

Mississippi Litigation Alert

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New Premises Liability Law in Mississippi

The Mississippi Governor has just signed the [Landowners Protection Act](#). It applies to what we call “negligent security cases.” These are cases in which a third-party tortfeasor commits a criminal act against an invitee of a business. In the past, the plaintiff had to prove that the property owner/operator knew or should have known of an “atmosphere of violence” on the property and failed to take reasonable measures to prevent it from occurring. These cases have been on the rise in Mississippi in recent years. The legislature has attempted to put a stop to them, and this bill goes a long way toward accomplishing just that.

The most important aspects are:

- Property owner/operator is not liable, unless the plaintiff proves that the owner/operator “actively and affirmatively, with a degree of conscious decision-making, impelled the conduct of said third-party.”
- To prove an “atmosphere of violence,” the plaintiff must show that at least three similar violent crimes occurred on the same property within the three years prior to the subject incident, and that at least three such incidents resulted in criminal arrest and charges for a violent felony.

These points are important because plaintiffs have never been required to prove that the owner/operator “impelled the conduct” of the third party. Also, plaintiffs have previously been allowed to prove an “atmosphere of violence” with evidence of prior similar criminal activity on the subject property or in the “vicinity” of the subject property. The courts previously defined “vicinity” broadly, and in some instances allowed evidence of prior criminal conduct as far as a mile or more away from the subject property. The new law makes the requirements much more stringent for proving an “atmosphere of violence.”

This bill is obviously designed to severely hamper plaintiffs’ ability to recover in these cases. Summary judgment will likely be much more prominent in these cases. This new law will also likely reduce the number of these suits filed in Mississippi. The bill takes effect on July 1, 2019, and will not likely be applied retroactively to pending cases. See *Hudson v. Moon*, 732 So.2d 927 (Miss. 1999) (holding that unless the statute clearly states that it should be applied retroactively, it will be applied prospectively).

For questions regarding this bill, please contact one of MGC’s Mississippi litigation [attorneys](#).

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