MISSISSIPPI LEGISLATURE

By: Representatives Gipson, Morgan, Mettetal, Beckett, Rogers (61st), Tullos, Oliver, Baker, Kinkade, Hale, Rushing, Formby, Chism, Miles, Bain, Mims, Criswell, Willis, Currie, Boyd, Bomgar, Hopkins, Weathersby, Moore, Shirley, Arnold, Staples, Monsour, Barnett, Crawford, Dixon, Ladner

REGULAR SESSION 2016

To: Judiciary B

HOUSE BILL NO. 786
(As Sent to Governor)

1 AN ACT TO CREATE THE "MISSISSIPPI CHURCH PROTECTION ACT"; TO
2 AMEND SECTION 45-9-101, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
3 AMEND SECTION 97-37-9, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 LIST OF DEFENSES FOR A PERSON INDICTED OR CHARGED FOR A VIOLATION
5 OF THE PROVISION OF LAW REGULATING THE USE OF FIREARMS; TO AMEND
6 SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT KILLING
7 A PERSON WHILE ACTING AS A PARTICIPANT OF A CHURCH OR PLACE OF
8 WORSHIP SECURITY TEAM IS JUSTIFIABLE HOMICIDE; TO PROHIBIT
9 ENFORCEMENT OF UNCONSTITUTIONAL FEDERAL RULES AND ORDERS; AND FOR
10 RELATED PURPOSES.

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

SECTION 1. (1) This section shall be known and may be cited
13 as the "Mississippi Church Protection Act."

(2) (a) The governing body of any church or place of
15 worship may establish a security program by which designated
16 members are authorized to carry firearms for the protection of the
17 congregation of the church or place of worship, including
18 resisting any unlawful attempt to commit a violent felony listed
19 in Section 97-3-2(1) upon a member or other attendee in the church
20 or place of worship or on the immediate premises thereof. A
21 church or place of worship may establish a security program that
22 meets the requirements of subsection (2)(b) of this section, and a
member of the security program shall be immune from civil
liability for any action taken by a member of the security program
if the action in question occurs during the reasonable exercise of
and within the course and scope of the member's official duties as
a member of the security program for the church or place of
worship. For purposes of this section, "church" or "place of
worship" means only a bona fide duly constituted religious
society, ecclesiastical body, or any congregation thereof.

(b) In order to be eligible for the immunity provided
in this section:

(i) The program at a minimum must require that
each participant of the program possesses a firearms permit issued
under Section 45-9-101 and has completed an instructional course
in the safe handling and use of firearms as described in Section
97-37-7. The program may also include one or more persons with
law enforcement or military background who may assist the church
or place of worship in training of the members of the program;

(ii) The names of the members designated by the
church or place of worship to serve in the security program must
be spread upon the minutes of the body or otherwise noted in
writing at the time of the member's designation if the body does
not maintain minutes, and this written record must be made
available to law enforcement upon request during the course of
investigation after an incident in which the member used a firearm
while acting as a member of the security program; and
(iii) The member of the program who is claiming
immunity under the provisions of this section must have met the
requirements of this paragraph (b).

(3) A person who is indicted or charged with a violation of
criminal law while acting as a member of a security program of a
church or place of worship may assert as a defense, in addition to
any other defense available, that at the time of the action in
question, the person was a member of a church body or place of
worship security program, was then actually engaged in the
performance of the person's duties as a member of the program, and
had met the requirements of this section at the time of the action
in question.

SECTION 2. Section 45-9-101, Mississippi Code of 1972, is
amended as follows:

45-9-101. (1) (a) Except as otherwise provided, the
Department of Public Safety is authorized to issue licenses to
carry stun guns, concealed pistols or revolvers to persons
qualified as provided in this section. Such licenses shall be
valid throughout the state for a period of five (5) years from the
date of issuance. Any person possessing a valid license issued
pursuant to this section may carry a stun gun, concealed pistol or
concealed revolver.

