

By: Senator(s) Wiggins, Boyd

To: Judiciary, Division B

SENATE BILL NO. 2459
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-44-1, MISSISSIPPI CODE OF 1972, TO
2 CHANGE THE SHORT TITLE OF THE MISSISSIPPI STREET GANG ACT TO "THE
3 MISSISSIPPI GANG ACT"; TO AMEND SECTION 97-44-3, MISSISSIPPI CODE
4 OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 97-44-5,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE PENALTIES FOR CRIMINAL GANG
6 ACTIVITY; TO CREATE NEW SECTION 97-44-101, MISSISSIPPI CODE OF
7 1972, TO PROVIDE A CIVIL CAUSE OF ACTION BASED ON GANG ACTIVITY;
8 TO CREATE NEW SECTION 97-44-103, MISSISSIPPI CODE OF 1972, TO
9 SPECIFY VENUE; TO CREATE NEW SECTION 97-44-105, MISSISSIPPI CODE
10 OF 1972, TO PROVIDE FOR SERVICE OF PROCESS; TO CREATE NEW SECTION
11 97-44-107, MISSISSIPPI CODE OF 1972, TO AUTHORIZE INJUNCTIVE
12 RELIEF; TO CREATE NEW SECTION 97-44-109, MISSISSIPPI CODE OF 1972,
13 TO PROVIDE FOR FORFEITURE OF REAL AND PERSONAL PROPERTY; TO CREATE
14 NEW SECTION 97-35-53, MISSISSIPPI CODE OF 1972, TO PROHIBIT
15 THREATS AGAINST A LAW ENFORCEMENT OFFICER OR JUDGE; TO PROVIDE
16 THAT OFFENDERS WHO ARE CONVICTED OF CONDUCTING OR PARTICIPATING IN
17 CRIMINAL GANG ACTIVITY SHALL NOT BE ELIGIBLE FOR PAROLE OR ANY
18 EARLY RELEASE PROGRAM OF THE MISSISSIPPI DEPARTMENT OF
19 CORRECTIONS; TO AMEND SECTIONS 97-3-2, 47-5-138.1, 47-5-139 AND
20 47-5-142, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTIONS
21 13-7-5 AND 13-7-7, MISSISSIPPI CODE OF 1972, TO REVISE THE
22 PROVISIONS OF LAW APPLICABLE TO GRAND JURY PROCEEDINGS; TO REPEAL
23 SECTIONS 97-44-9, 97-44-11, 97-44-13, 97-44-15, 97-44-17 AND
24 97-44-19, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTED VARIOUS
25 PROVISIONS IN THE STREET GANG ACT THAT ARE ELIMINATED OR SUBSUMED
26 UNDER THIS ACT; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 97-44-1, Mississippi Code of 1972, is
29 amended as follows:



97-44-1. This chapter shall be known as the
"Mississippi * * * Gang Act."

SECTION 2. Section 97-44-3, Mississippi Code of 1972, is
amended as follows:

97-44-3. For the purposes of this chapter, the following
words and phrases shall have the meanings ascribed herein, unless
the context clearly requires otherwise:

(a) * * * "Gang" * * * means any combination,
confederation, alliance, network, conspiracy, understanding, or
other similar conjoining, in law or in fact, of three (3) or more
persons with an established hierarchy that * * *:

(i) Has as one of its primary purposes the
commission of one or more criminal offenses that constitute
criminal gang activity; and

(ii) Through its membership or through the agency
of any member, engages in * * * criminal gang activity.

* * *

(b) "Public authority" means the state and political
subdivisions as defined in Section 11-46-1 * * *.

(c) * * * "Gang member" means any person who actually
and in fact belongs to a gang, and any person who knowingly acts
in the capacity of an agent for or accessory to, or is legally
accountable for, or voluntarily associates himself with * * *
criminal gang activity, whether in a preparatory, executory or



cover-up phase of any criminal gang activity, or who knowingly performs, aids or abets any such criminal gang activity.

