MISSISSIPPI LEGISLATURE REGULAR SESSION 2020

By: Senator(s) Seymour

To: Veterans and Military Affairs; Judiciary, Division A

SENATE BILL NO. 2821
(As Sent to Governor)

AN ACT TO AMEND SECTIONS 93-21-5, 93-21-7, 93-21-16 AND 93-21-21, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT VENUE FOR CERTAIN ACTIONS AGAINST A MEMBER OF THE MISSISSIPPI NATIONAL GUARD SHALL BE BROUGHT IN A STATE MILITARY COURT PURSUANT TO LAW; TO CREATE A MISSISSIPPI VETERANS HONOR MEDAL PROGRAM TO HONOR, RECOGNIZE AND THANK MISSISSIPPI VETERANS FOR THEIR HONORABLE MILITARY SERVICE; TO PROVIDE THAT THE STATE VETERANS AFFAIRS BOARD MAY ADOPT ANY RULES AND REGULATIONS NECESSARY TO ADMINISTER THIS ACT; TO AMEND SECTIONS 27-19-21 AND 27-19-23, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE ADDITIONAL ANNUAL TAX IMPOSED ON ELECTRIC VEHICLES AND HYBRID VEHICLES SHALL NOT BE IMPOSED ON SUCH VEHICLES THAT ARE OWNED BY CERTAIN DISABLED VETERANS AND SPOUSES OF CERTAIN DECEASED DISABLED VETERANS AND ARE EXEMPT FROM AD VALOREM TAXATION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 93-21-5, Mississippi Code of 1972, is amended as follows:

93-21-5. (1) The municipal, justice, county or chancery court, or a state military court as defined in Section 33-13-151, shall have jurisdiction over proceedings under this chapter as provided in this chapter. The petitioner's right to relief under this chapter shall not be affected by his leaving the residence or household to avoid further abuse.

(2) Venue shall be proper in any county or municipality where the respondent resides or in any county or municipality where the alleged abusive act or acts occurred. Any action that originates in state military court as defined in Section 33-13-151 alleged against a member of the Mississippi National Guard and brought in a state military court proceeding as defined in Section 33-13-151 shall be the sole province of the Mississippi National Guard, and venue shall only be proper for such action before a state military court as defined in Section 33-13-151, and shall be subject to all the applicable laws, procedures, rules and/or regulations as set forth in Title 33. The provisions of this subsection shall not prohibit any person from bringing the same or similar action in municipal, justice, county or chancery court.

(3) If a petition for an order for protection from domestic abuse is filed in a court lacking proper venue, the court, upon objection of the respondent, shall transfer the action to the appropriate venue pursuant to other applicable law.

(4) A record shall be made of any proceeding in justice or municipal court that involves domestic abuse.

SECTION 2. Section 93-21-7, Mississippi Code of 1972, is amended as follows:

93-21-7. (1) Any person may seek a domestic abuse protection order for himself by filing a petition alleging abuse by the respondent. Any parent, adult household member, or next friend of the abused person may seek a domestic abuse protection

order on behalf of any minor children or any person alleged to be incompetent by filing a petition with the court alleging abuse by the respondent. Cases seeking relief under this chapter shall be priority cases on the court's docket and the judge shall be immediately notified when a case is filed in order to provide for expedited proceedings.

(2) A petition seeking a domestic abuse protection order may be filed in any of the following courts: municipal, justice, county or chancery, or a state military court as defined in Section 33-13-151. A chancery court shall not prohibit the filing of a petition which does not seek emergency relief on the basis that the petitioner did not first seek or obtain temporary relief in another court. A petition requesting emergency relief pending a hearing shall not be filed in chancery court unless specifically permitted by the chancellor under the circumstances or as a separate pleading in an ongoing chancery action between the parties. Nothing in this section shall:

(a) Be construed to require consideration of emergency relief by a chancery court; or

(b) Preclude a chancery court from entering an order of emergency relief.