(b) The licensee must carry the license, together with
valid identification, at all times in which the licensee is
carrying a stun gun, concealed pistol or revolver and must display
both the license and proper identification upon demand by a law
enforcement officer. A violation of the provisions of this
paragraph (b) shall constitute a noncriminal violation with a
penalty of Twenty-five Dollars ($25.00) and shall be enforceable
by summons.

(2) The Department of Public Safety shall issue a license if
the applicant:

(a) Is a resident of the state ***. However, this
residency requirement may be waived if the applicant possesses a
valid permit from another state, is active military personnel
stationed in Mississippi, or is a retired law enforcement officer
establishing residency in the state;

(b) (i) Is twenty-one (21) years of age or older; or
(ii) Is at least eighteen (18) years of age but
not yet twenty-one (21) years of age and the applicant:

1. Is a member or veteran of the United
States Armed Forces, including National Guard or Reserve; and

2. Holds a valid Mississippi driver's license
or identification card issued by the Department of Public Safety;

(c) Does not suffer from a physical infirmity which
prevents the safe handling of a stun gun, pistol or revolver;

(d) Is not ineligible to possess a firearm by virtue of
having been convicted of a felony in a court of this state, of any
other state, or of the United States without having been pardoned
for same;
(e) Does not chronically or habitually abuse controlled substances to the extent that his normal faculties are impaired.

It shall be presumed that an applicant chronically and habitually uses controlled substances to the extent that his faculties are impaired if the applicant has been voluntarily or involuntarily committed to a treatment facility for the abuse of a controlled substance or been found guilty of a crime under the provisions of the Uniform Controlled Substances Law or similar laws of any other state or the United States relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;

(f) Does not chronically and habitually use alcoholic beverages to the extent that his normal faculties are impaired.

It shall be presumed that an applicant chronically and habitually uses alcoholic beverages to the extent that his normal faculties are impaired if the applicant has been voluntarily or involuntarily committed as an alcoholic to a treatment facility or has been convicted of two (2) or more offenses related to the use of alcohol under the laws of this state or similar laws of any other state or the United States within the three-year period immediately preceding the date on which the application is submitted;

(g) Desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself;
122 (h) Has not been adjudicated mentally incompetent, or
123 has waited five (5) years from the date of his restoration to
124 capacity by court order;
125 (i) Has not been voluntarily or involuntarily committed
126 to a mental institution or mental health treatment facility unless
127 he possesses a certificate from a psychiatrist licensed in this
128 state that he has not suffered from disability for a period of
129 five (5) years;
130 (j) Has not had adjudication of guilt withheld or
131 imposition of sentence suspended on any felony unless three (3)
132 years have elapsed since probation or any other conditions set by
133 the court have been fulfilled;
134 (k) Is not a fugitive from justice; and
135 (l) Is not disqualified to possess a weapon based on
136 federal law.
137 (3) The Department of Public Safety may deny a license if
138 the applicant has been found guilty of one or more crimes of
139 violence constituting a misdemeanor unless three (3) years have
140 elapsed since probation or any other conditions set by the court
141 have been fulfilled or expunction has occurred prior to the date
142 on which the application is submitted, or may revoke a license if
143 the licensee has been found guilty of one or more crimes of
144 violence within the preceding three (3) years. The department
145 shall, upon notification by a law enforcement agency or a court
146 and subsequent written verification, suspend a license or the
processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime which would disqualify such person from having a license under this section, until final disposition of the case. The provisions of subsection (7) of this section shall apply to any suspension or revocation of a license pursuant to the provisions of this section.