(d) * * * "Criminal gang activity" means * * * the commission, attempted commission, conspiracy to commit, or solicitation, coercion, encouragement or intimidation of another person to commit an act or acts that would constitute a criminal offense under the law of this state, the United States or another state in furtherance of the gang's purpose with intent:

(i) To * * * obtain or earn membership in a gang or maintain or increase the gang member's status or position in a gang;

(* * *ii) * * * To acquire, maintain or possess, directly or indirectly, proceeds derived from the activity or any interest in or control of any real or personal property of any nature, including money;

(* * *iii) * * * To communicate, directly or indirectly, to another a threat of injury or damage to the person or property of the other person or of any associate or relative of the other person with the intent to:

1. Punish or retaliate against the person for providing statements to law enforcement or testimony against a gang or gang member or associate on behalf of a government agency;

2. Intimidate, deter, or prevent the person from communicating to any law enforcement or corrections officer, prosecuting attorney, or judge information relating to a gang,



gang member or associate of a gang member, or criminal gang activity;

3. Deter the person from assisting a member or associate of a gang to withdraw from such gang;

4. Punish or retaliate against the person for refusing to become or obtain the status of a member or associate of a gang or encouraging another to so refuse;

(* * *iv) * * * To cause, encourage, solicit, recruit or coerce another to become a member or associate of a gang or to commit a crime to become a member or associate of a gang;

(v) To hide proceeds or evidence of criminal gang activity, or encourage, influence, solicit or coerce another to hide proceeds or evidence of criminal gang activity; or

(vi) To commit any felony or misdemeanor while an inmate in a prison facility or employed as a corrections officer for purpose of criminal gang activity.

(e) "Underlying offense" means the act or acts that constitute a felony offense and form the basis of criminal gang activity.

SECTION 3. Section 97-44-5, Mississippi Code of 1972, is amended as follows:

97-44-5. (1) * * * It is unlawful for any person who is eighteen (18) years of age or older to conduct or participate in criminal gang activity.



104 (2) * * * A crime committed in violation of this chapter is
105 considered a separate offense from any other underlying offense.

106 (3) * * * If a person is convicted of criminal gang
107 activity, the person shall be punished by imprisonment for not
108 less than three (3) years nor more than fifteen (15) years or by a
109 fine of not less than Ten Thousand Dollars (\$10,000.00) nor more
110 than Fifteen Thousand Dollars (\$15,000.00), or both.

111 (4) In addition to any other penalty provided by this
112 section, all sentences imposed under this section shall require as
113 a special condition of the sentence that the person sentenced
114 shall not knowingly have contact of any kind or character with any
115 other member or associate of a gang, shall not participate in any
116 criminal gang activity, and, in cases involving a victim, shall
117 not knowingly have contact of any kind or character with any
118 victim or any member of a victim's family or household.

119 **SECTION 4.** The following shall be codified as Section
120 97-44-101, Mississippi Code of 1972:

121 97-44-101. (1) (a) There is a civil cause of action in
122 favor of:

123 (i) Any public authority expending money,
124 allocating or reallocating police, firefighting, emergency or
125 other personnel or resources, or otherwise incurring any loss,
126 deprivation or injury, or sustaining any damage, impairment or
127 harm whatsoever, proximately caused by criminal gang activity; and



(ii) An individual who suffers an injury proximately caused by criminal gang activity.

(b) The cause of action created by this article lies against:

(i) Any gang in whose name, for whose benefit, on whose behalf or under whose direction the act was committed; and

(ii) Any gang officer or director who causes, orders, suggests, authorizes, consents to, agrees to, requests, acquiesces in or ratifies any such act;

(iii) Any gang member who, in the furtherance of or in connection with, any gang-related activity, commits any such act; and

(iv) Any gang officer, director, leader or member.

(c) The cause of action authorized by paragraph (a)(i) of this subsection shall be brought by the Attorney General, a district attorney or attorneys, or a county attorney or attorneys. This cause of action shall be in addition to any other civil or criminal proceeding authorized by the laws of this state or by federal law, and shall not be construed as requiring the prosecutor to elect a civil, rather than criminal, remedy, or as replacing any other cause of action. Liability of the gang, its officers, directors, leaders and members shall be joint and several subject only to the apportionment and allocation of punitive damages authorized under Section 97-44-107.



152 (2) (a) An action may be commenced under this article by
153 the filing of a complaint as in civil cases.

