MISSISSIPPI LEGISLATURE REGULAR SESSION 2026

By: Senator(s) England, Seymour, Sparks

To: Judiciary, Division B

SENATE BILL NO. 2821
(As Sent to Governor)

AN ACT TO REQUIRE A SEPARATE PROCEEDING ON THE ISSUE OF A PENALTY FOR THE CRIME OF CAPITAL SEXUAL BATTERY; TO AMEND SECTION 97-3-101, MISSISSIPPI CODE OF 1972, TO CREATE THE CRIME OF CAPITAL SEXUAL BATTERY; TO AUTHORIZE THE DEATH PENALTY; TO PROVIDE THAT IF THE DEATH PENALTY IS NOT IMPOSED UNDER THIS ACT, THEN LIFE IMPRISONMENT WITHOUT PAROLE SHALL BE IMPOSED; TO AMEND SECTIONS 47-7-3, 93-21-25 AND 99-3-7, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) **Intent.** (a) The Legislature finds that a person who commits a sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than twelve (12) years of age carries a great risk of death and danger to vulnerable members of this state. Such crimes destroy the innocence of a young child and violate all standards of decency held by civilized society.

(b) It is the intent of the Legislature that the procedure in this section shall be followed, and a prosecutor must file notice as provided in Section 97-3-101(5) if the prosecutor intends to seek the death penalty.

(2) **Separate proceedings on issue of penalty.** Upon conviction or an adjudication of guilt of a defendant of a capital felony under Section 97-3-101(5), the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by Section 97-3-101(5). The proceeding shall be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating factors enumerated in subsection (7) of this section and for which notice has been provided pursuant to Section 97-3-101(5) or mitigating circumstances enumerated in subsection (8) of this section. Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this

subsection may not be construed to authorize the introduction of any evidence secured in violation of the United States Constitution or the State Constitution. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against a sentence of death.

(3) **Findings and recommended sentence by the jury.** This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least two (2) aggravating factors set forth in subsection (7) of this section.

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that at least two (2) aggravating factors exist must be unanimous. If the jury:

(i) Does not unanimously find at least two (2) aggravating factors, the defendant is ineligible for a sentence of death.

(ii) Unanimously finds at least two (2) aggravating factors, the defendant is eligible for a sentence of death, and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:

1. Whether sufficient aggravating factors exist.

2. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

3. Based on the considerations in items 1. and 2. of this subparagraph, whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If at least eight (8) jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If fewer than eight (8) jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

(4) **Imposition of sentence of life imprisonment or death.**

(a) If the jury has recommended a sentence of:

(i) Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life imprisonment without the possibility of parole.

(ii) Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury. The court may impose a sentence of death only

if the jury unanimously found at least two (2) aggravating factors beyond a reasonable doubt.

(5) **Order of the court in support of sentence of life imprisonment or death.** In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or a sentence of death, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (7) of this section found to exist, the mitigating circumstances in subsection (8) of this section reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. The court shall include in its written order the reasons for not accepting the jury's recommended sentence, if applicable. If the court does not issue its order requiring the death sentence within thirty (30) days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with Section 97-3-101(5).

(6) **Review of judgment and sentence.** The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court and disposition rendered within two (2) years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and

shall be heard in accordance with rules adopted by the Supreme Court.

(7) **Aggravating Factors.** Aggravating factors shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony violation under Section 97-3-101 and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The capital felony was committed by a sexual offender who is required to register pursuant Chapter 33, Title 45, Mississippi Code of 1972, or a person previously required to register as a sexual offender who had such requirement removed.

(d) The defendant knowingly created a great risk of death to one or more persons such that participation in the offense constituted reckless indifference or disregard for human life.

(e) The defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person in committing the offense or in furtherance of the offense.

(f) The capital felony was committed for pecuniary gain.

(g) The capital felony was especially heinous, atrocious, or cruel.

(h) The victim of the capital felony was particularly vulnerable due to age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(i) The capital felony was committed by a person subject to an injunction issued pursuant to a domestic abuse protection order, or a foreign protection order accorded full faith and credit by this state, and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

(j) The victim of the capital felony sustained serious bodily injury.

