By: Representatives Ladner, Boyd, Williamson To: Judiciary B

HOUSE BILL NO. 751

AN ACT TO CREATE "THE COMBATING VIOLENCE, DISORDER AND LOOTING AND LAW ENFORCEMENT PROTECTION ACT OF MISSISSIPPI"; TO DEFINE TERMS RELATING TO SUCH ACT; TO PROVIDE THAT ANYONE WHO ACTS WITH AN ASSEMBLY OF SIX OR MORE PEOPLE AND CREATES AN IMMEDIATE DANGER OR DISTURBS ANY OTHER PERSON'S LEGAL RIGHT OF ENJOYMENT SHALL BE GUILTY OF A FELONY; TO PROVIDE A DEFENSE TO PROSECUTION; TO PROHIBIT ANY PERSON IN AN ASSEMBLY FROM OBSTRUCTING TRAFFIC; TO PROHIBIT THE THROWING OF AN OBJECT AT ANOTHER PERSON; TO PROVIDE ENHANCED PENALTIES IF THE OBJECT HITS A LAW ENFORCEMENT OFFICER; TO PROHIBIT DEFACING OF PROPERTY DURING AN ASSEMBLY; TO PROVIDE PENALTIES FOR SUCH; TO PROHIBIT HARASSMENT DURING AN ASSEMBLY; TO PROHIBIT UNEMPLOYMENT BENEFITS FOR ANY PERSON WHO PARTICIPATES IN A VIOLENT ASSEMBLY; TO REQUIRE THE TERMINATION OF ANY STATE OR LOCAL EMPLOYEE WHO IS CONVICTED FOR VIOLATING THIS ACT; TO PROHIBIT FILING OF ANY ACTION AGAINST THE STATE OR LOCAL GOVERNMENT IF A PERSON IS CONVICTED FOR VIOLATING THIS ACT; TO REQUIRE MUNICIPALITIES AND COUNTIES TO PROVIDE PROOF THAT SUCH MUNICIPALITY OR COUNTY HAS NOT DISPROPORTIONATELY REDUCED THEIR LAW ENFORCEMENT'S BUDGET; TO AMEND SECTION 97-17-65, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PENALTIES OF LOOTING AGAINST BUSINESSES; TO BRING FORWARD SECTION 97-17-67, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR MALICIOUS MISCHIEF, FOR PURPOSES OF AMENDMENT; TO AMEND SECTION 97-43-3, MISSISSIPPI CODE OF 1972, TO ADD VIOLATIONS OF THIS ACT TO THE DEFINITION OF THE CRIME RACKETEERING PROVISIONS; TO AMEND SECTION 97-3-15, MISSISSIPPI CODE OF 1972, TO CLARIFY JUSTIFIABLE HOMICIDE BY ADDING DEFENSE OF A BUSINESS OR SELF DURING A VIOLENT DISORDERLY ASSEMBLY; TO AMEND SECTION 11-46-9, MISSISSIPPI CODE OF 1972, TO PROVIDE AN EXCEPTION FOR TORT IMMUNITY WHEN A GOVERNMENTAL ENTITY FAILS TO PROVIDE PROPER LAW ENFORCEMENT PROTECTION DURING A VIOLENT AND DISORDERLY ASSEMBLY; TO AMEND SECTIONS 97-35-23 AND 97-35-25, MISSISSIPPI CODE OF 1972, TO PROVIDE PENALTIES FOR OBSTRUCTING TRAFFIC DURING AN ASSEMBLY; TO AMEND SECTIONS 71-5-511 AND 71-5-13, MISSISSIPPI

CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as "The Combating Violence, Disorder And Looting And Law Enforcement Protection Act of Mississippi".

SECTION 2. (1) For purposes of this act, the following words and phrases shall have the meanings as defined in this section unless the context clearly indicates otherwise:

(a) "Violent or disorderly assembly" means the gathering of seven or more persons resulting in conduct which: (i) creates an immediate danger of damage to property or injury to persons; (ii) substantially obstructs law enforcement or other governmental functions or services; or (iii) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right.

(b) "Harass" means to engage in conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(c) "Intimidate" means to frighten or threaten someone for the purpose of coercing that person to take some action.

(d) "Looting" means the same as it is defined in Section 97-17-65.

(2) (a) Anyone who acts with an assembly of six (6) or more people, knowing that the assembly's conduct (a) creates an immediate danger of damage to property or injury to persons; (b)

substantially obstructs law enforcement or other governmental functions or services; or (c) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right shall be guilty of a felony, and upon conviction, shall be punished by imprisonment in the custody of the Department of Corrections for not more than three (3) years, fined not more than Five Thousand Dollars ($5,000.00) or both.

