

By: Representatives Gipson, Sykes, Moore,
Dixon, Crawford

To: Judiciary B

HOUSE BILL NO. 578

1 AN ACT TO PROVIDE CIVIL AND CRIMINAL IMMUNITY FOR A PERSON
2 WHO, IN GOOD FAITH, MAKES A REPORT TO AN AUTHORIZED OFFICIAL OF
3 SUSPICIOUS ACTIVITY OR BEHAVIOR THAT THE PERSON REASONABLY
4 BELIEVES RELATES TO AN ACT OF TERRORISM; TO PROVIDE THAT SUCH
5 IMMUNITY DOES NOT APPLY TO ANY REPORT THE PERSON KNEW TO BE FALSE;
6 TO PROVIDE CERTAIN DEFINITIONS; TO AMEND SECTION 11-46-9,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE CIVIL IMMUNITY TO AUTHORIZED
8 OFFICIALS WHO TAKE REASONABLE ACTION IN RESPONSE TO A REPORT OF
9 SUSPICIOUS ACTIVITY; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** This act shall be known and cited as the
12 "Mississippi See Something, Say Something Act of 2016."

13 **SECTION 2.** (1) (a) Any person who, in good faith and based
14 on objectively reasonable suspicion, makes a report of suspicious
15 activity or behavior to an authorized official shall be immune
16 from civil and criminal liability for such report.

17 (b) This subsection (1) shall not apply to any report
18 that the person knew to be false or was made with reckless
19 disregard for the truth at the time that the person made the
20 report.



21 (2) As used in this section, the following words and phrases
22 shall have the meanings ascribed in this subsection unless the
23 context clearly indicates otherwise:

24 (a) "Report of suspicious activity or behavior" means
25 any communication to an authorized official of the activity or
26 behavior of another person that is made with the reasonable belief
27 that such activity or behavior constitutes, or is in furtherance
28 of, an act of terrorism as defined in 18 USCS Section 3077.

29 (b) "Authorized official" means any state or local law
30 enforcement officer, or any officer, employee or agent of the
31 state or political subdivision thereof who is responsible for
32 preventing, protecting against, disrupting or responding to an act
33 of terrorism as defined in 18 USCS Section 3077.

34 **SECTION 3.** Section 11-46-9, Mississippi Code of 1972, is
35 amended as follows:

36 11-46-9. (1) A governmental entity and its employees acting
37 within the course and scope of their employment or duties shall
38 not be liable for any claim:

39 (a) Arising out of a legislative or judicial action or
40 inaction, or administrative action or inaction of a legislative or
41 judicial nature;

42 (b) Arising out of any act or omission of an employee
43 of a governmental entity exercising ordinary care in reliance
44 upon, or in the execution or performance of, or in the failure to



execute or perform, a statute, ordinance or regulation, whether or not the statute, ordinance or regulation be valid;

(c) Arising out of any act or omission of an employee of a governmental entity engaged in the performance or execution of duties or activities relating to police or fire protection unless the employee acted in reckless disregard of the safety and well-being of any person not engaged in criminal activity at the time of injury;

(d) Based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused;

(e) Arising out of an injury caused by adopting or failing to adopt a statute, ordinance or regulation;

(f) Which is limited or barred by the provisions of any other law;

(g) Arising out of the exercise of discretion in determining whether or not to seek or provide the resources necessary for the purchase of equipment, the construction or maintenance of facilities, the hiring of personnel and, in general, the provision of adequate governmental services;

(h) Arising out of the issuance, denial, suspension or revocation of, or the failure or refusal to issue, deny, suspend or revoke any privilege, ticket, pass, permit, license, certificate, approval, order or similar authorization where the



70 governmental entity or its employee is authorized by law to
71 determine whether or not such authorization should be issued,
72 denied, suspended or revoked unless such issuance, denial,
73 suspension or revocation, or failure or refusal thereof, is of a
74 malicious or arbitrary and capricious nature;

75 (i) Arising out of the assessment or collection of any
76 tax or fee;

77 (j) Arising out of the detention of any goods or
78 merchandise by any law enforcement officer, unless such detention
79 is of a malicious or arbitrary and capricious nature;

80 (k) Arising out of the imposition or establishment of a
81 quarantine, whether such quarantine relates to persons or
82 property;

83 (l) Of any claimant who is an employee of a
84 governmental entity and whose injury is covered by the Workers'
85 Compensation Law of this state by benefits furnished by the
86 governmental entity by which he is employed;