(4) The application shall be completed, under oath, on a form promulgated by the Department of Public Safety and shall include only:

(a) The name, address, place and date of birth, race, sex and occupation of the applicant;
(b) The driver's license number or social security number of applicant;
(c) Any previous address of the applicant for the two (2) years preceding the date of the application;
(d) A statement that the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;
(e) A statement that the applicant has been furnished a copy of this section and is knowledgeable of its provisions;
(f) A conspicuous warning that the application is executed under oath and that a knowingly false answer to any question, or the knowing submission of any false document by the applicant, subjects the applicant to criminal prosecution; and
(g) A statement that the applicant desires a legal means to carry a stun gun, concealed pistol or revolver to defend himself.

(5) The applicant shall submit only the following to the Department of Public Safety:

(a) A completed application as described in subsection (4) of this section;

(b) A full-face photograph of the applicant taken within the preceding thirty (30) days in which the head, including hair, in a size as determined by the Department of Public Safety, except that an applicant who is younger than twenty-one (21) years of age must submit a photograph in profile of the applicant;

(c) A nonrefundable license fee of Eighty Dollars ($80.00). Costs for processing the set of fingerprints as required in paragraph (d) of this subsection shall be borne by the applicant. Honorably retired law enforcement officers, disabled veterans and active duty members of the Armed Forces of the United States shall be exempt from the payment of the license fee;

(d) A full set of fingerprints of the applicant administered by the Department of Public Safety; and

(e) A waiver authorizing the Department of Public Safety access to any records concerning commitments of the applicant to any of the treatment facilities or institutions referred to in subsection (2) and permitting access to all the applicant's criminal records.
(6) (a) The Department of Public Safety, upon receipt of
the items listed in subsection (5) of this section, shall forward
the full set of fingerprints of the applicant to the appropriate
agencies for state and federal processing.
(b) The Department of Public Safety shall forward a
copy of the applicant's application to the sheriff of the
applicant's county of residence and, if applicable, the police
chief of the applicant's municipality of residence. The sheriff
of the applicant's county of residence and, if applicable, the
police chief of the applicant's municipality of residence may, at
his discretion, participate in the process by submitting a
voluntary report to the Department of Public Safety containing any
readily discoverable prior information that he feels may be
pertinent to the licensing of any applicant. The reporting shall
be made within thirty (30) days after the date he receives the
copy of the application. Upon receipt of a response from a
sheriff or police chief, such sheriff or police chief shall be
reimbursed at a rate set by the department.
(c) The Department of Public Safety shall, within
forty-five (45) days after the date of receipt of the items listed
in subsection (5) of this section:
    (i) Issue the license;
    (ii) Deny the application based solely on the
ground that the applicant fails to qualify under the criteria
listed in subsections (2) and (3) of this section. If the
Department of Public Safety denies the application, it shall notify the applicant in writing, stating the ground for denial, and the denial shall be subject to the appeal process set forth in subsection (7); or

    (iii) Notify the applicant that the department is unable to make a determination regarding the issuance or denial of a license within the forty-five-day period prescribed by this subsection, and provide an estimate of the amount of time the department will need to make the determination.

    (d) In the event a legible set of fingerprints, as determined by the Department of Public Safety and the Federal Bureau of Investigation, cannot be obtained after a minimum of two (2) attempts, the Department of Public Safety shall determine eligibility based upon a name check by the Mississippi Highway Safety Patrol and a Federal Bureau of Investigation name check conducted by the Mississippi Highway Safety Patrol at the request of the Department of Public Safety.

    (7) (a) If the Department of Public Safety denies the issuance of a license, or suspends or revokes a license, the party aggrieved may appeal such denial, suspension or revocation to the Commissioner of Public Safety, or his authorized agent, within thirty (30) days after the aggrieved party receives written notice of such denial, suspension or revocation. The Commissioner of Public Safety, or his duly authorized agent, shall rule upon such appeal within thirty (30) days after the appeal is filed and
failure to rule within this thirty-day period shall constitute sustaining such denial, suspension or revocation. Such review shall be conducted pursuant to such reasonable rules and regulations as the Commissioner of Public Safety may adopt.

