

By: Denny

To: Judiciary B

HOUSE BILL NO. 425
(As Passed the House)

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; AND FOR RELATED 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
15 imprisonment in the State Penitentiary for not less than twenty
16 (20) years or by imprisonment for life in the State Penitentiary,
17 in the discretion of the court. A person convicted of attempted
18 murder upon a law enforcement officer or fireman while such law
19 enforcement officer or fireman is acting within the scope of his
20 duty and office shall be punished by imprisonment for life in the
21 State Penitentiary. Any person convicted of a second or
22 subsequent offense of attempted murder shall be sentenced to
23 imprisonment for life without parole in the State Penitentiary.

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

26 97-3-7. (1) A person is guilty of simple assault if he (a)
27 attempts to cause or purposely, knowingly or recklessly causes
28 bodily injury to another; or (b) negligently causes bodily injury

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

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

66 Legislature is in regular or extraordinary session shall be
67 punished by a fine of not more than Five Thousand Dollars
68 (\$5,000.00) or by imprisonment for not more than thirty (30)
69 years, or both.

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

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

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

99 the court.

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

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