(8) **Mitigating circumstances.** Mitigating circumstances shall include the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The defendant was an accomplice in the capital felony committed by another person, and the defendant's participation was relatively minor.

(d) The defendant was under extreme duress or under the substantial domination of another person.

(e) The capacity of the defendant to appreciate the criminality of her or his conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(f) The age of the defendant at the time of the offense.

(g) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

(9) **Victim impact evidence.** Once the prosecution has provided evidence of the existence of two (2) or more aggravating factors as described in subsection (7) of this section, the prosecution may introduce and subsequently argue victim impact evidence to the jury. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the physical and psychological harm to the victim. Characterizations and opinions about the crime, the defendant, and the appropriate sentence may not be permitted as a part of victim impact evidence.

(10) **Constitutionality.** A sentence of death shall be imposed under this section notwithstanding existing case law, which holds that such a sentence is unconstitutional under the Mississippi Constitution of 1890 and the United States Constitution. In any case for which the Mississippi Supreme Court

or the United States Supreme Court reviews a sentence of death imposed pursuant to this section, and in making such a review reconsiders the prior holding in *Kennedy v. Louisiana*, 554 U.S. 407 (2008), and determines that a sentence of death remains unconstitutional, the court having jurisdiction over the person previously sentenced to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in Section 99-19-107.

(11) This section applies to any capital felony under Section 97-3-101(5) which is committed on or after the effective date of this act.

SECTION 2. Section 97-3-101, Mississippi Code of 1972, is amended as follows:

97-3-101. (1) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(a), (b) or (2) shall be imprisoned in the State Penitentiary for a period of not more than thirty (30) years, and for a second or subsequent such offense shall be imprisoned in the Penitentiary for not more than forty (40) years.

(2) (a) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is at least eighteen (18) but under twenty-one (21) years of age shall be imprisoned for not more than five (5) years in the State Penitentiary or fined not more than Five Thousand Dollars ($5,000.00), or both;

(b) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(c) who is twenty-one (21) years of age or older shall be imprisoned not more than thirty (30) years in the State Penitentiary or fined not more than Ten Thousand Dollars ($10,000.00), or both, for the first offense, and not more than forty (40) years in the State Penitentiary for each subsequent offense.

(3) Every person who shall be convicted of sexual battery under Section 97-3-95(1)(d) who is eighteen (18) years of age or older shall be imprisoned for life in the State Penitentiary or such lesser term of imprisonment as the court may determine, but not less than twenty (20) years.

(4) Every person who shall be convicted of sexual battery who is thirteen (13) years of age or older but under eighteen (18) years of age shall be sentenced to such imprisonment, fine or other sentence as the court, in its discretion, may determine.

(5) (a) Every person who is eighteen (18) years of age or older who shall be convicted of sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than twelve (12) years of age commits a capital felony, punishable as provided in Section 99-19-101 and Section 1 of this act. In all capital cases under this section, the procedure set forth in Section 1 of this act shall be followed in order to determine a sentence of death or life imprisonment. If the prosecutor intends to seek the death penalty, the prosecutor

must give notice to the defendant and file the notice with the court within forty-five (45) days after arraignment. The notice must contain a list of the aggravating factors the state intends to prove and has reason to believe it can prove beyond a reasonable doubt. The court may allow the prosecutor to amend the notice upon a showing of good cause.

(b) For the purpose of this subsection and Section 1 of this act, "sexual organs" means any organ involved in the act of sexual penetration as defined in Section 97-3-97(a).

(* * *6) (a) Upon conviction under this section, the court may issue a criminal sexual assault protection order prohibiting the offender from any contact with the victim, without regard to the relationship between the victim and offender. The court may include in a criminal sexual assault protection order any relief available under Section 93-21-15. The term of a criminal sexual assault protection order shall be for a time period determined by the court, but all orders shall, at a minimum, remain in effect for a period of two (2) years following the expiration of any sentence of imprisonment and subsequent period of community supervision, conditional release, probation, or parole. Upon issuance of a criminal sexual assault protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays as provided

in Section 93-21-25, and a copy must be provided to both the victim and offender.