(b) If the revocation, suspension or denial of issuance is sustained by the Commissioner of Public Safety, or his duly authorized agent pursuant to paragraph (a) of this subsection, the aggrieved party may file within ten (10) days after the rendition of such decision a petition in the circuit or county court of his residence for review of such decision. A hearing for review shall be held and shall proceed before the court without a jury upon the record made at the hearing before the Commissioner of Public Safety or his duly authorized agent. No such party shall be allowed to carry a stun gun, concealed pistol or revolver pursuant to the provisions of this section while any such appeal is pending.

(8) The Department of Public Safety shall maintain an automated listing of license holders and such information shall be available online, upon request, at all times, to all law enforcement agencies through the Mississippi Crime Information Center. However, the records of the department relating to applications for licenses to carry stun guns, concealed pistols or revolvers and records relating to license holders shall be exempt from the provisions of the Mississippi Public Records Act of 1983,
and shall be released only upon order of a court having proper
jurisdiction over a petition for release of the record or records.

   (9) Within thirty (30) days after the changing of a
permanent address, or within thirty (30) days after having a
license lost or destroyed, the licensee shall notify the
Department of Public Safety in writing of such change or loss.
Failure to notify the Department of Public Safety pursuant to the
provisions of this subsection shall constitute a noncriminal
violation with a penalty of Twenty-five Dollars ($25.00) and shall
be enforceable by a summons.

   (10) In the event that a stun gun, concealed pistol or
revolver license is lost or destroyed, the person to whom the
license was issued shall comply with the provisions of subsection
(9) of this section and may obtain a duplicate, or substitute
thereof, upon payment of Fifteen Dollars ($15.00) to the
Department of Public Safety, and furnishing a notarized statement
to the department that such license has been lost or destroyed.

   (11) A license issued under this section shall be revoked if
the licensee becomes ineligible under the criteria set forth in
subsection (2) of this section.

   (12) (a) No less than ninety (90) days prior to the
expiration date of the license, the Department of Public Safety
shall mail to each licensee a written notice of the expiration and
a renewal form prescribed by the department. The licensee must
renew his license on or before the expiration date by filing with
the department the renewal form, a notarized affidavit stating
that the licensee remains qualified pursuant to the criteria
specified in subsections (2) and (3) of this section, and a full
set of fingerprints administered by the Department of Public
Safety or the sheriff of the county of residence of the licensee.
The first renewal may be processed by mail and the subsequent
renewal must be made in person. Thereafter every other renewal
may be processed by mail to assure that the applicant must appear
in person every ten (10) years for the purpose of obtaining a new
photograph.

(i) Except as provided in this subsection, a
renewal fee of Forty Dollars ($40.00) shall also be submitted
along with costs for processing the fingerprints;

(ii) Honorably retired law enforcement officers,
disabled veterans and active duty members of the Armed Forces of
the United States shall be exempt from the renewal fee; and

(iii) The renewal fee for a Mississippi resident
aged sixty-five (65) years of age or older shall be Twenty Dollars
($20.00).

(b) The Department of Public Safety shall forward the
full set of fingerprints of the applicant to the appropriate
agencies for state and federal processing. The license shall be
renewed upon receipt of the completed renewal application and
appropriate payment of fees.
(c) A licensee who fails to file a renewal application on or before its expiration date must renew his license by paying a late fee of Fifteen Dollars ($15.00). No license shall be renewed six (6) months or more after its expiration date, and such license shall be deemed to be permanently expired. A person whose license has been permanently expired may reapply for licensure; however, an application for licensure and fees pursuant to subsection (5) of this section must be submitted, and a background investigation shall be conducted pursuant to the provisions of this section.

