

By: Blackmon

To: Judiciary B

HOUSE BILL NO. 815

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

83 (4) A person is guilty of aggravated domestic violence who

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

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

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

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

108 47-7-3. (1) Every prisoner who has been convicted of any
109 offense against the State of Mississippi, and is confined in the
110 execution of a judgment of such conviction in the Mississippi
111 State Penitentiary for a definite term or terms of one (1) year or

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

121 (a) No prisoner convicted as a confirmed and habitual
122 criminal under the provisions of Sections 99-19-81 through
123 99-19-87 shall be eligible for parole;

124 (b) Any person who shall have been convicted of a sex
125 crime shall not be released on parole except for a person under
126 the age of nineteen (19) who has been convicted under Section
127 97-3-67;

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

138 (d) (i) No person shall be eligible for parole who
139 shall, on or after January 1, 1977, be convicted of robbery or

140 attempted robbery through the display of a firearm until he shall
141 have served ten (10) years if sentenced to a term or terms of more
142 than ten (10) years or if sentenced for the term of the natural
143 life of such person. If such person is sentenced to a term or
144 terms of ten (10) years or less, then such person shall not be
145 eligible for parole. The provisions of this paragraph (d) shall
146 also apply to any person who shall commit robbery or attempted
147 robbery on or after July 1, 1982, through the display of a deadly
148 weapon. This subparagraph (d)(i) shall not apply to persons
149 convicted after September 30, 1994;

150 (ii) No person shall be eligible for parole who
151 shall, on or after October 1, 1994, be convicted of robbery,
152 attempted robbery or carjacking as provided in Section 97-3-115 et
153 seq., through the display of a firearm or drive-by shooting as
154 provided in Section 97-3-109. The provisions of this subparagraph
155 (d)(ii) shall also apply to any person who shall commit robbery,
156 attempted robbery, carjacking or a drive-by shooting on or after
157 October 1, 1994, through the display of a deadly weapon;

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

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

165 (g) No person shall be eligible for parole who is
166 convicted or whose suspended sentence is revoked after June 30,
167 1995;

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

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

173 (2) Notwithstanding any other provision of law, an inmate
174 shall not be eligible to receive earned time, good time or any
175 other administrative reduction of time which shall reduce the time
176 necessary to be served for parole eligibility as provided in
177 subsection (1) of this section; however, this subsection shall not
178 apply to the advancement of parole eligibility dates pursuant to
179 the Prison Overcrowding Emergency Powers Act. Moreover,
180 meritorious earned time allowances may be used to reduce the time
181 necessary to be served for parole eligibility as provided in
182 paragraph (c) of subsection (1) of this section.

183 (3) The State Parole Board shall by rules and regulations
184 establish a method of determining a tentative parole hearing date
185 for each eligible offender taken into the custody of the
186 Department of Corrections. The tentative parole hearing date
187 shall be determined within ninety (90) days after the department
188 has assumed custody of the offender. Such tentative parole
189 hearing date shall be calculated by a formula taking into account
190 the offender's age upon first commitment, number of prior
191 incarcerations, prior probation or parole failures, the severity
192 and the violence of the offense committed, employment history and
193 other criteria which in the opinion of the board tend to validly
194 and reliably predict the length of incarceration necessary before
195 the offender can be successfully paroled.

196 (4) Any inmate within twenty-four (24) months of his parole
197 eligibility date and who meets the criteria established by the
198 classification committee shall receive priority for placement in
199 any educational development and job training programs. Any inmate
200 refusing to participate in an educational development or job
201 training program may be ineligible for parole.

202 SECTION 4. This act shall take effect and be in force from
203 and after July 1, 2000.