(b) It shall be a defense to prosecution under this section that the assembly was at first lawful and the person charged with the offense left the assembly when one of those assembled showed an intent to engage in violent behavior.

(c) If a person who violates this section travelled to Mississippi with the intent to participate in a violent or disorderly assembly, that person shall be guilty of a felony and, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for no less than three (3) years, nor more than six (6) years, fined not more than Five Thousand Dollars ($5,000.00) or both.

(3) (a) A person may not obstruct or interfere with the regular flow of vehicular traffic on a public road, street or highway during any protest or demonstration for which a public assembly permit has not been issued by a county or municipality. A person who violates this section shall be guilty of a

misdemeanor and, upon conviction, penalized as provided in Section 97-35-23.

(b) A person may not obstruct or interfere with the regular flow of vehicular traffic on a public road, street or highway while participating in a violent or disorderly assembly. A person who violates this section shall be guilty of a felony, and upon conviction, be imprisoned in the custody of the Department of Corrections for no more than two (2) years, or fined up to Three Thousand Dollars ($3,000.00), or both.

(c) Any motor vehicle operator who unintentionally causes injury or death to a person who obstructs or interferes with the regular flow of vehicular traffic in violation of this subsection shall not be liable for such injury or death.

(4) (a) Any person who throws an object at another with the intent or effect of harming the target and does so while participating in a violent or disorderly assembly shall be guilty of a misdemeanor and, upon conviction, be punished by imprisonment for not more than six (6) months in the county jail, or fined not more than Five Hundred Dollars ($500.00), or both.

(b) Except as otherwise provided in paragraph (c) of this section, if the objects hits an individual, the person who threw the object shall be guilty of a felony and, upon conviction, be punished by imprisonment for not more two (2) years in the custody of the Department of Corrections, fined not less than Two Thousand Dollars ($2,000.00), or both.

(c) If the object hits any law enforcement officer such person shall be guilty of a felony and, upon conviction, be punished by imprisonment for not less than five (5) years in the custody of the Department of Corrections, fined not less than Five Thousand Dollars ($5,000.00), or both. Any person arrested in violation of this subsection against a law enforcement officer shall not be eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

(d) Whenever a person is charged with simple or aggravated assault in violation of this act against any law enforcement officer, the penalties shall be enhanced as provided in Section 97-3-7.

(5) Any person who, while participating in a violent or disorderly assembly, demolishes, pulls down, destroys, or defaces public property, including but not limited to a monument or statue, shall be guilty of a felony, and upon conviction, imprisoned in the custody of the Department of Corrections for not more than two (2) years or fined not less than Two Thousand Dollars ($2,000.00), or both.

(6) Any person who, while participating in a violent or disorderly assembly, intimidates or harasses individuals present at a public accommodation and not participating in the violent or disorderly assembly shall be guilty of a misdemeanor and, upon conviction, be punished by imprisonment in the county jail for not

more than six (6) months, fined not more than Five Hundred Dollars ($500.00), or both.

(7) (a) Any person convicted, pleads guilty or nolo contendre in violation of this act, shall be ineligible for unemployment benefits.

(b) Any state or local government employee found guilty in violation of this act, shall be terminated by the governmental entity that employs them.

(8) (a) No action may be brought against the state or any of its agencies or subdivisions by anyone who is convicted of unlawfully participating in a riot, unlawful assembly, public demonstration, mob violence, or civil disobedience if the claim arises out of such riot, unlawful assembly, public demonstration, mob violence, or civil disobedience. Nothing in this act shall abridge traditional immunities pertaining to statements made in court.

(b) Municipalities, counties and political subdivisions have a duty of reasonable care to protect individuals present within their borders from being harmed or suffering property damage caused by participants in a riot or violent or disorderly assembly.

(c) Any person who is the victim of a crime described in this act may recover damages from a local government that failed or was grossly negligent in policing a riot or violent or disorderly assembly.

(5) Each municipality must certify to each state agency through which it receives any state funds by October 15 of each year, that the municipality has not disproportionately funded reductions to the municipality's law enforcement agencies. The certification must include a statement that any reduction in funding or proposed funding is a result of reduced revenue collection and is proportionate to that reduction in revenue. A reduction in law enforcement funding is proportionate if the portion of the local government's total budget allocated to law enforcement agencies, expressed as a percentage, remains within three (3) percentage points of the percentage decrease in total revenue from the previous fiscal year to the current fiscal year. A municipality that has disproportionately reduced its law enforcement funding is not eligible to receive state funds.