(13) No license issued pursuant to this section shall authorize any person to carry a stun gun, concealed pistol or revolver into any place of nuisance as defined in Section 95-3-1, Mississippi Code of 1972; any police, sheriff or highway patrol station; any detention facility, prison or jail; any courthouse; any courtroom, except that nothing in this section shall preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his courtroom; any polling place; any meeting place of the governing body of any governmental entity; any meeting of the Legislature or a committee thereof; any school, college or professional athletic event not related to firearms; any portion of an establishment, licensed to dispense alcoholic beverages for consumption on the premises, that is primarily devoted to dispensing alcoholic beverages; any portion of an establishment in which beer or light wine is consumed on the
premises, that is primarily devoted to such purpose; any
elementary or secondary school facility; any junior college,
community college, college or university facility unless for the
purpose of participating in any authorized firearms-related
activity; inside the passenger terminal of any airport, except
that no person shall be prohibited from carrying any legal firearm
into the terminal if the firearm is encased for shipment, for
purposes of checking such firearm as baggage to be lawfully
transported on any aircraft; any church or other place of worship,
except as provided in Section 1 of this act; or any place where
the carrying of firearms is prohibited by federal law. In
addition to the places enumerated in this subsection, the carrying
of a stun gun, concealed pistol or revolver may be disallowed in
any place in the discretion of the person or entity exercising
control over the physical location of such place by the placing of
a written notice clearly readable at a distance of not less than
ten (10) feet that the "carrying of a pistol or revolver is
prohibited." No license issued pursuant to this section shall
authorize the participants in a parade or demonstration for which
a permit is required to carry a stun gun, concealed pistol or
revolver.

(14) A law enforcement officer as defined in Section 45-6-3,
chiefs of police, sheriffs and persons licensed as professional
bondsmen pursuant to Chapter 39, Title 83, Mississippi Code of
1972, shall be exempt from the licensing requirements of this
section. The licensing requirements of this section do not apply to the carrying by any person of a stun gun, pistol or revolver, knife, or other deadly weapon that is not concealed as defined in Section 97-37-1.

(15) Any person who knowingly submits a false answer to any question on an application for a license issued pursuant to this section, or who knowingly submits a false document when applying for a license issued pursuant to this section, shall, upon conviction, be guilty of a misdemeanor and shall be punished as provided in Section 99-19-31, Mississippi Code of 1972.

(16) All fees collected by the Department of Public Safety pursuant to this section shall be deposited into a special fund hereby created in the State Treasury and shall be used for implementation and administration of this section. After the close of each fiscal year, the balance in this fund shall be certified to the Legislature and then may be used by the Department of Public Safety as directed by the Legislature.

(17) All funds received by a sheriff or police chief pursuant to the provisions of this section shall be deposited into the general fund of the county or municipality, as appropriate, and shall be budgeted to the sheriff's office or police department as appropriate.

(18) Nothing in this section shall be construed to require or allow the registration, documentation or providing of serial numbers with regard to any stun gun or firearm.
(19) Any person holding a valid unrevoked and unexpired license to carry stun guns, concealed pistols or revolvers issued in another state shall have such license recognized by this state to carry stun guns, concealed pistols or revolvers. The Department of Public Safety is authorized to enter into a reciprocal agreement with another state if that state requires a written agreement in order to recognize licenses to carry stun guns, concealed pistols or revolvers issued by this state.

(20) The provisions of this section shall be under the supervision of the Commissioner of Public Safety. The commissioner is authorized to promulgate reasonable rules and regulations to carry out the provisions of this section.

(21) For the purposes of this section, the term "stun gun" means a portable device or weapon from which an electric current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to incapacitate temporarily, injure, momentarily stun, knock out, cause mental disorientation or paralyze.

(22) (a) From and after January 1, 2016, the Commissioner of Public Safety shall promulgate rules and regulations which provide that licenses authorized by this section for honorably retired law enforcement officers and honorably retired correctional officers from the Mississippi Department of Corrections shall (i) include the words "retired law enforcement officer" on the front of the license, and (ii) that the license
itself have a red background to distinguish it from other licenses
issued under this section.