154 (b) A complaint filed under this article, and all other
155 ancillary or collateral matters arising therefrom, including
156 matters relating to discovery, motions, trial, and the perfection
157 or execution of judgments, are subject to the Rules of Civil
158 Procedure except as may be otherwise provided in this article, or
159 except as the court may otherwise order upon motion of the
160 prosecutor in matters relating to immunity or the physical safety
161 of witnesses.

162 (c) A complaint filed under subsection (1)(a)(i) of
163 this section must name the Attorney General or his designee, if a
164 complainant, each complaining district attorney or his designee,
165 each complaining county attorney, and the public authority or
166 authorities so represented.

167 (d) A complaint must name as defendants the gang, all
168 known gang officers, and any gang members specifically identified
169 or alleged in the complaint as having participated in a
170 gang-related criminal activity. The complaint may also name, as a
171 class of defendants, all unknown gang members.

172 (e) When, at any point before trial, other specific
173 gang officers or members become known, the complaint may be
174 amended to include any such person as a named defendant
175 proximately caused by criminal gang activity.



176 **SECTION 5.** The following shall be codified as Section
177 97-44-103, Mississippi Code of 1972:

178 97-44-103. (1) In an action brought under this article,
179 venue is proper in any county where the underlying offense alleged
180 to constitute criminal gang activity was committed, completed or
181 begun.

182 (2) It is not necessary for all offenses necessary to
183 establish criminal activity to have occurred in any one (1) county
184 if the district attorneys or county attorneys of several counties,
185 each complaining of an offense, elect to join in a complaint; it
186 shall be sufficient that the complaint, taken as a whole, alleges
187 a gang-related criminal activity, and each count of a joint
188 complaint shall be considered as cumulative to other counts for
189 purposes of alleging or demonstrating criminal gang activity.

190 (3) Where an activity is alleged to have been committed or
191 to have occurred in more than one (1) county, the district
192 attorney or county attorney of each county may join their several
193 causes of action in a single complaint, which may be filed in any
194 county agreed to by or among them, but no such joinder shall be
195 had without the consent of the district attorney or county
196 attorney having jurisdiction over each offense alleged as part of
197 the activity.

198 **SECTION 6.** The following shall be codified as Section
199 97-44-105, Mississippi Code of 1972:



200 97-44-105. (1) A person engaged in criminal gang activity
201 within this state impliedly consent to service of process upon
202 them as set forth in this section, or as may be otherwise
203 authorized by the Rules of Civil Procedure.

204 (2) Service of process upon a gang may be had in accordance
205 with the Mississippi Rules of Civil Procedure upon any of the
206 following persons:

207 (a) The director of any agency or department of this
208 state who is the legal guardian, guardianship administrator or
209 custodian of any person sued under this article;

210 (b) The probation or parole officer of any person sued
211 under this article;

212 (c) Such other person or agent as the court, upon
213 petition of the district attorney or his designee or the county
214 attorney, may authorize as appropriate and reasonable under all of
215 the circumstances;

216 (d) Any gang officer;

217 (e) Any individual member of the gang simultaneously
218 named therein;

219 (f) In the manner provided for service by publication
220 in a civil action under the Mississippi Rules of Procedure; or

221 (g) With any parent, legal guardian or legal custodian
222 of any person charged with a criminal gang activity if the person
223 being sued civilly under this article is under seventeen (17)



years of age, and is also charged criminally or as a delinquent minor.

(3) If a gang does not appear in court after being summoned as described in this chapter, the court shall enter an answer for the gang neither affirming nor denying the allegations of the complaint but demanding strict proof thereof, and proceed to trial and judgment without further process.

(4) When a person is named as a defendant gang member in any complaint, or subsequently becomes known and is added or joined as a named defendant, service of process may be had as authorized or provided for in the Rules of Civil Procedure for service of process in a civil case.

SECTION 7. The following shall be codified as Section 97-44-107, Mississippi Code of 1972:

97-44-107. (1) In an action brought under Section 97-44-101(1)(a)(i), upon the verified application of the district attorney or the county attorney, the circuit court may at any time enter restraining orders, injunctions or other prohibitions, or order such other relief as it deems proper, including, but not limited to, ordering any person to divest himself of any involvement or interest, direct or indirect, in any criminal gang activity and imposing other reasonable restrictions on the future illegal activities of any defendant.

