

## MISSISSIPPI LEGISLATURE

2017 Regular Session

To: Judiciary B

By: Representatives Monsour, Aguirre, Arnold, Baker, Bennett, Byrd, Carpenter, Chism, Currie, DeLano, Foster, Gipson, Hopkins, Mangold, Massengill, McLeod, Moore, Staples, Willis, Zuber, Scoggin, Mims, Miles, Hale, Bounds, Haney, Patterson, Stevenson, Boyd, Brown, Rogers (14th), Oliver, Powell

**House Bill 645*****(As Passed the House)***

AN ACT TO CREATE THE "BACK THE BADGE ACT OF 2017"; TO AMEND SECTION 97-3-19, MISSISSIPPI CODE OF 1972, TO INCLUDE EMERGENCY MEDICAL TECHNICIANS, FIRST RESPONDERS, UTILITY WORKERS AND MEMBERS OF THE MISSISSIPPI ARMY OR AIR NATIONAL GUARD IN THE SAME CAPITAL MURDER CATEGORY AS POLICE OFFICERS; TO DEFINE EMERGENCY MEDICAL TECHNICIANS AND FIRST RESPONDERS; TO AMEND SECTION 97-3-21, MISSISSIPPI CODE OF 1972, TO INCREASE THE PENALTY FOR FIRST-DEGREE MURDER AND CAPITAL MURDER UPON POLICE OFFICERS AND OTHER PEACE OFFICERS; TO AUTHORIZE AN ENHANCED PENALTY FOR CERTAIN-CRIMES OF VIOLENCE AGAINST PEACE OFFICERS, EMERGENCY MEDICAL TECHNICIANS AND FIRST RESPONDERS; AND FOR RELATED PURPOSES.

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

**SECTION 1.** This act shall be known and referred to as the "Back the Badge Act of 2017."

**SECTION 2.** Section 97-3-19, Mississippi Code of 1972, is amended as follows:

97-3-19. (1) The killing of a human being without the authority of law by any means or in any manner shall be murder in the following cases:

(a) When done with deliberate design to effect the death of the person killed, or of any human being, shall be first-degree murder;

(b) When done in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual, shall be second-degree murder;

(c) When done without any design to effect death by any person engaged in the commission of any felony other than rape, kidnapping,

burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child in violation of subsection (2) of Section 97-5-39, or in any attempt to commit such felonies, shall be first-degree murder;

(d) When done with deliberate design to effect the death of an unborn child, shall be first-degree murder.

(2) The killing of a human being without the authority of law by any means or in any manner shall be capital murder in the following cases:

(a) Murder which is perpetrated by killing an emergency medical technician, a first responder, a peace officer \* \* \*, a fireman or a utility worker while such \* \* \* person is acting in his or her official capacity or by reason of an act performed in his or her official capacity, and with knowledge that the victim was \* \* \* an emergency medical technician, a first responder, peace officer \* \* \*, a fireman or a utility worker. For purposes of this paragraph, the term "peace officer" means any state or federal law enforcement officer, including, but not limited to, a federal park ranger, a member of the Mississippi Army or Air National Guard, the sheriff of or police officer of a city or town, a conservation officer, a parole officer, a judge, senior status judge, special judge, district attorney, legal assistant to a district attorney, county prosecuting attorney or any other court official, an agent of the Alcoholic Beverage Control Division of the Department of Revenue, an agent of the Bureau of Narcotics, personnel of the Mississippi Highway Patrol, \* \* \* the employees of the Department of

Corrections who are designated as peace officers by the Commissioner of Corrections pursuant to Section 47-5-54, and the superintendent and his deputies, guards, officers and other employees of the Mississippi State Penitentiary. For purposes of this paragraph, the term "emergency medical technician" means a person licensed pursuant to Section 41-59-1 et seq., Mississippi Code of 1972, to provide emergency medical services as an emergency manager, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, or emergency medical technician-nurse-paramedic. For purposes of this paragraph, the term "first responders" means state and local law enforcement personnel, fire department personnel, emergency medical personnel, emergency management personnel and public works personnel who may be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters and emergencies. "Utility worker" shall mean any person employed by, provides service on behalf of, or is otherwise contracted by a public utility as the term "public utility" is defined in Section 77-3-3, and such term shall also include any municipal, county or state owned utility, and any public agency, association, utility or utility district;