(b) An honorably retired law enforcement officer and
honorably retired correctional officer shall provide the following
information to receive the license described in this section: (i)
a letter, with the official letterhead of the agency or department
from which such officer is retiring, which explains that such
officer is honorably retired, and (ii) a letter with the official
letterhead of the agency or department, which explains that such
officer has completed a certified law enforcement training
academy.

(23) A disabled veteran who seeks to qualify for an
exemption under this section shall be required to provide, as
proof of service-connected disability, verification from the
United States Department of Veterans Affairs.

(24) * * * A license * * * under this section is not
required for a loaded or unloaded pistol or revolver to be carried
upon the person in a sheath, belt holster or shoulder holster or
in a purse, handbag, satchel, other similar bag or briefcase or
fully enclosed case if the person is not engaged in criminal
activity other than a misdemeanor traffic offense, is not
otherwise prohibited from possessing a pistol or revolver under
state or federal law, and is not in a location prohibited under
subsection (13) of this section.
SECTION 3. Section 97-37-9, Mississippi Code of 1972, is amended as follows:

97-37-9. Any person indicted or charged for a violation of Section 97-37-1 may show as a defense:

(a) That he was threatened, and had good and sufficient reason to apprehend a serious attack from any enemy, and that he did so apprehend; or

(b) That he was traveling and was not a tramp, or was setting out on a journey and was not a tramp; or

(c) That he was a law enforcement or peace officer in the discharge of his duties; or

(d) That he was at the time in the discharge of his duties as a mail carrier; or

(e) That he was at the time engaged in transporting valuables for an express company or bank; or

(f) That he was a member of the Armed Forces of the United States, National Guard, State Militia, Emergency Management Corps, guard or patrolman in a state or municipal institution while in the performance of his official duties; or

(g) That he was in lawful pursuit of a felon; or

(h) That he was lawfully engaged in legitimate sports; * * *

(i) That at the time he was a company guard, bank guard, watchman, or other person enumerated in Section 97-37-7, and was then actually engaged in the performance of his duties as
such, and then held a valid permit from the sheriff, the
commissioner of public safety, or a valid permit issued by the
Secretary of State prior to May 1, 1974, to carry the weapon; and
the burden of proving either of said defenses shall be on the
accused * * *

(j) That at the time he or she was a member of a church
or place of worship security program, and was then actually
engaged in the performance of his or her duties as such and met
the requirements of Section 1 of this act.

SECTION 4. Section 97-3-15, Mississippi Code of 1972, is
amended as follows:

97-3-15. (1) The killing of a human being by the act,
procurement or omission of another shall be justifiable in the
following cases:

(a) When committed by public officers, or those acting
by their aid and assistance, in obedience to any judgment of a
competent court;

(b) When necessarily committed by public officers, or
those acting by their command in their aid and assistance, in
overcoming actual resistance to the execution of some legal
process, or to the discharge of any other legal duty;

(c) When necessarily committed by public officers, or
those acting by their command in their aid and assistance, in
retaking any felon who has been rescued or has escaped;
(d) When necessarily committed by public officers, or those acting by their command in their aid and assistance, in arresting any felon fleeing from justice;

(e) When committed by any person in resisting any attempt unlawfully to kill such person or to commit any felony upon him, or upon or in any dwelling, in any occupied vehicle, in any place of business, in any place of employment or in the immediate premises thereof in which such person shall be;

(f) When committed in the lawful defense of one's own person or any other human being, where there shall be reasonable ground to apprehend a design to commit a felony or to do some great personal injury, and there shall be imminent danger of such design being accomplished;

(g) When necessarily committed in attempting by lawful ways and means to apprehend any person for any felony committed;

(h) When necessarily committed in lawfully suppressing any riot or in lawfully keeping and preserving the peace * * *

and

(i) When necessarily committed in the performance of duty as a member of a church or place of worship security program as described in Section 1 of this act.