(6) Each county must certify to each state agency through which it receives any state funds by October 15 of each year that the county has not disproportionately funded reductions to the county's law enforcement agencies. The certification must include a statement that any reduction in funding or proposed funding is a result of reduced revenue collection and is proportionate to that reduction in revenue. A reduction in law enforcement funding is proportionate if the portion of the county's total budget allocated to law enforcement agencies, expressed as a percentage, remains within three (3) percentage points of the percentage decrease in total revenue from the previous fiscal year to the

current fiscal year. A county that has disproportionately reduced its law enforcement funding is not eligible to receive state funds.

SECTION 3. Section 97-17-65, Mississippi Code of 1972, is amended as follows:

97-17-65. (1) A person commits looting when he knowingly without authority of law or of the owner enters any home or dwelling, or upon any premises of another, or enters any commercial, mercantile, business or industrial building, plant or establishment, in which a normal security of property is not present by virtue of a hurricane, fire or vis major of any kind or by virtue of a riot, mob, or closure of such for any reason, or other human agency and obtains or exerts control over or injures or removes property of the owner.

(2) Any person who commits looting shall be guilty of a felony and, upon conviction, such person shall be punished by imprisonment in the * * * custody of the Department of Corrections for a period not to exceed fifteen (15) years or by a fine not to exceed Ten Thousand Dollars ($10,000.00), or both * * *.

(3) The fact that a person may be subject to prosecution under this section shall not bar his prosecution or punishment under the statutes relating to larceny or burglary, or under any other statute or ordinance to the extent that such would otherwise be permitted in the absence of this section.

SECTION 4. Section 97-17-67, Mississippi Code of 1972, is brought forward as follows:

97-17-67. (1) Every person who shall maliciously or mischievously destroy, disfigure, or injure, or cause to be destroyed, disfigured, or injured, any property of another, either real or personal, shall be guilty of malicious mischief.

(2) If the value of the property destroyed, disfigured or injured is One Thousand Dollars ($1,000.00) or less, it shall be a misdemeanor and may be punishable by a fine of not more than One Thousand Dollars ($1,000.00) or imprisonment in the county jail not exceeding twelve (12) months, or both, if the court finds substantial and compelling reasons why the offender cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety. If such a finding is not made, the court shall suspend the sentence of imprisonment and impose a period of probation not exceeding one (1) year or a fine of not more than One Thousand Dollars ($1,000.00), or both. Any person convicted of a third or subsequent offense under this subsection where the value of the property is not less than Five Hundred Dollars ($500.00), shall be imprisoned in the Penitentiary for a term not exceeding three (3) years or fined an amount not exceeding One Thousand Dollars ($1,000.00), or both.

(3) If the value of the property destroyed, disfigured or injured is in excess of One Thousand Dollars ($1,000.00) but less

than Five Thousand Dollars ($5,000.00), it shall be a felony punishable by a fine not exceeding Ten Thousand Dollars ($10,000.00) or imprisonment in the Penitentiary not exceeding five (5) years, or both.

(4) If the value of the property is Five Thousand Dollars ($5,000.00) or more but less than Twenty-five Thousand Dollars ($25,000.00), it shall be punishable by a fine of not more than Ten Thousand Dollars ($10,000.00) or imprisonment in the Penitentiary not exceeding ten (10) years, or both.

(5) If the value of the property is Twenty-five Thousand Dollars ($25,000.00) or more, it shall be punishable by a fine of not more than Ten Thousand Dollars ($10,000.00) or imprisonment in the Penitentiary not exceeding twenty (20) years, or both.

(6) In all cases restitution to the victim for all damages shall be ordered. The value of property destroyed, disfigured or injured by the same party as part of a common crime against the same or multiple victims may be aggregated together and if the value exceeds One Thousand Dollars ($1,000.00), shall be a felony.

(7) For purposes of this statute, value shall be the cost of repair or replacement of the property damaged or destroyed.

(8) Anyone who by any word, deed or act directly or indirectly urges, aids, abets, suggests or otherwise instills in the mind of another the will to so act shall be considered a principal in the commission of said crime and shall be punished in the same manner.

