

By: Senator(s) Hickman, Simmons (12th)

To: Judiciary, Division B

SENATE BILL NO. 2803

1 AN ACT TO PROHIBIT LAW ENFORCEMENT OFFICER FROM ARRESTING A
2 PERSON WHEN THE OFFICER HAS PROBABLE CAUSE TO BELIEVE THAT A
3 PERSON HAS COMMITTED A MISDEMEANOR OFFENSE; TO REQUIRE THE
4 ISSUANCE OF A CITATION IN LIEU OF ARREST; TO PROVIDE FOR AN ARREST
5 FOR VIOLENT MISDEMEANORS AND IN CERTAIN LIMITED SITUATIONS; TO
6 AMEND SECTIONS 99-3-3 AND 99-3-7, MISSISSIPPI CODE OF 1972, TO
7 CONFORM; AND FOR RELATED PURPOSES.

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

9 SECTION 1. As used in this act, the following terms have the
10 meaning ascribed herein unless the context clearly requires
11 otherwise:

12 (a) "Misdemeanor" means a crime punishable by fine,
13 community service, probation or a maximum term of one (1) year in
14 the county or municipal jail. The term does not include violent
15 misdemeanor.

16 (b) "Violent misdemeanor" means any misdemeanor:

17 (i) Involving the use, attempted use, or
18 threatened use of physical force against another person;

19 (ii) Involving domestic violence or abuse, dating
20 violence, stalking, or violation of a domestic violence protection
21 order;

22 (iii) Involving a deadly weapon; or
23 (iv) Designated by law as violent.

24 (2) (a) No law enforcement officer shall arrest a person
25 when the officer has probable cause to believe that a person has
26 committed a misdemeanor offense unless the arrest is authorized
27 under subsection (3) of this section.

33 (c) Nothing in this section shall be construed to limit
34 an officer's authority to conduct a lawful investigation,
35 including a temporary detention as permitted by law.

36 (3) A law enforcement officer may make an arrest if:

37 (a) The offense is a violent misdemeanor;

38 (b) The person to be issued a citation:

39 (i) Refuses to provide satisfactory

40 identification; or

41 (ii) Provides false identifying information;

42 (c) The person has an outstanding arrest warrant;



43 (d) The person is on pretrial release, probation,
44 parole, or other supervised release for a felony offense, and the
45 misdemeanor would be a violation of such release;

46 (e) The person is under the influence of alcohol or
47 drugs to such a degree that the person poses a danger to
48 themselves or others; or

49 (f) Custodial arrest is expressly required by another
50 provision of state or federal law.

51 (4) A person who fails to appear as required by a citation
52 issued under this section may be subject to a warrant for arrest
53 or other penalties as provided by law.

54 (5) This shall supersede any local ordinance or policy that
55 authorizes or requires arrests for misdemeanors or is otherwise
56 inconsistent with the provisions of this section.

57 **SECTION 2.** Section 99-3-3, Mississippi Code of 1972, is
58 amended as follows:

59 99-3-3. Arrests for criminal offenses, and to prevent a
60 breach of the peace, or the commission of a crime, may be made at
61 any time or place except as provided in Section 1 of this act.

62 **SECTION 3.** Section 99-3-7, Mississippi Code of 1972, is
63 amended as follows:

64 99-3-7. (1) An officer, except as provided in Section 1 of
65 this act, or a private person may arrest any person without
66 warrant, for an indictable offense committed, or a breach of the
67 peace threatened or attempted in his presence; or when a person



68 has committed a felony, though not in his presence; or when a
69 felony has been committed, and he has reasonable ground to suspect
70 and believe the person proposed to be arrested to have committed
71 it; or on a charge, made upon reasonable cause, of the commission
72 of a felony by the party proposed to be arrested. And in all
73 cases of arrests without warrant, the person making such arrest
74 must inform the accused of the object and cause of the arrest,
75 except when he is in the actual commission of the offense, or is
76 arrested on pursuit.

77 (2) Any law enforcement officer may arrest any person on a
78 misdemeanor charge without having a warrant in his possession when
79 a warrant is in fact outstanding for that person's arrest and the
80 officer has knowledge through official channels that the warrant
81 is outstanding for that person's arrest. In all such cases, the
82 officer making the arrest must inform such person at the time of
83 the arrest the object and cause therefor. If the person arrested
84 so requests, the warrant shall be shown to him as soon as
85 practicable.