(2) (a) As used in subsection (1)(c) and (d) of this section, the term "when necessarily committed" means that a public officer or a person acting by or at the officer's command, aid or assistance is authorized to use such force as necessary in
securing and detaining the felon offender, overcoming the
offender's resistance, preventing the offender's escape,
recapturing the offender if the offender escapes or in protecting
himself or others from bodily harm; but such officer or person
shall not be authorized to resort to deadly or dangerous means
when to do so would be unreasonable under the circumstances. The
public officer or person acting by or at the officer's command may
act upon a reasonable apprehension of the surrounding
circumstances; however, such officer or person shall not use
excessive force or force that is greater than reasonably necessary
in securing and detaining the offender, overcoming the offender's
resistance, preventing the offender's escape, recapturing the
offender if the offender escapes or in protecting himself or
others from bodily harm.

(b) As used in subsection (1)(c) and (d) of this
section the term "felon" shall include an offender who has been
convicted of a felony and shall also include an offender who is in
custody, or whose custody is being sought, on a charge or for an
offense which is punishable, upon conviction, by death or
confinement in the Penitentiary.

(c) As used in subsections (1)(e) and (3) of this
section, "dwelling" means a building or conveyance of any kind
that has a roof over it, whether the building or conveyance is
temporary or permanent, mobile or immobile, including a tent, that
is designed to be occupied by people lodging therein at night,
including any attached porch * * * .

(3) A person who uses defensive force shall be presumed to
have reasonably feared imminent death or great bodily harm, or the
commission of a felony upon him or another or upon his dwelling,
or against a vehicle which he was occupying, or against his
business or place of employment or the immediate premises of such
business or place of employment, if the person against whom the
defensive force was used, was in the process of unlawfully and
forcibly entering, or had unlawfully and forcibly entered, a
dwelling, occupied vehicle, business, place of employment or the
immediate premises thereof or if that person had unlawfully
removed or was attempting to unlawfully remove another against the
other person's will from that dwelling, occupied vehicle,
business, place of employment or the immediate premises thereof
and the person who used defensive force knew or had reason to
believe that the forcible entry or unlawful and forcible act was
occurring or had occurred. This presumption shall not apply if
the person against whom defensive force was used has a right to be
in or is a lawful resident or owner of the dwelling, vehicle,
business, place of employment or the immediate premises thereof or
is the lawful resident or owner of the dwelling, vehicle,
business, place of employment or the immediate premises thereof or
if the person who uses defensive force is engaged in unlawful
activity or if the person is a law enforcement officer engaged in
the performance of his official duties * * *

(4) A person who is not the initial aggressor and is not
engaged in unlawful activity shall have no duty to retreat before
using deadly force under subsection (1)(e) or (f) of this section
if the person is in a place where the person has a right to be,
and no finder of fact shall be permitted to consider the person's
failure to retreat as evidence that the person's use of force was
unnecessary, excessive or unreasonable.

(5) (a) The presumptions contained in subsection (3) of
this section shall apply in civil cases in which self-defense or
defense of another is claimed as a defense.

(b) The court shall award reasonable attorney's fees,
court costs, compensation for loss of income, and all expenses
incurred by the defendant in defense of any civil action brought
by a plaintiff if the court finds that the defendant acted in
accordance with subsection (1)(e) or (f) of this section. A
defendant who has previously been adjudicated "not guilty" of any
crime by reason of subsection (1)(e) or (f) of this section shall
be immune from any civil action for damages arising from the same
conduct.

SECTION 5. No federal executive order, agency order, law not
enrolled by the United States Congress and signed by the President
of the United States, rule, regulation or administrative
interpretation of a law or statute issued, enacted or promulgated
after July 1, 2016, that violates the United States Constitution or the Mississippi Constitution of 1890 shall be enforced or ordered to be enforced by any official, agent or employee of this state or a political subdivision thereof.

SECTION 6. This act shall take effect and be in force from and after its passage.