(3) The petitioner in any action brought pursuant to this chapter shall not bear the costs associated with its filing or the costs associated with the issuance or service of any notice of a hearing to the respondent, issuance or service of an order of

protection on the respondent, or issuance or service of a warrant or witness subpoena. If the court finds that the petitioner is entitled to an order protecting the petitioner from abuse, the court shall be authorized to assess all costs including attorney's fees of the proceedings to the respondent. The court may assess costs including attorney's fees to the petitioner only if the allegations of abuse are determined to be without merit and the court finds that the petitioner is not a victim of abuse as defined by Section 93-21-3.

SECTION 3. Section 93-21-16, Mississippi Code of 1972, is amended as follows:

93-21-16. (1) A protective order from another jurisdiction issued to protect the applicant from abuse as defined in Section 93-21-3, or a protection order as defined in Section 93-22-3, issued by a tribunal of another state, or a similar order by a state military court as defined in Section 33-13-151, shall be accorded full faith and credit by the courts of this state and enforced in this state as provided for in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

(2) For purposes of enforcement by Mississippi law enforcement officers, a protective order from another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, is presumed to be valid if it meets the requirements of Section 93-22-7.

(3) For purposes of judicial enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, an order is presumed valid if it meets the requirements of Section 93-22-5(4). It is an affirmative defense in any action seeking enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, that any criteria for the validity of the order is absent.

SECTION 4. Section 93-21-21, Mississippi Code of 1972, is amended as follows:

93-21-21. (1) Upon a knowing violation of (a) a protection order or court-approved consent agreement issued pursuant to this chapter, (b) a similar order issued by a foreign court of competent jurisdiction for the purpose of protecting a person from domestic abuse, or a similar order by a state military court as defined in Section 33-13-151, or (c) a bond condition imposed pursuant to Section 99-5-37, the person violating the order or condition commits a misdemeanor punishable by imprisonment in the county jail for not more than six (6) months or a fine of not more than One Thousand Dollars ($1,000.00), or both.

(2) Alternatively, upon a knowing violation of a protection order or court-approved consent agreement issued pursuant to this chapter or a bond condition issued pursuant to Section 99-5-37, the issuing court may hold the person violating the order or bond

condition in contempt, the contempt to be punishable as otherwise provided by applicable law. A person shall not be both convicted of a misdemeanor and held in contempt for the same violation of an order or bond condition.

(3) When investigating allegations of a violation under subsection (1) of this section, law enforcement officers shall utilize the uniform offense report prescribed for this purpose by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged under subsection (1) of this section.

(4) In any conviction for a violation of a domestic abuse protection order as described in subsection (1) of this section, the court shall enter the disposition of the matter into the corresponding uniform offense report.

(5) Nothing in this section shall be construed to interfere with the court's authority, if any, to address bond condition violations in a more restrictive manner.

SECTION 5. There is hereby created a Mississippi Veterans Honor Medal Program to be administered by the State Veterans Affairs Board to honor, recognize and thank Mississippi veterans for their honorable military service. The Mississippi Veterans Honor Medal shall be available for Mississippi veterans who were honorably discharged. The State Veterans Affairs Board shall determine as expeditiously as possible the specific eligibility

requirements for the medal. Applications for the medal shall be filed with the State Veterans Affairs Board on forms prescribed and furnished by the board. The program shall be revenue neutral with all costs to be paid by the sale of the medals at a price to be determined by the board. The State Veterans Affairs Board may adopt any rules and regulations necessary to administer the provisions of this act.

SECTION 6. Section 27-19-21, Mississippi Code of 1972, is amended as follows:

27-19-21. (1) For the purposes of this section, the term "electric vehicle" means a vehicle that is powered solely by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current, is manufactured primarily for use on public streets, roads and highways, and is required to have a license tag under Section 27-19-1 et seq., for operation on public streets, roads and highways.

(2) (a) Subject to the provisions of this section, there is imposed an annual tax on each electric vehicle, which shall be in addition to any other taxes for which the vehicle is liable. The tax shall be paid to the county tax collector at the same time and in the same manner as the annual highway privilege tax is paid. The amount of the tax shall be One Hundred Fifty Dollars ($150.00). The tax shall not be imposed on an electric vehicle

that is exempt from ad valorem taxation under Sections 27-19-53 and 27-51-41(2)(j).