(b) Criminal sexual assault protection orders shall be issued on the standardized form developed by the Office of the Attorney General.

(c) It is a misdemeanor to knowingly violate any condition of a criminal sexual assault protection order. Upon conviction for a violation, the defendant shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by imprisonment in the county jail for not more than six (6) months, or both. Any sentence imposed for the violation of a criminal sexual assault protection order shall run consecutively to any other sentences imposed on the offender. The court may extend the criminal sexual assault protection order for a period of one (1) year for each violation. The incarceration of a person at the time of the violation is not a bar to prosecution under this section. Nothing in this subsection shall be construed to prohibit the imposition of any other penalties or disciplinary action otherwise allowed by law or policy.

SECTION 3. Section 47-7-3, Mississippi Code of 1972, is amended as follows:

47-7-3. (1) Every prisoner who has been convicted of any offense against the State of Mississippi, and is confined in the execution of a judgment of such conviction in the Mississippi Department of Corrections for a definite term or terms of one (1)

year or over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the department, and who has served the minimum required time for parole eligibility, may be released on parole as set forth herein:

(a) **Habitual offenders.** Except as provided by Sections 99-19-81 through 99-19-87, no person sentenced as a confirmed and habitual criminal shall be eligible for parole;

(b) **Sex offenders.** Any person who has been sentenced for a sex offense as defined in Section 45-33-23(h) shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) **Capital offenders.** No person sentenced for the following offenses shall be eligible for parole:

(i) Capital murder committed on or after July 1, 1994, as defined in Section 97-3-19(2);

(ii) Any offense to which an offender is sentenced to life imprisonment under the provisions of Section 99-19-101 or Section 1 of this act; or

(iii) Any offense to which an offender is sentenced to life imprisonment without eligibility for parole under the provisions of Section 99-19-101, whose crime was committed on or after July 1, 1994;

(d) **Murder.** No person sentenced for murder in the first degree, whose crime was committed on or after June 30, 1995,

or murder in the second degree, as defined in Section 97-3-19, shall be eligible for parole;

(e) **Human trafficking.** No person sentenced for human trafficking, as defined in Section 97-3-54.1, whose crime was committed on or after July 1, 2014, shall be eligible for parole;

(f) **Drug trafficking.** No person sentenced for trafficking and aggravated trafficking, as defined in Section 41-29-139(f) through (g), shall be eligible for parole;

(g) **Offenses specifically prohibiting parole release.** No person shall be eligible for parole who is convicted of any offense that specifically prohibits parole release;

(h) (i) **Offenders eligible for parole consideration for offenses committed after June 30, 1995.** Except as provided in paragraphs (a) through (g) of this subsection, offenders may be considered eligible for parole release as follows:

1. **Nonviolent crimes.** All persons sentenced for a nonviolent offense shall be eligible for parole only after they have served twenty-five percent (25%) or ten (10) years, whichever is less, of the sentence or sentences imposed by the trial court. For purposes of this paragraph, "nonviolent crime" means a felony not designated as a crime of violence in Section 97-3-2.

2. **Violent crimes.** A person who is sentenced for a violent offense as defined in Section 97-3-2, except robbery with a deadly weapon as defined in Section 97-3-79, drive-by

shooting as defined in Section 97-3-109, and carjacking as defined in Section 97-3-117, shall be eligible for parole only after having served fifty percent (50%) or twenty (20) years, whichever is less, of the sentence or sentences imposed by the trial court. Those persons sentenced for robbery with a deadly weapon as defined in Section 97-3-79, drive-by shooting as defined in Section 97-3-109, and carjacking as defined in Section 97-3-117, shall be eligible for parole only after having served sixty percent (60%) or twenty-five (25) years, whichever is less, of the sentence or sentences imposed by the trial court.