SECTION 5. Section 97-43-3, Mississippi Code of 1972, is amended as follows:

97-43-3. The following terms shall have the meanings ascribed to them herein unless the context requires otherwise:

(a) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce or intimidate another person to commit any crime which is chargeable under the following provisions of the Mississippi Code of 1972:

(1) Section 97-19-71, which relates to fraud in connection with any state or federally funded assistance programs.

(2) Section 75-71-735, which relates to violations of the Mississippi Securities Act.

(3) Sections 45-13-105, 45-13-109, 97-37-23 and 97-37-25, which relate to unlawful possession, use and transportation of explosives.

(4) Sections 97-3-19 and 97-3-21, which relate to murder.

(5) Section 97-3-7(2), which relates to aggravated assaults.

(6) Section 97-3-53, which relates to kidnapping.

(7) Sections 97-3-73 through 97-3-83, which relate to robbery.

(8) Sections 97-17-19 through 97-17-37, which relate to burglary.

(9) Sections 97-17-1 through 97-17-13, which relate to arson.

(10) Sections 97-29-49 and 97-29-51, which relate to prostitution.

(11) Sections 97-5-5 and 97-5-31 through 97-5-37, which relate to the exploitation of children and enticing children for concealment, prostitution or marriage.

(12) Section 41-29-139, which relates to violations of the Uniform Controlled Substances Law; provided, however, that in order to be classified as "racketeering activity," such offense must be punishable by imprisonment for more than one (1) year.

(13) Sections 97-21-1 through 97-21-63, which relate to forgery and counterfeiting.

(14) Sections 97-9-1 through 97-9-77, which relate to offenses affecting administration of justice.

(15) Sections 97-33-1 through 97-33-49, which relate to gambling and lotteries.

(16) Section 97-3-54 et seq., which relate to human trafficking.

(17) Sections 1 and 2 of this act which regulates violent assemblies.

(b) "Unlawful debt" means money or any other thing of value constituting principal or interest of a debt which is legally unenforceable, in whole or in part, because the debt was

incurred or contracted in gambling activity in violation of state law or in the business of lending money at a rate usurious under state law, where the usurious rate is at least twice the enforceable rate.

(c) "Enterprise" means any individual, sole proprietorship, partnership, corporation, union or other legal entity, or any association or group of individuals associated in fact although not a legal entity. It includes illicit as well as licit enterprises and governmental, as well as other, entities.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering conduct that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated incidents, provided at least one (1) of such incidents occurred after July 1, 1984, and that the last of such incidents occurred within five (5) years after a prior incident of racketeering conduct.

SECTION 6. 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 45-9-171.

(j) When necessarily committed in lawful defense of one's own business, where there is rioting, looting or other activity in violation of Sections 1 through 2 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 7. Section 11-46-9, Mississippi Code of 1972, is amended as follows:

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

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

(b) Arising out of any act or omission of an employee of a governmental entity exercising ordinary care in reliance 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 governmental entity or its employee is authorized by law to determine whether or not such authorization should be issued, denied, suspended or revoked unless such issuance, denial, suspension or revocation, or failure or refusal thereof, is of a malicious or arbitrary and capricious nature;

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

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

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

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

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

(n) Arising out of any work performed by a person convicted of a crime when the work is performed pursuant to any sentence or order of any court or pursuant to laws of the State of Mississippi authorizing or requiring such work;

(o) Under circumstances where liability has been or is hereafter assumed by the United States, to the extent of such assumption of liability, including, but not limited to, any claim based on activities of the Mississippi National Guard when such claim is cognizable under the National Guard Tort Claims Act of

the United States, 32 USCS 715, or when such claim accrues as a result of active federal service or state service at the call of the Governor for quelling riots and civil disturbances;

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

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

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

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

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

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

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

(w) Arising out of the absence, condition, malfunction or removal by third parties of any sign, signal, warning device, illumination device, guardrail or median barrier, unless the absence, condition, malfunction or removal is not corrected by the governmental entity responsible for its maintenance within a 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; *** * ***

(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 *** * ***; or

(z) Arising out of the management of protecting the public during a riot or violent or disorderly assembly as defined in Section 1 of this act, unless the governmental entity fails or is grossly negligent in policing such.

(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;

(c) Has no employees; and

(d) Owns no property.

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

SECTION 8. Section 97-35-23, Mississippi Code of 1972, is amended as follows:

97-35-23. (1) (a) Except as otherwise provided in paragraph (b) of this subsection, it shall be unlawful for any

person or persons to intentionally obstruct, or interfere with the normal or ordinary free use and passage of vehicles of or on, any public street or highway provided for use by vehicular traffic, or for any person or persons to intentionally obstruct, or interfere with the normal or ordinary free use and passage of pedestrians of or on any public sidewalk provided for foot travel by pedestrians, and any person or persons who so do shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Four Hundred Dollars ($400.00), or by imprisonment in the county jail for not more than four (4) months, or by both such fine and imprisonment.