(b) Beginning July 1, 2021, and each succeeding July 1 thereafter, the rate of the tax imposed under this section and in effect at the end of the preceding state fiscal year shall be adjusted by increasing the tax by a percentage amount equal to the United States inflation rate for the previous calendar year ending on December 31 as certified by the Department of Finance and Administration. The United States inflation rate for a calendar year shall be the Consumer Price Index for the calendar year for urban consumers as calculated by the Bureau of Labor Statistics of the United States Department of Labor. In adjusting the amount of the tax, amounts equal to or greater than Fifty Cents (50¢) shall be rounded to the next highest whole dollar.

(3) The tax collector shall have a special designation for electric vehicles in the vehicle records of the tax collector's office so that the owners of electric vehicles will be provided with the proper forms for paying the tax imposed by this section.

(4) The tax collector shall remit the proceeds of the tax collected under this section to the Department of Revenue, and the department shall apportion the proceeds of the tax among the various purposes specified in Section 27-5-101 for gasoline and diesel fuel taxes in the same proportion that those taxes were apportioned for those purposes during the previous state fiscal

year and such funds shall be used solely for the repair and maintenance of roads, streets and bridges.

(5) The Department of Revenue shall have all of the power and authority that it has for enforcement of the motor vehicle privilege tax laws (Section 27-19-1 et seq.) to enforce the provisions of this section. The Commissioner of Revenue may adopt any rules or regulations that he deems necessary for the proper administration of this section.

SECTION 7. Section 27-19-23, Mississippi Code of 1972, is amended as follows:

27-19-23. (1) For the purposes of this section, the term "hybrid vehicle" means a vehicle that utilizes more than one (1) form of onboard energy to achieve propulsion, is manufactured primarily for use on public streets, roads and highways, and is required to have a license tag under Section 27-19-1 et seq., for operation on public streets, roads and highways.

(2) (a) Subject to the provisions of this section, there is imposed an annual tax on each hybrid vehicle, which shall be in addition to any other taxes for which the vehicle is liable. The tax shall be paid to the county tax collector at the same time and in the same manner as the annual highway privilege tax is paid. The amount of the tax shall be Seventy-five Dollars ($75.00). The tax shall not be imposed on a hybrid vehicle that is exempt from ad valorem taxation under Sections 27-19-53 and 27-51-41(2)(j).

(b) Beginning July 1, 2021, and each succeeding July 1 thereafter, the rate of the tax imposed under this section and in effect at the end of the preceding state fiscal year shall be adjusted by increasing the tax by a percentage amount equal to the United States inflation rate for the previous calendar year ending on December 31 as certified by the Department of Finance and Administration. The United States inflation rate for a calendar year shall be the Consumer Price Index for the calendar year for urban consumers as calculated by the Bureau of Labor Statistics of the United States Department of Labor. In adjusting the amount of the tax, amounts equal to or greater than Fifty Cents (50¢) shall be rounded to the next highest whole dollar.

(3) The tax collector shall have a special designation for hybrid vehicles in the vehicle records of the tax collector's office so that the owners of hybrid vehicles will be provided with the proper forms for paying the tax imposed by this section.

(4) The tax collector shall remit the proceeds of the tax collected under this section to the Department of Revenue, and the department shall apportion the proceeds of the tax among the various purposes specified in Section 27-5-101 for gasoline and diesel fuel taxes in the same proportion that those taxes were apportioned for those purposes during the previous state fiscal year and such funds shall be used solely for the repair and maintenance of roads, streets and bridges.

(5) The Department of Revenue shall have all of the power and authority that it has for enforcement of the motor vehicle privilege tax laws (Section 27-19-1 et seq.) to enforce the provisions of this section. The Commissioner of Revenue may adopt any rules or regulations that he deems necessary for the proper administration of this section.

SECTION 8. This act shall take effect and be in force from and after July 1, 2020.

ST: Venue for actions against members of the Mississippi National Guard; brought in state military court, create Veterans Honor Program.