

By: Representative Blackmon

To: Judiciary B

HOUSE BILL NO. 218

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 97-3-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CRIMINAL
3 OFFENSE OF ATTEMPTED MURDER AND TO PROVIDE PENALTIES FOR THE
4 COMMISSION OF ATTEMPTED MURDER; TO AMEND SECTION 97-3-7,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE OFFENSE OF AGGRAVATED
6 ASSAULT; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, IN
7 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
8 PURPOSES.

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

10 SECTION 1. The following shall be codified as Section
11 97-3-8, Mississippi Code of 1972:

12 97-3-8. A person is guilty of attempted murder if he
13 attempts to kill another human being or attempts to cause or
14 purposely or knowingly causes bodily injury to another with a
15 deadly weapon or other means likely to produce death or serious
16 bodily harm; and, upon conviction, he shall be punished by
17 imprisonment in the State Penitentiary for not less than twenty
18 (20) years or by imprisonment for life in the State Penitentiary,
19 in the discretion of the court. A person convicted of attempted
20 murder upon a law enforcement officer or fireman while such law
21 enforcement officer or fireman is acting within the scope of his
22 duty and office shall be punished by imprisonment for life in the
23 State Penitentiary. Any person convicted of a second or
24 subsequent offense of attempted murder shall be sentenced to
25 imprisonment for life without parole in the State Penitentiary.

26 SECTION 2. Section 97-3-7, Mississippi Code of 1972, is
27 amended as follows:

28 97-3-7. (1) A person is guilty of simple assault if he (a)
29 attempts to cause or purposely, knowingly or recklessly causes

30 bodily injury to another; or (b) negligently causes bodily injury
31 to another with a deadly weapon or other means likely to produce
32 death or serious bodily harm; or (c) attempts by physical menace
33 to put another in fear of imminent serious bodily harm; and, upon
34 conviction, he shall be punished by a fine of not more than Five
35 Hundred Dollars (\$500.00) or by imprisonment in the county jail
36 for not more than six (6) months, or both. Provided, however, a
37 person convicted of simple assault (a) upon a statewide elected
38 official, law enforcement officer, fireman, emergency medical
39 personnel, public health personnel, superintendent, principal,
40 teacher or other instructional personnel and school attendance
41 officers or school bus driver while such statewide elected
42 official, law enforcement officer, fireman, emergency medical
43 personnel, public health personnel, superintendent, principal,
44 teacher or other instructional personnel and school attendance
45 officers or school bus driver is acting within the scope of his
46 duty, office or employment, or (b) upon a legislator while the
47 Legislature is in regular or extraordinary session shall be
48 punished by a fine of not more than One Thousand Dollars
49 (\$1,000.00) or by imprisonment for not more than five (5) years,
50 or both.

51 (2) A person is guilty of aggravated assault if he * * *
52 attempts to cause serious bodily injury to another, or causes such
53 injury purposely, knowingly or recklessly under circumstances
54 manifesting extreme indifference to the value of human life * * *;
55 and, upon conviction, he shall be punished by imprisonment in the
56 county jail for not more than one (1) year or in the penitentiary
57 for not more than twenty (20) years. Provided, however, a person
58 convicted of aggravated assault (a) upon a statewide elected
59 official, law enforcement officer, fireman, emergency medical
60 personnel, public health personnel, superintendent, principal,
61 teacher or other instructional personnel and school attendance
62 officers or school bus driver while such statewide elected
63 official, law enforcement officer, fireman, emergency medical
64 personnel, public health personnel, superintendent, principal,
65 teacher or other instructional personnel and school attendance
66 officers or school bus driver is acting within the scope of his

67 duty, office or employment, or (b) upon a legislator while the
68 Legislature is in regular or extraordinary session shall be
69 punished by a fine of not more than Five Thousand Dollars
70 (\$5,000.00) or by imprisonment for not more than thirty (30)
71 years, or both.

72 (3) A person is guilty of domestic violence who commits any
73 assault against a current or former spouse, an individual with
74 whom the defendant has had a child, or a person living in the same
75 household as the defendant and, upon conviction, the defendant
76 shall be punished as provided under subsection (1) or (2) of this
77 section; provided, that upon a third or subsequent conviction of
78 simple assault which would constitute domestic violence, whether
79 against the same or another victim and within five (5) years, the
80 defendant shall be guilty of a felony and sentenced to a term of
81 imprisonment not less than five (5) nor more than ten (10) years;
82 and upon a third or subsequent offense of aggravated assault which
83 would constitute domestic violence, whether against the same or
84 another victim and within five (5) years, the defendant shall be
85 guilty of a felony and sentenced to a term of imprisonment of not
86 less than five (5) nor more than twenty (20) years. Reasonable
87 discipline of a child, such as spanking, is not an offense under
88 this subsection (3). Every conviction of domestic violence shall
89 require as a condition of any suspended sentence that the
90 defendant participate in counseling or treatment to bring about
91 the cessation of domestic abuse. The defendant may be required to
92 pay all or part of the cost of the counseling or treatment, in the
93 discretion of the court.