(b) If violation of subsection (1) of this section is committed during a violent or disorderly assembly as defined by Section 1 of this act, the person shall be guilty of a misdemeanor and, upon conviction thereof, be punished by imprisonment of no less than four (4) months, nor more than twelve (12) months in the county jail, or by a fine of no less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or both.

(2) The provisions of this section are supplementary to the provisions of any other statute of this state.

SECTION 9. Section 97-35-25, Mississippi Code of 1972, is amended as follows:

97-35-25. (1) (a) It shall be unlawful for any person or persons to *** * *** willfully obstruct the free, convenient and normal use of any public sidewalk, street, highway, alley, road,

or other passageway by impeding, hindering, stifling, retarding or restraining traffic or passage thereon, and any person or persons violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

(b) If violation of paragraph (a) of this section is committed during a violent or disorderly assembly as defined by Section 1 of this act, the person shall be guilty of a misdemeanor and, upon conviction thereof, punished by imprisonment of no less than four (4) months nor more than twelve (12) months in the county jail, or by a fine of no less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or both.

(2) The provisions of this section are supplementary to the provisions of any other statute of this state.

SECTION 10. Section 71-5-511, Mississippi Code of 1972, is amended as follows:

71-5-511. An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

(a) (i) He has registered for work at and thereafter has continued to report to the department in accordance with such regulations as the department may prescribe; except that the department may, by regulation, waive or alter either or both of

the requirements of this subparagraph as to such types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive or would be inconsistent with the purposes of this chapter; and

(ii) He participates in reemployment services, such as job search assistance services, if, in accordance with a profiling system established by the department, it has been determined that he is likely to exhaust regular benefits and needs reemployment services, unless the department determines that:

1. The individual has completed such services; or

2. There is justifiable cause for the claimant's failure to participate in such services.

(b) He has made a claim for benefits in accordance with the provisions of Section 71-5-515 and in accordance with such regulations as the department may prescribe thereunder.

(c) He is able to work, available for work and actively seeking work.

(d) He has been unemployed for a waiting period of one (1) week. No week shall be counted as a week of unemployment for the purposes of this subsection:

(i) Unless it occurs within the benefit year which includes the week with respect to which he claims payment of benefits;

(ii) If benefits have been paid with respect thereto;

(iii) Unless the individual was eligible for benefits with respect thereto, as provided in Sections 71-5-511 and 71-5-513, except for the requirements of this subsection.

(e) For weeks beginning on or before July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than thirty-six (36) times his weekly benefit amount; he has been paid wages for insured work during at least two (2) quarters of his base period; and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than sixteen (16) times the minimum weekly benefit amount. For benefit years beginning after July 1, 1982, he has, during his base period, been paid wages for insured work equal to not less than forty (40) times his weekly benefit amount; he has been paid wages for insured work during at least two (2) quarters of his base period, and he has, during that quarter of his base period in which his total wages were highest, been paid wages for insured work equal to not less than twenty-six (26) times the minimum weekly benefit amount. For purposes of this subsection, wages shall be counted as "wages for insured work" for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has satisfied the conditions of Section 71-5-11, subsection H, or

Section 71-5-361, subsection (3), with respect to becoming an employer.

(f) No individual may receive benefits in a benefit year unless, subsequent to the beginning of the next preceding benefit year during which he received benefits, he performed service in "employment" as defined in Section 71-5-11, subsection I, and earned remuneration for such service in an amount equal to not less than eight (8) times his weekly benefit amount applicable to his next preceding benefit year.

(g) Benefits based on service in employment defined in Section 71-5-11, subsection I(3) and I(4), and Section 71-5-361, subsection (4) shall be payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that benefits based on service in an instructional, research or principal administrative capacity in an institution of higher learning (as defined in Section 71-5-11, subsection N) with respect to service performed prior to January 1, 1978, shall not be paid to an individual for any week of unemployment which begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for

any institution or institutions of higher learning for both such academic years or both such terms.