87 (m) Of any claimant who at the time the claim arises is
88 an inmate of any detention center, jail, workhouse, penal farm,
89 penitentiary or other such institution, regardless of whether such
90 claimant is or is not an inmate of any detention center, jail,
91 workhouse, penal farm, penitentiary or other such institution when
92 the claim is filed;

93 (n) Arising out of any work performed by a person
94 convicted of a crime when the work is performed pursuant to any



95 sentence or order of any court or pursuant to laws of the State of
96 Mississippi authorizing or requiring such work;

97 (o) Under circumstances where liability has been or is
98 hereafter assumed by the United States, to the extent of such
99 assumption of liability, including, but not limited to, any claim
100 based on activities of the Mississippi National Guard when such
101 claim is cognizable under the National Guard Tort Claims Act of
102 the United States, 32 USCS 715 (32 USCS 715), or when such claim
103 accrues as a result of active federal service or state service at
104 the call of the Governor for quelling riots and civil
105 disturbances;

106 (p) Arising out of a plan or design for construction or
107 improvements to public property, including, but not limited to,
108 public buildings, highways, roads, streets, bridges, levees,
109 dikes, dams, impoundments, drainage channels, diversion channels,
110 harbors, ports, wharfs or docks, where such plan or design has
111 been approved in advance of the construction or improvement by the
112 legislative body or governing authority of a governmental entity
113 or by some other body or administrative agency, exercising
114 discretion by authority to give such approval, and where such plan
115 or design is in conformity with engineering or design standards in
116 effect at the time of preparation of the plan or design;

117 (q) Arising out of an injury caused solely by the
118 effect of weather conditions on the use of streets and highways;



119 (r) Arising out of the lack of adequate personnel or
120 facilities at a state hospital or state corrections facility if
121 reasonable use of available appropriations has been made to
122 provide such personnel or facilities;

123 (s) Arising out of loss, damage or destruction of
124 property of a patient or inmate of a state institution;

125 (t) Arising out of any loss of benefits or compensation
126 due under a program of public assistance or public welfare;

127 (u) Arising out of or resulting from riots, unlawful
128 assemblies, unlawful public demonstrations, mob violence or civil
129 disturbances;

130 (v) Arising out of an injury caused by a dangerous
131 condition on property of the governmental entity that was not
132 caused by the negligent or other wrongful conduct of an employee
133 of the governmental entity or of which the governmental entity did
134 not have notice, either actual or constructive, and adequate
135 opportunity to protect or warn against; provided, however, that a
136 governmental entity shall not be liable for the failure to warn of
137 a dangerous condition which is obvious to one exercising due care;

138 (w) Arising out of the absence, condition, malfunction
139 or removal by third parties of any sign, signal, warning device,
140 illumination device, guardrail or median barrier, unless the
141 absence, condition, malfunction or removal is not corrected by the
142 governmental entity responsible for its maintenance within a
143 reasonable time after actual or constructive notice;



(x) Arising out of the administration of corporal punishment or the taking of any action to maintain control and discipline of students, as defined in Section 37-11-57, by a teacher, assistant teacher, principal or assistant principal of a public school district in the state unless the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety; or

(y) Arising out of the construction, maintenance or operation of any highway, bridge or roadway project entered into by the Mississippi Transportation Commission or other governmental entity and a company under the provisions of Section 65-43-1 or 65-43-3, where the act or omission occurs during the term of any such contract.

(z) Arising out of any report of suspicious activity or behavior submitted to an authorized official in accordance with Section 2 of this act where the authorized official takes reasonable action in good faith to respond to such activity. For the purposes of this paragraph (z), "authorized official" and "report of suspicious activity or behavior" have the same meaning ascribed to those terms in Section 2 of this act.

(2) A governmental entity shall also not be liable for any claim where the governmental entity:

(a) Is inactive and dormant;

(b) Receives no revenue;



169 (c) Has no employees; and

170 (d) Owns no property.

171 (3) If a governmental entity exempt from liability by
172 subsection (2) becomes active, receives income, hires employees or
173 acquires any property, such governmental entity shall no longer be
174 exempt from liability as provided in subsection (2) and shall be
175 subject to the provisions of this chapter.

176 **SECTION 4.** This act shall take effect and be in force
177 from and after July 1, 2016.