- (b) Murder which is perpetrated by a person who is under sentence of life imprisonment;
- (c) Murder which is perpetrated by use or detonation of a bomb or explosive device;
- (d) Murder which is perpetrated by any person who has been offered or has received anything of value for committing the murder, and all parties to such a murder, are guilty as principals;
- (e) When done with or without any design to effect death, by

any person engaged in the commission of the crime of rape, burglary, kidnapping, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, or in any attempt to commit such felonies;

(f) When done with or without any design to effect death, by any person engaged in the commission of the crime of felonious abuse and/or battery of a child in violation of subsection (2) of Section 97-5-39, or in any attempt to commit such felony;

(g) Murder which is perpetrated on educational property as defined in Section 97-37-17;

(h) Murder which is perpetrated by the killing of any elected official of a county, municipal, state or federal government with knowledge that the victim was such public official;

(i) Murder of three (3) or more persons who are killed incident to one (1) act, scheme, course of conduct or criminal episode \* \* \*; and

(j) Murder of more than three (3) persons within a three-year period.

(3) An indictment for murder or capital murder shall serve as notice to the defendant that the indictment may include any and all lesser included offenses thereof, including, but not limited to, manslaughter.

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

97-3-21. (1) \* \* \* (a) Except as otherwise provided in paragraph (b) of this subsection, every person who shall be convicted of first-

degree murder shall be sentenced by the court to imprisonment for life in the custody of the Department of Corrections.

(b) Every person who shall be convicted of first-degree murder of any person described in Section 97-3-19(2)(a) or 97-3-19(2)(h) shall be sentenced by the court to imprisonment for life in the State Penitentiary without parole.

(2) Every person who shall be convicted of second-degree murder shall be imprisoned for life in the custody of the Department of Corrections if the punishment is so fixed by the jury in its verdict after a separate sentencing proceeding. If the jury fails to agree on fixing the penalty at imprisonment for life, the court shall fix the penalty at not less than twenty (20) nor more than forty (40) years in the custody of the Department of Corrections.

(3) (a) \* \* \* Except as otherwise provided in paragraph (b) of this subsection, every person who shall be convicted of capital murder shall be sentenced (a) to death; (b) to imprisonment for life in the State Penitentiary without parole; or (c) to imprisonment for life in the State Penitentiary with eligibility for parole as provided in Section 47-7-3(1)(f) .

(b) Every person who shall be convicted of capital murder of any person described in Section 97-3-19(2)(a) or 97-3-19(2)(h) shall be sentenced (a) to death or (b) to imprisonment for life in the State Penitentiary without parole.

**SECTION 4.** Except any person convicted and sentenced for murder or capital murder as provided in Sections 97-3-19 and 97-3-21, every person convicted of a crime of violence as defined by Section 97-3-2 upon a

peace officer, emergency medical technician or first responder while such person is acting in his or her official capacity or by reason of an act performed in his or her official capacity, shall, upon conviction for such crime, be punished by a term of imprisonment of up to three (3) times that authorized by law for the violation, or a fine of up to three (3) times that authorized by law for the violation, or both. For purposes of this section, the term "peace officer" means peace officer or fireman while such officer or fireman is acting in his official capacity or by reason of an act performed in his official capacity, and with knowledge that the victim was a peace officer or fireman, any state or federal law enforcement officer, including, but not limited to, a federal park ranger, the sheriff of or police officer of a city or town, a conservation officer, a parole officer, a judge, senior status judge, special judge, district attorney, legal assistant to a district attorney, county prosecuting attorney or any other court official, an agent of the Alcoholic Beverage Control Division of the Department of Revenue, an agent of the Bureau of Narcotics, personnel of the Mississippi Highway Patrol, and the employees of the Department of Corrections who are designated as peace officers by the Commissioner of Corrections pursuant to Section 47-5-54, and the superintendent and his deputies, guards, officers and other employees of the Mississippi State Penitentiary. For purposes of this section, the term "emergency medical technician" means a person licensed pursuant to Section 41-59-1 et seq., Mississippi Code of 1972, to provide emergency medical services as an emergency manager, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, or emergency

medical technician-nurse-paramedic. For purposes of this section, the term "first responder" means state and local law enforcement personnel, fire department personnel, emergency medical personnel, emergency management personnel and public works personnel who may be deployed to bioterrorism attacks, terrorist attacks, catastrophic or natural disasters and emergencies.

**SECTION 5.** This act shall take effect and be in force from and after July 1, 2017.

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