3. **Nonviolent and nonhabitual drug offenses.** A person who has been sentenced to a drug offense pursuant to Section 41-29-139(a) through (d), whose crime was committed after June 30, 1995, shall be eligible for parole only after he has served twenty-five percent (25%) or ten (10) years, whichever is less, of the sentence or sentences imposed.

(ii) **Parole hearing required.** All persons eligible for parole under subparagraph (i) of this paragraph (h) who are serving a sentence or sentences for a crime of violence, as defined in Section 97-3-2, shall be required to have a parole hearing before the Parole Board pursuant to Section 47-7-17, prior to parole release.

(iii) **Geriatric parole.** Notwithstanding the provisions in subparagraph (i) of this paragraph (h), a person serving a sentence who has reached the age of sixty (60) or older

and who has served no less than ten (10) years of the sentence or sentences imposed by the trial court shall be eligible for parole. Any person eligible for parole under this subparagraph (iii) shall be required to have a parole hearing before the board prior to parole release. No inmate shall be eligible for parole under this subparagraph (iii) of this paragraph (h) if:

1. The inmate is sentenced as a habitual offender under Sections 99-19-81 through 99-19-87;

2. The inmate is sentenced for a crime of violence under Section 97-3-2;

3. The inmate is sentenced for an offense that specifically prohibits parole release;

4. The inmate is sentenced for trafficking in controlled substances under Section 41-29-139(f);

5. The inmate is sentenced for a sex crime; or

6. The inmate has not served one-fourth (1/4) of the sentence imposed by the court.

(iv) **Parole consideration as authorized by the trial court.** Notwithstanding the provisions of paragraph (a) of this subsection, any offender who has not committed a crime of violence under Section 97-3-2 and has served twenty-five percent (25%) or more of his sentence may be paroled by the State Parole Board if, after the sentencing judge or if the sentencing judge is retired, disabled or incapacitated, the senior circuit judge

authorizes the offender to be eligible for parole consideration; or if the senior circuit judge must be recused, another circuit judge of the same district or a senior status judge may hear and decide the matter. A petition for parole eligibility consideration pursuant to this subparagraph (iv) shall be filed in the original criminal cause or causes, and the offender shall serve an executed copy of the petition on the District Attorney. The court may, in its discretion, require the District Attorney to respond to the petition.

(2) The State Parole Board shall, by rules and regulations, establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. Except as provided in Section 47-7-18, the parole hearing date shall occur when the offender is within thirty (30) days of the month of his parole eligibility date. Any parole eligibility date shall not be earlier than as required in this section.

(3) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section.

(4) Any inmate within forty-eight (48) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job-training programs that are part of his or her parole case plan. Any inmate refusing to participate in an educational development or job-training program, including, but not limited to, programs required as part of the case plan, shall be in jeopardy of noncompliance with the case plan and may be denied parole.

(5) In addition to other requirements, if an offender is convicted of a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole, or the offender shall be required to complete a postrelease drug and alcohol program as a condition of parole.

(6) Except as provided in subsection (1)(a) through (h) of this section, all other persons shall be eligible for parole after serving twenty-five percent (25%) of the sentence or sentences imposed by the trial court, or, if sentenced to thirty (30) years or more, after serving ten (10) years of the sentence or sentences imposed by the trial court.

(7) The Corrections and Criminal Justice Oversight Task Force established in Section 47-5-6 shall develop and submit recommendations to the Governor and to the Legislature annually on or before December 1st concerning issues relating to juvenile and

habitual offender parole reform and to review and monitor the implementation of Chapter 479, Laws of 2021.

(8) The amendments contained in Chapter 479, Laws of 2021, shall apply retroactively from and after July 1, 1995.

(9) Notwithstanding provisions to the contrary in this section, a person who was sentenced before July 1, 2021, may be considered for parole if the person's sentence would have been parole eligible before July 1, 2021.

(10) This section shall stand repealed on July 1, 2027.