86 (3) (a) Any law enforcement officer shall arrest a person
87 with or without a warrant when he has probable cause to believe
88 that the person has, within twenty-four (24) hours of such arrest,
89 knowingly committed a misdemeanor or felony that is an act of
90 domestic violence or knowingly violated provisions of a criminal
91 domestic violence or sexual assault protection order issued
92 pursuant to Section 97-3-7(11), 97-3-65(6) or 97-3-101(5) or an ex



93 parte protective order, protective order after hearing or
94 court-approved consent agreement entered by a chancery, circuit,
95 county, justice or municipal court pursuant to the Protection from
96 Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi
97 Code of 1972, or a restraining order entered by a foreign court of
98 competent jurisdiction to protect an applicant from domestic
99 violence.

100 (b) If a law enforcement officer has probable cause to
101 believe that two (2) or more persons committed an act of domestic
102 violence as defined herein, or if two (2) or more persons make
103 complaints of domestic violence to the officer, the officer shall
104 attempt to determine who was the principal aggressor. The term
105 principal aggressor is defined as the party who poses the most
106 serious ongoing threat, or who is the most significant, rather
107 than the first, aggressor. The officer shall presume that arrest
108 is not the appropriate response for the person or persons who were
109 not the principal aggressor. If the officer affirmatively finds
110 more than one (1) principal aggressor was involved, the officer
111 shall document those findings.

112 (c) To determine which party was the principal
113 aggressor, the officer shall consider the following factors,
114 although such consideration is not limited to these factors:

115 (i) Evidence from the persons involved in the
116 domestic abuse;



117 (ii) The history of domestic abuse between the
118 parties, the likelihood of future injury to each person, and the
119 intent of the law to protect victims of domestic violence from
120 continuing abuse;

121 (iii) Whether one (1) of the persons acted in
122 self-defense; and

123 (iv) Evidence from witnesses of the domestic
124 violence.

125 (d) A law enforcement officer shall not base the
126 decision of whether to arrest on the consent or request of the
127 victim.

128 (e) A law enforcement officer's determination regarding
129 the existence of probable cause or the lack of probable cause
130 shall not adversely affect the right of any party to independently
131 seek appropriate remedies.

132 (4) (a) Any person authorized by a court of law to
133 supervise or monitor a convicted offender who is under an
134 intensive supervision program may arrest the offender when the
135 offender is in violation of the terms or conditions of the
136 intensive supervision program, without having a warrant, provided
137 that the person making the arrest has been trained at the Law
138 Enforcement Officers Training Academy established under Section
139 45-5-1 et seq., or at a course approved by the Board on Law
140 Enforcement Officer Standards and Training.

141 (b) For the purposes of this subsection, the term
142 "intensive supervision program" means an intensive supervision
143 program of the Department of Corrections as described in Section
144 47-5-1001 et seq., or any similar program authorized by a court
145 for offenders who are not under jurisdiction of the Department of
146 Corrections.

147 (5) As used in subsection (3) of this section, the phrase
148 "misdemeanor or felony that is an act of domestic violence" shall
149 mean one or more of the following acts between current or former
150 spouses or a child of current or former spouses, persons living as
151 spouses or who formerly lived as spouses or a child of persons
152 living as spouses or who formerly lived as spouses, a parent,
153 grandparent, child, grandchild or someone similarly situated to
154 the defendant, persons who have a current or former dating
155 relationship, or persons who have a biological or legally adopted
156 child together:

157 (a) Simple or aggravated domestic violence within the
158 meaning of Section 97-3-7;

159 (b) Disturbing the family or public peace within the
160 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

161 (c) Stalking within the meaning of Section 97-3-107.

162 (6) Any arrest made pursuant to subsection (3) of this
163 section shall be designated as domestic assault or domestic
164 violence on both the arrest docket and the incident report. Any
165 officer investigating a complaint of a misdemeanor or felony that

166 is a crime of domestic violence who finds probable cause that such
167 an offense has occurred within the past twenty-four (24) hours
168 shall file an affidavit on behalf of the victim(s) of the crime,
169 regardless of whether an arrest is made within that time period.
170 If the crime is reported or investigated outside of that
171 twenty-four-hour period, the officer may file the affidavit on
172 behalf of the victim. In the event the officer does not file an
173 affidavit on behalf of the victim, the officer shall instruct the
174 victim of the procedure for filing on his or her own behalf.

175 (7) A law enforcement officer shall not be held liable in
176 any civil action for an arrest based on probable cause and in good
177 faith pursuant to subsection (3) of this section, or failure, in
178 good faith, to make an arrest pursuant to subsection (3) of this
179 section.

180 (8) The authority for the State Chief Deputy Fire Marshal
181 and deputy state fire marshals to make arrests shall be governed
182 by the provisions of Section 45-11-1.

183 **SECTION 4.** This act shall take effect and be in force from
184 and after July 1, 2026.