(h) Benefits based on service in employment defined in Section 71-5-11, subsection I(3) and I(4), shall be payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter, except that:

(i) With respect to service performed in an instructional, research or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two (2) successive academic years, or during a similar period between two (2) regular but not successive terms, or during a period of paid sabbatical leave provided for in the individual's contract, to any individual, if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms, and provided that subsection (g) of this section shall apply with respect to such services prior to January 1, 1978. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(ii) With respect to services performed in any other capacity for an educational institution, benefits shall not

be paid on the basis of such services to any individual for any week which commences during a period between two (2) successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this clause. In no event shall benefits be paid unless the individual employee was terminated by the employer.

(iii) With respect to services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the first of such academic years or terms, or in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(iv) With respect to any services described in subsection (h)(i) and (ii), benefits shall not be payable on the basis of services in any such capacities as specified in subsection (h)(i), (ii) and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subsection, the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(v) With respect to services to which Sections 71-5-357 and 71-5-359 apply, if such services are provided to or on behalf of an educational institution, benefits shall not be payable under the same circumstances and subject to the same terms and conditions as described in subsection (h)(i), (ii), (iii) and (iv).

(i) Subsequent to December 31, 1977, benefits shall not be paid to any individual on the basis of any services substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sports seasons (or similar periods) if such individual performs such services in the first of such seasons (or similar periods) and there is a reasonable assurance that such individual

will perform such services in the later of such seasons (or similar periods).

(j) (i) Subsequent to December 31, 1977, benefits shall not be payable on the basis of services performed by an alien, unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(ii) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(iii) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made, except upon a preponderance of the evidence.

(k) An individual shall be deemed prima facie unavailable for work, and therefore ineligible to receive benefits, during any period which, with respect to his employment

status, is found by the department to be a holiday or vacation period.

(l) A temporary employee of a temporary help firm is considered to have left the employee's last work voluntarily without good cause connected with the work if the temporary employee does not contact the temporary help firm for reassignment on completion of an assignment. A temporary employee is not considered to have left work voluntarily without good cause connected with the work under this paragraph unless the temporary employee has been advised in writing:

(i) That the temporary employee is obligated to contact the temporary help firm on completion of assignments; and

(ii) That unemployment benefits may be denied if the temporary employee fails to do so.

(m) Has not been convicted of violating Section 1 of this act.

SECTION 11. Section 71-5-13, Mississippi Code of 1972, is amended as follows:

71-5-13. (1) The department is hereby authorized to enter into arrangements with the appropriate agencies of other states or the federal government, whereby individuals performing services in this and other states for a single employing unit under circumstances not specifically provided for in Section 71-5-11, subsection I, or under similar provisions in the unemployment compensation laws of such other states, shall be deemed to be

engaged in employment performed entirely within this state or within one (1) of such other states and whereby potential rights to benefits accumulated under the unemployment compensation laws of one or more states or under such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which the department finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund.

(2) The department is also authorized to enter into arrangements with the appropriate agencies of other states or of the federal government:

(a) Whereby wages or services upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government shall be deemed to be wages for employment by employers for the purposes of Sections 71-5-501 through 71-5-507 and Section 71-5-511(e), provided such other state agency or agency of the federal government has agreed to reimburse the fund for such portion of benefits paid under this chapter upon the basis of such wages or services as the department finds will be fair and reasonable as to all affected interests; and

(b) Whereby the department will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits paid under the law of any such other states or of the

federal government, upon the basis of employment or wages for employment by employers, as the department finds will be fair and reasonable as to all affected interests. Reimbursements so payable shall be deemed to be benefits for the purposes of Sections 71-5-451 through 71-5-459. The department is hereby authorized to make to other state or federal agencies, and receive from such other state or federal agencies, reimbursements from or to the fund, in accordance with arrangements pursuant to this section.

(c) Whereby the department ensures that the person receiving benefits has not violated Section 1 of this act.

(3) The department is also authorized, in its discretion, to enter into or cooperate in arrangements with any federal agency whereby the facilities and services of the personnel of the department may be utilized for the taking of claims and the payment of unemployment compensation or allowances under any federal law enacted for the benefit of discharged members of the Armed Forces.

(4) The department shall participate in any arrangements for the payment of compensation on the basis of combining an individual's wages and employment covered under this chapter with his wages and employment covered under the unemployment compensation laws of other states which are approved by the United States Secretary of Labor in consultation with the state unemployment compensation agencies as reasonably calculated to

assure the prompt and full payment of compensation in such situations and which include provisions for:

(a) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under two (2) or more state unemployment compensation laws; and

(b) Avoiding the duplicate use of wages and employment by reason of such combining.

SECTION 12. This act shall take effect and be in force from and after July 1, 2021.