(2) A final judgment in favor of a public authority or individual under this article shall entitle the entity or person



to recover compensatory damages for all damages, losses, impairments or other harm proximately caused, together with the costs of the suit and reasonable attorney's fees. Punitive damages may be assessed against any gang, gang officer or member found guilty of actual participation in, or to be legally accountable for, a criminal gang activity under this article. One hundred percent (100%) of punitive damages awarded to a public authority will be expended by the public authority to implement preventive programs for juveniles or to fund existing programs.

(3) The injunctive relief authorized by this section shall not be issued in the form of a temporary restraining order.

SECTION 8. The following shall be codified as Section 97-44-109, Mississippi Code of 1972:

97-44-109. (1) Every private building or place used by members of a gang for the commission of illegal activity is a nuisance and may be the subject of an injunction or cause of action for damages or for abatement of the nuisance as provided in this article.

(2) Any person may file a petition for injunctive relief with the appropriate court seeking eviction from or closure of any premises used for commission of illegal activity by a gang. Upon clear and convincing proof by the plaintiff that the premises are being used by members of a gang for the commission of illegal activity, the court may order the owner of record or the lessee of the premises to remove or evict the persons from the premises and



order the premises sealed, prohibit further use of the premises, or enter such order as may be necessary to prohibit the premises from being used for the commission of illegal activity by a gang and to abate the nuisance.

(3) An action for injunction, damages, abatement, or other relief filed under this section shall proceed according to the provisions of the Rules of Civil Procedure.

(4) The court shall not issue an injunction or assess a civil penalty against any owner of record or the lessee of the private building or place unless there is a showing by clear and convincing proof that the person knew or should have known or had been notified of the use of the premises by a gang for illegal activity. Injunctive relief other than that specifically authorized in subsection (6) of this section is limited to that which is necessary to protect the health and safety of the residents or the public or to prevent further illegal activity.

(5) A petition for injunction shall not be filed until thirty (30) days after notice of the unlawful use or criminal conduct has been provided to the owner of record or the lessee, by mail, return receipt requested, postage prepaid, to the owner's last-known address, or by personal service. If the premises are abandoned or closed, or if the whereabouts of the owner of record or lessee is unknown, all notices, process, pleadings and orders required to be delivered or served under this section may be attached to a door of the premises and mailed, return receipt



299 requested, to the most recent address on file in the office of the
300 tax collector of the county where the property is located, and
301 this shall have the same effect as personal service on the owner
302 of record or lessee.

303 (6) If the court has previously issued injunctive relief
304 ordering the owner of record or the lessee of the premises to
305 close the premises or otherwise to keep the premises from being
306 used for the commission by a gang of illegal activity, the court,
307 upon proof of failure to comply with the terms of the injunction
308 and that the premises continue to be used by a gang for the
309 commission of illegal activity, may do one or more of the
310 following:

311 (a) Order the premises demolished and cleared at the
312 cost of the owner.

313 (b) Order the premises sold at public auction and the
314 proceeds from the sale, minus the costs of the sale and the
315 expenses of bringing the action, delivered to the owner.

316 (c) Order the defendant to pay damages to persons or
317 local governing authorities who have been damaged or injured or
318 have incurred expense as a result of the defendant's failure to
319 take reasonable steps or precautions to comply with the terms of
320 any injunction issued under the provisions of this article.

321 (d) Assess a civil penalty not to exceed Five Thousand
322 Dollars (\$5,000.00) against the defendant based upon the severity
323 of the nuisance and its duration. In establishing the amount of a



civil penalty, the court shall consider all of the following factors:

(i) The actions taken by the defendant to mitigate or correct the problem at the private building or place or the reasons why no such action was taken.

(ii) Any failure of the plaintiff to provide notice as required by subsection (5) of this section.

(iii) Any other factor deemed by the court to be relevant.

(7) A nonprofit, fraternal or charitable organization or governmental entity that is conducting its affairs with ordinary care or skill shall not be enjoined under the provisions of this article.

(8) Nothing in this article precludes an aggrieved person from seeking any other remedy provided by law.