SECTION 4. Section 93-21-25, Mississippi Code of 1972, is amended as follows:

93-21-25. (1) In order to provide a statewide registry for protection orders and to aid law enforcement, prosecutors and courts in handling such matters, the Attorney General is authorized to create and administer a Mississippi Protection Order Registry. The Attorney General's office shall implement policies and procedures governing access to the registry by authorized users, which shall include provisions addressing the confidentiality of any information which may tend to reveal the location or identity of a victim of domestic abuse.

(2) All orders issued pursuant to Sections 93-21-1 through 93-21-29, 97-3-7(11), 97-3-65(6) or 97-3-101(* * *6) will be maintained in the Mississippi Protection Order Registry. It shall be the duty of the clerk of the issuing court to enter all civil and criminal domestic abuse protection orders and all criminal

sexual assault protection orders, including any modifications, amendments or dismissals of such orders, into the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays. A separate copy of any order shall be provided to the sheriff's department TAC officers of the county of the issuing court. The copy may be provided in electronic format. Each qualifying protection order submitted to the Mississippi Protection Order Registry shall be automatically transmitted to the National Criminal Information Center Protection Order File. Failure of the clerk to enter the order into the registry or to provide a copy of the order to law enforcement shall have no effect on the validity or enforcement of an otherwise valid protection order.

Any information regarding the registration or issuance of a civil or criminal domestic abuse protection order or a criminal sexual assault protection order, or the filing of a petition for a civil domestic abuse protection order which is maintained in the Mississippi Protection Order Registry and would tend to reveal the identity or location of the protected person(s) shall not constitute a public record and shall be exempt from disclosure pursuant to the Mississippi Public Records Act of 1983. This information may be disclosed to appropriate law enforcement, prosecutors or courts for protection order enforcement purposes.

SECTION 5. Section 99-3-7, Mississippi Code of 1972, is amended as follows:

99-3-7. (1) An officer or private person may arrest any person without warrant, for an indictable offense committed, or a breach of the peace threatened or attempted in his presence; or when a person has committed a felony, though not in his presence; or when a felony has been committed, and he has reasonable ground to suspect and believe the person proposed to be arrested to have committed it; or on a charge, made upon reasonable cause, of the commission of a felony by the party proposed to be arrested. And in all cases of arrests without warrant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense, or is arrested on pursuit.

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

(3) (a) Any law enforcement officer shall arrest a person with or without a warrant when he has probable cause to believe that the person has, within twenty-four (24) hours of such arrest, knowingly committed a misdemeanor or felony that is an act of

domestic violence or knowingly violated provisions of a criminal domestic violence or sexual assault protection order issued pursuant to Section 97-3-7(11), 97-3-65(6) or 97-3-101(* * *6) or an ex parte protective order, protective order after hearing or court-approved consent agreement entered by a chancery, circuit, county, justice or municipal court pursuant to the Protection from Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972, or a restraining order entered by a foreign court of competent jurisdiction to protect an applicant from domestic violence.

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

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

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

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

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

(iv) Evidence from witnesses of the domestic violence.

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

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

(4) (a) Any person authorized by a court of law to supervise or monitor a convicted offender who is under an intensive supervision program may arrest the offender when the offender is in violation of the terms or conditions of the intensive supervision program, without having a warrant, provided that the person making the arrest has been trained at the Law Enforcement Officers' Training Academy established under Section

45-5-1 et seq., or at a course approved by the Board on Law Enforcement Officer Standards and Training.

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

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

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

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

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

(6) Any arrest made pursuant to subsection (3) of this section shall be designated as domestic assault or domestic

violence on both the arrest docket and the incident report. Any officer investigating a complaint of a misdemeanor or felony that is a crime of domestic violence who finds probable cause that such an offense has occurred within the past twenty-four (24) hours shall file an affidavit on behalf of the victim(s) of the crime, regardless of whether an arrest is made within that time period. If the crime is reported or investigated outside of that twenty-four-hour period, the officer may file the affidavit on behalf of the victim. In the event the officer does not file an affidavit on behalf of the victim, the officer shall instruct the victim of the procedure for filing on his or her own behalf.

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

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

SECTION 6. This act shall take effect and be in force from and after July 1, 2026.