Commission,
41 an agent of the Bureau of Narcotics, personnel of the Mississippi
42 Highway Patrol, and the employees of the Department of Corrections
43 who are designated as peace officers by the Commissioner of
44 Corrections pursuant to Section 47-5-54, and the superintendent
45 and his deputies, guards, officers and other employees of the
46 Mississippi State Penitentiary;

47 (b) Murder which is perpetrated by a person who is
48 under sentence of life imprisonment;

49 (c) Murder which is perpetrated by use or detonation of
50 a bomb or explosive device;

51 (d) Murder which is perpetrated by any person who has
52 been offered or has received anything of value for committing the
53 murder, and all parties to such a murder, are guilty as
54 principals;

55 (e) When done with or without any design to effect
56 death, by any person engaged in the commission of the crime of
57 rape, burglary, kidnapping, arson, robbery, sexual battery,
58 unnatural intercourse with any child under the age of twelve (12),
59 or nonconsensual unnatural intercourse with mankind, or in any
60 attempt to commit such felonies;

61 (f) When done with or without any design to effect
62 death, by any person engaged in the commission of the crime of
63 felonious abuse and/or battery of a child in violation of
64 subsection (2) of Section 97-5-39, or in any attempt to commit
65 such felony;

66 (g) Murder which is perpetrated on educational property
67 as defined in Section 97-37-17;

68 (h) Murder which is perpetrated by the killing of any
69 elected official of a county, municipal, state or federal
70 government with knowledge that the victim was such public
71 official.

72 (3) An indictment for murder or capital murder shall serve
73 as notice to the defendant that the indictment may include any and
74 all lesser included offenses thereof, including, but not limited
75 to, manslaughter.

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

78 97-3-21. Every person who shall be convicted of murder or
79 the solicitation therefor shall be sentenced by the court to
80 imprisonment for life in the State Penitentiary.

81 Every person who shall be convicted of capital murder or the
82 solicitation therefor shall be sentenced (a) to death; (b) to
83 imprisonment for life in the State Penitentiary without parole; or
84 (c) to imprisonment for life in the State Penitentiary with
85 eligibility for parole as provided in Section 47-7-3(1)(f).

86 **SECTION 3.** This act shall take effect and be in force from
87 and after July 1, 2005.