SECTION 9. The following shall be codified as Section 97-35-53, Mississippi Code of 1972:

97-35-53. It is unlawful for any person to threaten to assault, kidnap or murder a judge or law enforcement officer or a member of the judge's or law enforcement officer's immediate family by any means, including social media, with intent to impede, intimidate, or interfere with the judge or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against the judge or law enforcement officer on account of the performance of official duties.



Violation of this section is a misdemeanor punishable by imprisonment for not more than one (1) year, a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

SECTION 10. Section 97-3-2, Mississippi Code of 1972, is amended as follows:

97-3-2. (1) The following shall be classified as crimes of violence:

(a) Driving under the influence as provided in Sections 63-11-30(5) and 63-11-30(12)(d);

(b) Murder and attempted murder as provided in Sections 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

(c) Aggravated assault as provided in Sections 97-3-7(2)(a) and (b) and 97-3-7(4)(a);

(d) Manslaughter as provided in Sections 97-3-27, 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43, 97-3-45 and 97-3-47;

(e) Killing of an unborn child as provided in Sections 97-3-37(2)(a) and 97-3-37(2)(b);

(f) Kidnapping as provided in Section 97-3-53;

(g) Human trafficking as provided in Section 97-3-54.1;

(h) Poisoning as provided in Section 97-3-61;

(i) Rape as provided in Sections 97-3-65 and 97-3-71;

(j) Robbery as provided in Sections 97-3-73 and 97-3-79;

(k) Sexual battery as provided in Section 97-3-95;



(l) Drive-by shooting or bombing as provided in Section 97-3-109;

(m) Carjacking as provided in Section 97-3-117;

(n) Felonious neglect, abuse or battery of a child as provided in Section 97-5-39;

(o) Burglary of a dwelling as provided in Sections 97-17-23 and 97-17-37;

(p) Use of explosives or weapons of mass destruction as provided in Section 97-37-25;

(q) Statutory rape as provided in Section 97-3-65(1), but this classification is rebuttable on hearing by a judge;

(r) Exploitation of a child as provided in Section 97-5-33;

(s) Gratification of lust as provided in Section 97-5-23; * * *

(t) Shooting into a dwelling as provided in Section 97-37-29 * * *; and

(u) Criminal gang activity as provided in Section 97-44-5.

(2) In any felony offense with a maximum sentence of no less than five (5) years, upon conviction, the judge may find and place in the sentencing order, on the record in open court, that the offense, while not listed in subsection (1) of this section, shall be classified as a crime of violence if the facts show that the defendant used physical force, or made a credible attempt or



threat of physical force against another person as part of the criminal act. No person convicted of a crime of violence listed in this section is eligible for parole or for early release from the custody of the Department of Corrections until the person has served at least fifty percent (50%) of the sentence imposed by the court.

SECTION 11. Section 47-5-138.1, Mississippi Code of 1972, is amended as follows:

47-5-138.1. (1) In addition to any other administrative reduction of sentence, an offender in trusty status as defined by the classification board of the Department of Corrections may be awarded a trusty-time allowance of thirty (30) days' reduction of sentence for each thirty (30) days of participation during any calendar month in an approved program while in trusty status, including satisfactory participation in education or instructional programs, satisfactory participation in work projects and satisfactory participation in any special incentive program.

(2) An offender in trusty status shall not be eligible for a reduction of sentence under this section if:

- (a) The offender was sentenced to life imprisonment;
- (b) The offender was convicted as an habitual offender under Sections 99-19-81 through 99-19-87;
- (c) The offender was convicted of a sex crime;
- (d) The offender has not served the mandatory time required for parole eligibility, as prescribed under Section



424 47-7-3, for a conviction of robbery or attempted robbery through
425 the display of a deadly weapon, carjacking through the display of
426 a deadly weapon or a drive-by shooting; * * *

427 (e) The offender was convicted of trafficking in
428 controlled substances under Section 41-29-139 * * *; or

429 (f) The offender was convicted of conducting or
430 participating in criminal gang activity under Section 97-44-5.

