

By: Representatives Clarke, Thomas

To: Judiciary En Banc

HOUSE BILL NO. 1173

1 AN ACT TO ABOLISH THE DEATH PENALTY ON JULY 1, 2006, AND TO
2 PROVIDE THAT NO SENTENCE OF DEATH SHALL BE IMPOSED ON OR AFTER
3 JULY 1, 2004; TO AMEND SECTIONS 97-3-21, 99-19-101 AND 99-35-135,
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO REPEAL
5 SECTIONS 99-19-51, 99-19-53, 99-19-55, 99-19-57, 99-19-103 AND
6 99-19-105, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE
7 EXECUTION OF THE DEATH SENTENCE, INSTRUCTIONS REGARDING THE DEATH
8 PENALTY AND JUDICIAL REVIEW OF THE DEATH PENALTY; AND FOR RELATED
9 PURPOSES.

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

11 **SECTION 1.** The death penalty shall stand abolished on July
12 1, 2006. No sentence of death shall be imposed on or after July
13 1, 2006. Any person who is under penalty of death on July 1,
14 2006, shall have that sentence reduced to life without parole.

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

17 97-3-21. Every person who shall be convicted of murder shall
18 be sentenced by the court to imprisonment for life in the State
19 Penitentiary.

20 Every person who shall be convicted of capital murder shall
21 be sentenced (a) * * * to imprisonment for life in the State
22 Penitentiary without parole; or (b) to imprisonment for life in
23 the State Penitentiary with eligibility for parole as provided in
24 Section 47-7-3(1)(f).

25 **SECTION 3.** Section 99-19-101, Mississippi Code of 1972, is
26 amended as follows:

27 99-19-101. (1) Upon conviction or adjudication of guilt of
28 a defendant of capital murder or other capital offense, the court
29 shall conduct a separate sentencing proceeding to determine
30 whether the defendant should be sentenced to * * * life

31 imprisonment without eligibility for parole or life imprisonment.
32 The proceeding shall be conducted by the trial judge before the
33 trial jury as soon as practicable. If, through impossibility or
34 inability, the trial jury is unable to reconvene for a hearing on
35 the issue of penalty, having determined the guilt of the accused,
36 the trial judge may summon a jury to determine the issue of the
37 imposition of the penalty. If the trial jury has been waived, or
38 if the defendant pleaded guilty, the sentencing proceeding shall
39 be conducted before a jury impaneled for that purpose or may be
40 conducted before the trial judge sitting without a jury if both
41 the State of Mississippi and the defendant agree thereto in
42 writing. In the proceeding, evidence may be presented as to any
43 matter that the court deems relevant to sentence * * *. However,
44 this subsection shall not be construed to authorize the
45 introduction of any evidence secured in violation of the
46 Constitution of the United States or of the State of
47 Mississippi. * * *

48 * * *

49 **SECTION 4.** Section 99-35-135, Mississippi Code of 1972, is
50 amended as follows:

51 99-35-135. * * * If the sentence be for confinement in the
52 penitentiary, and the defendant be not present, but in custody,
53 the Clerk of the Supreme Court shall forthwith notify the legal
54 authorities of the penitentiary as in cases of conviction for
55 penitentiary offenses in the circuit court, who shall send for the
56 convict as provided in such cases.

57 **SECTION 5.** Sections 99-19-51, 99-19-53, 99-19-55 and
58 99-19-57, Mississippi Code of 1972, which provide for the
59 execution of the death sentence, are repealed.

60 **SECTION 6.** Sections 99-19-103 and 99-19-105, Mississippi
61 Code of 1972, which provide for instructions regarding the death
62 penalty and judicial review of the death penalty are repealed.

63 **SECTION 7.** This act shall take effect and be in force from
64 and after July 1, 2006.