

By: Holland

To: Judiciary B

HOUSE BILL NO. 290

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, IN CONFORMITY THERETO; AND FOR RELATED  
6 PURPOSES.

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

8 SECTION 1. The following shall be codified as Section  
9 97-3-8, Mississippi Code of 1972:

10 97-3-8. A person is guilty of attempted murder if he  
11 attempts to kill another human being or attempts to cause or  
12 purposely or knowingly causes bodily injury to another with a  
13 deadly weapon or other means likely to produce death or serious  
14 bodily harm; and, upon conviction, he shall be punished by not  
15 less than twenty (20) years or by imprisonment for life in the  
16 State Penitentiary, in the discretion of the court. A person  
17 convicted of attempted murder upon a law enforcement officer or  
18 fireman who is acting within the scope of his duty and office  
19 shall be punished by imprisonment for life in the State  
20 Penitentiary. Any person convicted of a second or subsequent  
21 offense of attempted murder shall be sentenced to imprisonment for  
22 life without parole in the State Penitentiary.

23 SECTION 2. Section 97-3-7, Mississippi Code of 1972, is

24 amended as follows:

25           97-3-7. (1) A person is guilty of simple assault if he (a)  
26 attempts to cause or purposely, knowingly or recklessly causes  
27 bodily injury to another; or (b) negligently causes bodily injury  
28 to another with a deadly weapon or other means likely to produce  
29 death or serious bodily harm; or (c) attempts by physical menace  
30 to put another in fear of imminent serious bodily harm; and, upon  
31 conviction, he shall be punished by a fine of not more than Five  
32 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
33 for not more than six (6) months, or both. Provided, however, a  
34 person convicted of simple assault (a) upon a statewide elected  
35 official, law enforcement officer, fireman, emergency medical  
36 personnel, public health personnel, superintendent, principal,  
37 teacher or other instructional personnel and school attendance  
38 officers or school bus driver while such statewide elected  
39 official, law enforcement officer, fireman, emergency medical  
40 personnel, public health personnel, superintendent, principal,  
41 teacher or other instructional personnel and school attendance  
42 officers or school bus driver is acting within the scope of his  
43 duty, office or employment, or (b) upon a legislator while the  
44 Legislature is in regular or extraordinary session shall be  
45 punished by a fine of not more than One Thousand Dollars  
46 (\$1,000.00) or by imprisonment for not more than five (5) years,  
47 or both.

48           (2) A person is guilty of aggravated assault if he \* \* \*  
49 attempts to cause serious bodily injury to another, or causes such  
50 injury purposely, knowingly or recklessly under circumstances  
51 manifesting extreme indifference to the value of human life; \* \* \*  
52 and, upon conviction, he shall be punished by imprisonment in the  
53 county jail for not more than one (1) year or in the penitentiary  
54 for not more than twenty (20) years. Provided, however, a person

55 convicted of aggravated assault (a) upon a statewide elected  
56 official, law enforcement officer, fireman, emergency medical  
57 personnel, public health personnel, superintendent, principal,  
58 teacher or other instructional personnel and school attendance  
59 officers or school bus driver while such statewide elected  
60 official, law enforcement officer, fireman, emergency medical  
61 personnel, public health personnel, superintendent, principal,  
62 teacher or other instructional personnel and school attendance  
63 officers or school bus driver is acting within the scope of his  
64 duty, office or employment, or (b) upon a legislator while the  
65 Legislature is in regular or extraordinary session shall be  
66 punished by a fine of not more than Five Thousand Dollars  
67 (\$5,000.00) or by imprisonment for not more than thirty (30)  
68 years, or both.

69 (3) A person is guilty of simple domestic violence who  
70 commits simple assault as described in subsection (1) of this  
71 section against a family or household member who resides with the  
72 defendant or who formerly resided with the defendant, or against a  
73 person with whom the defendant has had a child, and upon  
74 conviction, the defendant shall be punished as provided under  
75 subsection (1) of this section; provided, that upon a third or  
76 subsequent conviction of simple domestic violence, whether against  
77 the same or another victim and within five (5) years, the  
78 defendant shall be guilty of a felony and sentenced to a term of  
79 imprisonment not less than five (5) nor more than ten (10) years.

80 (4) A person is guilty of aggravated domestic violence who  
81 commits aggravated assault as described in subsection (2) of this  
82 section against a family or household member who resides with the

83 defendant or who formerly resided with the defendant, or against a  
84 person with whom the defendant has had a child, and upon  
85 conviction, the defendant shall be punished as provided under  
86 subsection (2) of this section; provided, that upon a third or  
87 subsequent offense of aggravated domestic violence, whether  
88 against the same or another victim and within five (5) years, the  
89 defendant shall be guilty of a felony and sentenced to a term of  
90 imprisonment of not less than five (5) nor more than twenty (20)  
91 years. Reasonable discipline of a child, such as spanking, is not  
92 an offense under this subsection (3).

93 (5) Every conviction of domestic violence may require as a  
94 condition of any suspended sentence that the defendant participate  
95 in counseling or treatment to bring about the cessation of  
96 domestic abuse. The defendant may be required to pay all or part  
97 of the cost of the counseling or treatment, in the discretion of  
98 the court.

99 (6) In any conviction of assault as described in any  
100 subsection of this section which arises from an incident of  
101 domestic violence, the sentencing order shall include the  
102 designation "domestic violence."

103 SECTION 3. This act shall take effect and be in force from  
104 and after July 1, 2000.