431 **SECTION 12.** Section 47-5-139, Mississippi Code of 1972, is
432 amended as follows:

433 47-5-139. (1) An inmate shall not be eligible for the
434 earned-time allowance if:

435 (a) The inmate was sentenced to life imprisonment; but
436 an inmate, except an inmate sentenced to life imprisonment for
437 capital murder, who has reached the age of sixty-five (65) or
438 older and who has served at least fifteen (15) years may petition
439 the sentencing court for conditional release;

440 (b) The inmate was convicted as a habitual offender
441 under Sections 99-19-81 through 99-19-87;

442 (c) The inmate has forfeited his earned time allowance
443 by order of the commissioner;

444 (d) The inmate was convicted of a sex crime; * * *

445 (e) The inmate has not served the mandatory time
446 required for parole eligibility for a conviction of robbery or
447 attempted robbery with a deadly weapon * * *; or



448 (f) The inmate was convicted of conducting or
449 participating in criminal gang activity under Section 97-44-5.

450 (2) An offender under two (2) or more consecutive sentences
451 shall be allowed commutation based upon the total term of the
452 sentences.

453 (3) All earned time shall be forfeited by the inmate in the
454 event of escape and/or aiding and abetting an escape. The
455 commissioner may restore all or part of the earned time if the
456 escapee returns to the institution voluntarily, without expense to
457 the state, and without act of violence while a fugitive from the
458 facility.

459 (4) Any officer or employee who shall willfully violate the
460 provisions of this section and be convicted therefor shall be
461 removed from office or employment.

462 **SECTION 13.** Section 47-5-142, Mississippi Code of 1972, is
463 amended as follows:

464 47-5-142. (1) In order to provide incentive for offenders
465 to achieve positive and worthwhile accomplishments for their
466 personal benefit or the benefit of others, and in addition to any
467 other administrative reductions of the length of an offender's
468 sentence, any offender shall be eligible, subject to the
469 provisions of this section, to receive meritorious earned time as
470 distinguished from earned time for good conduct and performance.

471 (2) Subject to approval by the commissioner of the terms and
472 conditions of the program or project, meritorious earned time may



be awarded for the following: (a) successful completion of educational or instructional programs; (b) satisfactory participation in work projects; and (c) satisfactory participation in any special incentive program.

(3) The programs and activities through which meritorious earned time may be received shall be published in writing and posted in conspicuous places at all facilities of the department and such publication shall be made available to all offenders in the custody of the department.

(4) The commissioner shall make a determination of the number of days of reduction of sentence which may be awarded an offender as meritorious earned time for participation in approved programs or projects; the number of days shall be determined by the commissioner on the basis of each particular program or project.

(5) * * * An offender shall not be awarded any meritorious earned time:

(a) While assigned to the maximum security facilities for disciplinary purposes * * * ; or

(b) If the offender was convicted of conducting or participating in criminal gang activity under Section 97-44-5.

(6) All meritorious earned time shall be forfeited by the offender in the event of escape and/or aiding and abetting an escape.



497 (7) Any officer or employee of the department who shall
498 willfully violate the provisions of this section and be convicted
499 therefor shall be removed from office or employment.

500 (8) An offender may forfeit all or any part of his
501 meritorious earned-time allowance for just cause upon the written
502 order of the commissioner, or his designee. Any meritorious
503 earned-time allowance forfeited under this section shall not be
504 restored nor shall it be re-earned by the offender.

505 **SECTION 14.** Section 13-7-5, Mississippi Code of 1972, is
506 amended as follows:

507 13-7-5. There is established a state grand jury system.
508 Each state grand jury shall consist of * * * up to twenty-five
509 (25) persons who may be impaneled and who may meet at any suitable
510 location within the state as designated by the * * * Attorney
511 General. Fifteen (15) members of a state grand jury constitute a
512 quorum and upon a vote of at least twelve (12) members, an
513 indictment shall issue.

514 **SECTION 15.** Section 13-7-7, Mississippi Code of 1972, is
515 amended as follows:

516 13-7-7. (1) The jurisdiction of a state grand jury
517 impaneled under this chapter extends throughout the state. The
518 subject matter jurisdiction of a state grand jury in all cases is
519 limited to offenses involving any and all conduct made unlawful by
520 the Mississippi Uniform Controlled Substances Law or any other
521 provision of law involving narcotics, dangerous drugs or



522 controlled substances, or any crime arising out of or in
523 connection with a crime involving narcotics, dangerous drugs or
524 controlled substances, and crimes involving any attempt, aiding,
525 abetting, solicitation or conspiracy to commit any of the
526 aforementioned crimes if the crimes occur within more than one (1)
527 circuit court district or have transpired or are transpiring or
528 have significance in more than one (1) circuit court district of
529 this state.

