

By: Representative Compretta

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 134

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 INCLUDE CERTAIN JUDGES AND PROSECUTORS IN THE ENHANCED PENALTY  
3 PROVISION OF THE ASSAULT STATUTE; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 97-3-7, Mississippi Code of 1972, is  
6 amended as follows:

7 97-3-7. (1) A person is guilty of simple assault if he (a)  
8 attempts to cause or purposely, knowingly or recklessly causes  
9 bodily injury to another; or (b) negligently causes bodily injury  
10 to another with a deadly weapon or other means likely to produce  
11 death or serious bodily harm; or (c) attempts by physical menace  
12 to put another in fear of imminent serious bodily harm; and, upon  
13 conviction, he shall be punished by a fine of not more than Five  
14 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
15 for not more than six (6) months, or both. Provided, however, a  
16 person convicted of simple assault (a) upon a statewide elected  
17 official, law enforcement officer, fireman, emergency medical  
18 personnel, public health personnel, superintendent, principal,  
19 teacher or other instructional personnel and school attendance  
20 officers or school bus driver or a judge of a circuit, chancery,  
21 county or youth court or a judge of the Court of Appeals or a  
22 justice of the Supreme Court, district attorney, legal assistant  
23 to a district attorney, county prosecutors or municipal prosecutor  
24 while such statewide elected official, judge or justice, law  
25 enforcement officer, fireman, emergency medical personnel, public  
26 health personnel, superintendent, principal, teacher or other  
27 instructional personnel and school attendance officers, school bus



28 driver district attorney, legal assistant to a district attorney,  
29 county prosecutor or municipal prosecutor is acting within the  
30 scope of his duty, office or employment, or (b) upon a legislator  
31 while the Legislature is in regular or extraordinary session shall  
32 be punished by a fine of not more than One Thousand Dollars  
33 (\$1,000.00) or by imprisonment for not more than five (5) years,  
34 or both.

35 (2) A person is guilty of aggravated assault if he (a)  
36 attempts to cause serious bodily injury to another, or causes such  
37 injury purposely, knowingly or recklessly under circumstances  
38 manifesting extreme indifference to the value of human life; or  
39 (b) attempts to cause or purposely or knowingly causes bodily  
40 injury to another with a deadly weapon or other means likely to  
41 produce death or serious bodily harm; and, upon conviction, he  
42 shall be punished by imprisonment in the county jail for not more  
43 than one (1) year or in the penitentiary for not more than twenty  
44 (20) years. Provided, however, a person convicted of aggravated  
45 assault (a) upon a statewide elected official, law enforcement  
46 officer, fireman, emergency medical personnel, public health  
47 personnel, superintendent, principal, teacher or other  
48 instructional personnel and school attendance officers or school  
49 bus driver or a judge of a circuit, chancery, county or youth  
50 court or a judge of the Court of Appeals or a justice of the  
51 Supreme Court, district attorney, legal assistant to a district  
52 attorney or county prosecutor while such statewide elected  
53 official, judge or justice law enforcement officer, fireman,  
54 emergency medical personnel, public health personnel,  
55 superintendent, principal, teacher or other instructional  
56 personnel and school attendance officers, school bus driver  
57 district attorney, legal assistant to a district attorney or  
58 county prosecutor is acting within the scope of his duty, office  
59 or employment, or (b) upon a legislator while the Legislature is  
60 in regular or extraordinary session shall be punished by a fine of



61 not more than Five Thousand Dollars (\$5,000.00) or by imprisonment  
62 for not more than thirty (30) years, or both.

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

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

89 (5) Every conviction of domestic violence may require as a  
90 condition of any suspended sentence that the defendant participate  
91 in counseling or treatment to bring about the cessation of  
92 domestic abuse. The defendant may be required to pay all or part



93 of the cost of the counseling or treatment, in the discretion of  
94 the court.

95 (6) In any conviction of assault as described in any  
96 subsection of this section which arises from an incident of  
97 domestic violence, the sentencing order shall include the  
98 designation "domestic violence."

99 SECTION 2. This act shall take effect and be in force from  
100 and after July 1, 2001.