94 SECTION 3. Section 47-7-3, Mississippi Code of 1972, is
95 amended as follows:

96 47-7-3. (1) Every prisoner who has been convicted of any
97 offense against the State of Mississippi, and is confined in the
98 execution of a judgment of such conviction in the Mississippi
99 State Penitentiary for a definite term or terms of one (1) year or

over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the penitentiary, and who has served not less than one-fourth (1/4) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:

(a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) No one shall be eligible for parole until he shall have served one (1) year of his sentence, unless such person has accrued any meritorious earned time allowances, in which case he shall be eligible for parole if he has served (i) nine (9) months of his sentence or sentences, when his sentence or sentences is two (2) years or less; (ii) ten (10) months of his sentence or sentences when his sentence or sentences is more than two (2) years but no more than five (5) years; and (iii) one (1) year of his sentence or sentences when his sentence or sentences is more than five (5) years;

(d) (i) No person shall be eligible for parole who shall, on or after January 1, 1977, be convicted of robbery or attempted robbery through the display of a firearm until he shall have served ten (10) years if sentenced to a term or terms of more than ten (10) years or if sentenced for the term of the natural life of such person. If such person is sentenced to a term or terms of ten (10) years or less, then such person shall not be

133 eligible for parole. The provisions of this paragraph (d) shall
134 also apply to any person who shall commit robbery or attempted
135 robbery on or after July 1, 1982, through the display of a deadly
136 weapon. This subparagraph (d)(i) shall not apply to persons
137 convicted after September 30, 1994;

138 (ii) No person shall be eligible for parole who
139 shall, on or after October 1, 1994, be convicted of robbery,
140 attempted robbery or carjacking as provided in Section 97-3-115 et
141 seq., through the display of a firearm or drive-by shooting as
142 provided in Section 97-3-109. The provisions of this subparagraph
143 (d)(ii) shall also apply to any person who shall commit robbery,
144 attempted robbery, carjacking or a drive-by shooting on or after
145 October 1, 1994, through the display of a deadly weapon;

146 (e) No person shall be eligible for parole who, on or
147 after July 1, 1994, is charged, tried, convicted and sentenced to
148 life imprisonment without eligibility for parole under the
149 provisions of Section 99-19-101;

150 (f) No person shall be eligible for parole who is
151 charged, tried, convicted and sentenced to life imprisonment under
152 the provisions of Section 99-19-101;

153 (g) No person shall be eligible for parole who is
154 convicted or whose suspended sentence is revoked after June 30,
155 1995;

156 (h) An offender may be eligible for medical release
157 under Section 47-7-4;

158 (i) No person shall be eligible for parole, who shall
159 be convicted of a second or subsequent offense of attempted murder
160 under Section 97-3-8.

161 (2) Notwithstanding any other provision of law, an inmate
162 shall not be eligible to receive earned time, good time or any
163 other administrative reduction of time which shall reduce the time
164 necessary to be served for parole eligibility as provided in
165 subsection (1) of this section; however, this subsection shall not

166 apply to the advancement of parole eligibility dates pursuant to
167 the Prison Overcrowding Emergency Powers Act. Moreover,
168 meritorious earned time allowances may be used to reduce the time
169 necessary to be served for parole eligibility as provided in
170 paragraph (c) of subsection (1) of this section.

171 (3) The State Parole Board shall by rules and regulations
172 establish a method of determining a tentative parole hearing date
173 for each eligible offender taken into the custody of the
174 Department of Corrections. The tentative parole hearing date
175 shall be determined within ninety (90) days after the department
176 has assumed custody of the offender. Such tentative parole
177 hearing date shall be calculated by a formula taking into account
178 the offender's age upon first commitment, number of prior
179 incarcerations, prior probation or parole failures, the severity
180 and the violence of the offense committed, employment history and
181 other criteria which in the opinion of the board tend to validly
182 and reliably predict the length of incarceration necessary before
183 the offender can be successfully paroled.

184 (4) Any inmate within twenty-four (24) months of his parole
185 eligibility date and who meets the criteria established by the
186 classification committee shall receive priority for placement in
187 any educational development and job training programs. Any inmate
188 refusing to participate in an educational development or job
189 training program may be ineligible for parole.

190 SECTION 4. This act shall take effect and be in force from
191 and after July 1, 1999.