530 (2) Whenever the Attorney General considers it necessary,
531 and normal investigative or prosecutorial procedures are not
532 adequate, the Attorney General may petition in writing to the
533 senior circuit court judge of any circuit court district in this
534 state for an order impaneling a state grand jury. For the
535 purposes of this chapter, such judge shall be referred to as the
536 impaneling judge. The petition must allege the following:

537 (a) The type of offenses to be inquired into;

538 (b) That the state grand jury has jurisdiction to
539 consider such matters;

540 (c) That the offenses to be inquired into have occurred
541 within more than one (1) circuit court district or have transpired
542 or are transpiring or have significance in more than one (1)
543 circuit court district of this state;

544 (d) That the Attorney General has conferred with the
545 Commissioner of Public Safety and the Director of the Mississippi



Bureau of Narcotics and that each of such officials join in the petition; and

(e) That the Attorney General has conferred with the appropriate district attorney for each jurisdiction in which the crime or crimes are alleged to have occurred.

(3) The impaneling judge, after due consideration of the petition, may order the impanelment of a state grand jury in accordance with the petition for a term of twelve (12) calendar months. Upon petition by the Attorney General, the impaneling judge, by order, may extend the term of that state grand jury for a period of six (6) months, but the term of that state grand jury, including any extension thereof, shall not exceed two (2) years.

(4) The impaneling judge shall preside over the state grand jury until its discharge.

(5) The impaneling judge may discharge a state grand jury prior to the end of its original term or any extensions thereof, upon a determination that its business has been completed, or upon the request of the Attorney General.

(6) If, at any time within the original term of any state grand jury or any extension thereof, the impaneling judge determines that the state grand jury is not conducting investigative activity within its jurisdiction or proper investigative activity, the impaneling judge may limit the investigations so that the investigation conforms with the jurisdiction of the state grand jury and existing law or he may



571 discharge the state grand jury. An order issued pursuant to this
572 subsection or under subsection (5) of this section shall not
573 become effective less than ten (10) days after the date on which
574 it is issued and actual notice given to the Attorney General and
575 the foreman of the state grand jury, and may be appealed by the
576 Attorney General to the Supreme Court. If an appeal from the
577 order is made, the state grand jury, except as otherwise ordered
578 by the Supreme Court, shall continue to exercise its powers
579 pending disposition of the appeal.

580 (7) The Attorney General shall have the authority to issue
581 any subpoena for and on behalf of the state grand jury to assist
582 any investigation thereof, and the subpoena shall be returnable to
583 the circuit court in which the grand jury is sitting. The
584 impaneling judge shall have the power of attachment, enforcement
585 and contempt to ensure compliance with the subpoena.

586 **SECTION 16.** Section 97-44-9, Mississippi Code of 1972, which
587 provides venue for civil actions based on criminal gang activity,
588 is repealed.

589 **SECTION 17.** Section 97-44-11, Mississippi Code of 1972,
590 which provides service of process for civil actions based on
591 criminal gang activity, is repealed.

592 **SECTION 18.** Section 97-44-13, Mississippi Code of 1972,
593 which provides punitive damages for civil actions based on
594 criminal gang activity, is repealed.



595 **SECTION 19.** Section 97-44-15, Mississippi Code of 1972,
596 which provides for forfeiture of real property in civil actions
597 based on criminal gang activity, is repealed.

598 **SECTION 20.** Section 97-44-17, Mississippi Code of 1972,
599 which provides for forfeiture of personal property in civil
600 actions based on criminal gang activity, is repealed.

601 **SECTION 21.** Section 97-44-19, Mississippi Code of 1972,
602 which provides penalties for criminal gang activity, is repealed.

603 **SECTION 22.** Sections 4 through 8 of this act shall be
604 codified as a separate article of Title 97, Chapter 44,
605 Mississippi Code of 1972, and Sections 97-44-1 through 97-44-19,
606 Mississippi Code of 1972, also shall be noted as a separate
607 article.

608 **SECTION 23.** This act shall take effect and be in force from
609 and after July 1, 2020.

