

By: Senator(s) Davis, Flowers, Pickering,  
Hewes

To: Judiciary, Division B

SENATE BILL NO. 2646

1 AN ACT TO CREATE THE CRIMINAL OFFENSE OF SOLICITATION OF A  
2 CRIME; TO PROVIDE PENALTIES THEREFOR; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** (1) (a) A person who, by means of oral, written  
5 or electronic communication, directly or through another,  
6 intentionally commands, requests or hires another person to commit  
7 a criminal offense, or attempts to command, request or hire  
8 another person to commit a criminal offense, with the intent that  
9 the criminal offense be committed, is guilty of the offense of  
10 solicitation of a crime.

11 (b) It is no defense that the solicitation was  
12 unsuccessful and the offense solicited was not committed. It is  
13 no defense that the person solicited could not be guilty of the  
14 offense solicited, due to insanity, minority, or other lack of  
15 criminal responsibility or incapacity. It is no defense that the  
16 person solicited was unaware of the criminal nature of the conduct  
17 solicited. It is no defense that the person solicited is unable  
18 to commit the offense solicited because of the lack of capacity,  
19 status, or characteristic needed to commit the offense solicited,  
20 so long as the person soliciting or the person solicited believes  
21 that either or both have such capacity, status, or characteristic.

22 (c) A person may not be convicted under this section on  
23 the uncorroborated testimony of the person allegedly solicited and  
24 unless the solicitation is made under circumstances strongly  
25 corroborative of both the solicitation itself and the defendant's  
26 intent that the other person act on the solicitation.

27 (d) It is no defense to prosecution under this section  
28 that:

29 (i) The person solicited is not criminally  
30 responsible for the felony solicited;

31 (ii) The person solicited has been acquitted, has  
32 not been prosecuted or convicted, has been convicted of a  
33 different offense or of a different type or class of offense, or  
34 is immune from prosecution;

35 (iii) The defendant belongs to a class of persons  
36 that by definition of the felony solicited is legally incapable of  
37 committing the offense in an individual capacity; or

38 (iv) The felony solicited was actually committed.

39 (2) An offense under this section is:

40 (a) A felony, if the offense solicited is a capital  
41 offense, punishable upon conviction by commitment to the custody  
42 of the Department of Corrections for a period not to exceed  
43 twenty-five (25) years, a fine not to exceed One Hundred Thousand  
44 Dollars (\$100,000.00), or both.

45 (b) A felony, if the offense solicited is a felony that  
46 is not a capital offense, punishable upon conviction by commitment  
47 to the custody of the Department of Corrections for a period not  
48 to exceed ten (10) years, a fine not to exceed Ten Thousand  
49 Dollars (\$10,000.00), or both.

50 (c) A misdemeanor, if the offense solicited is a  
51 misdemeanor, punishable upon conviction by imprisonment for a  
52 period not to exceed one (1) year, a fine not to exceed Five  
53 Thousand Dollars (\$5,000.00), or both.

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