

By: Senator(s) Carlton

To: Judiciary

SENATE BILL NO. 2460  
(As Sent to Governor)

1 AN ACT TO PROVIDE FULL FAITH AND CREDIT FOR FOREIGN DOMESTIC  
2 VIOLENCE ORDERS; TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF  
3 1972, TO REVISE THE OFFENSE OF DOMESTIC VIOLENCE; AND FOR RELATED  
4 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF  
5 MISSISSIPPI:

6  
7 SECTION 1. (1) Except as provided by subsection (2), a  
8 protective order from another jurisdiction issued to protect the  
9 applicant from domestic violence as defined in Section 97-3-7,  
10 Mississippi Code of 1972, shall be accorded full faith and credit  
11 by the courts of this state and enforced as if the order were  
12 rendered by the court in this state.

13 (2) A protective order from another jurisdiction is presumed  
14 to be valid if the order appears authentic on its face. The  
15 effective dates of the order shall be enforced as they appear on  
16 the order's face. Where no expiration date appears on the face of  
17 the order, the order shall be deemed to have expired one (1) year  
18 from the date of issuance.

19 (3) It is an affirmative defense in any action seeking  
20 enforcement of a protective order issued in another jurisdiction:

21 (a) That the respondent was not given reasonable notice  
22 and an opportunity to be heard consistent with due process either:

23 (i) Before the date the order was rendered; or

24 (ii) In the case of an ex parte order, within the  
25 time required by the jurisdiction rendering the order after the  
26 date the order was rendered; or

27 (b) That the issuing court lacked jurisdiction to issue  
28 the order.

29

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

32 97-3-7. (1) A person is guilty of simple assault if he (a)  
33 attempts to cause or purposely, knowingly or recklessly causes  
34 bodily injury to another; or (b) negligently causes bodily injury  
35 to another with a deadly weapon or other means likely to produce  
36 death or serious bodily harm; or (c) attempts by physical menace  
37 to put another in fear of imminent serious bodily harm; and, upon  
38 conviction, he shall be punished by a fine of not more than Five  
39 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
40 for not more than six (6) months, or both. Provided, however, a  
41 person convicted of simple assault (a) upon a 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 while such statewide elected  
46 official, law enforcement officer, fireman, emergency medical  
47 personnel, public health personnel, superintendent, principal,  
48 teacher or other instructional personnel and school attendance  
49 officers or school bus driver is acting within the scope of his  
50 duty, office or employment, or (b) upon a legislator while the  
51 Legislature is in regular or extraordinary session shall be  
52 punished by a fine of not more than One Thousand Dollars  
53 (\$1,000.00) or by imprisonment for not more than five (5) years,  
54 or both.

55 (2) A person is guilty of aggravated assault if he (a)  
56 attempts to cause serious bodily injury to another, or causes such  
57 injury purposely, knowingly or recklessly under circumstances  
58 manifesting extreme indifference to the value of human life; or  
59 (b) attempts to cause or purposely or knowingly causes bodily  
60 injury to another with a deadly weapon or other means likely to  
61 produce death or serious bodily harm; and, upon conviction, he  
62 shall be punished by imprisonment in the county jail for not more  
63 than one (1) year or in the penitentiary for not more than twenty  
64 (20) years. Provided, however, a person convicted of aggravated  
65 assault (a) upon a statewide elected official, law enforcement

66 officer, fireman, emergency medical personnel, public health  
67 personnel, superintendent, principal, teacher or other  
68 instructional personnel and school attendance officers or school  
69 bus driver while such statewide elected official, law enforcement  
70 officer, fireman, emergency medical personnel, public health  
71 personnel, superintendent, principal, teacher or other  
72 instructional personnel and school attendance officers or school  
73 bus driver is acting within the scope of his duty, office or  
74 employment, or (b) upon a legislator while the Legislature is in  
75 regular or extraordinary session shall be punished by a fine of  
76 not more than Five Thousand Dollars (\$5,000.00) or by imprisonment  
77 for not more than thirty (30) years, or both.

78 (3) A person is guilty of simple domestic violence who  
79 commits simple assault as described in subsection (1) of this  
80 section against a family or household member who resides with the  
81 defendant or who formerly resided with the defendant, or against a  
82 person with whom the defendant has had a child, and upon  
83 conviction, the defendant shall be punished as provided under  
84 subsection (1) \* \* \* of this section; provided, that upon a third  
85 or subsequent conviction of simple \* \* \* domestic violence,  
86 whether against the same or another victim and within five (5)  
87 years, the defendant shall be guilty of a felony and sentenced to  
88 a term of imprisonment not less than five (5) nor more than ten  
89 (10) years.

90 (4) A person is guilty of aggravated domestic violence who  
91 commits aggravated assault as described in subsection (2) of this  
92 section against a family or household member who resides with the  
93 defendant or who formerly resided with the defendant, or against a  
94 person with whom the defendant has had a child, and upon  
95 conviction, the defendant shall be punished as provided under  
96 subsection (2) of this section; provided, that upon a third or  
97 subsequent offense of aggravated \* \* \* domestic violence, whether  
98 against the same or another victim and within five (5) years, the

99 defendant shall be guilty of a felony and sentenced to a term of  
100 imprisonment of not less than five (5) nor more than twenty (20)  
101 years. Reasonable discipline of a child, such as spanking, is not  
102 an offense under this subsection (3).

103 (5) Every conviction of domestic violence may require as a  
104 condition of any suspended sentence that the defendant participate  
105 in counseling or treatment to bring about the cessation of  
106 domestic abuse. The defendant may be required to pay all or part  
107 of the cost of the counseling or treatment, in the discretion of  
108 the court.

109 (6) In any conviction of assault as described in any  
110 subsection of this section which arises from an incident of  
111 domestic violence, the sentencing order shall include the  
112 designation "domestic violence."

113 SECTION 3. This act shall take effect and be in force from  
114 and after July 1, 1999.