

By: Representative Compretta

To: Judiciary B

HOUSE BILL NO. 134

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CERTAIN JUDGES IN THE ENHANCED PENALTY PROVISION OF THE
3 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 while such statewide elected
23 official, judge or justice law enforcement officer, fireman,
24 emergency medical personnel, public health personnel,
25 superintendent, principal, teacher or other instructional
26 personnel and school attendance officers or school bus driver is
27 acting within the scope of his duty, office or employment, or (b)

28 upon a legislator while the Legislature is in regular or
29 extraordinary session shall be punished by a fine of not more than
30 One Thousand Dollars (\$1,000.00) or by imprisonment for not more
31 than five (5) years, or both.

32 (2) A person is guilty of aggravated assault if he (a)
33 attempts to cause serious bodily injury to another, or causes such
34 injury purposely, knowingly or recklessly under circumstances
35 manifesting extreme indifference to the value of human life; or
36 (b) attempts to cause or purposely or knowingly causes bodily
37 injury to another with a deadly weapon or other means likely to
38 produce death or serious bodily harm; and, upon conviction, he
39 shall be punished by imprisonment in the county jail for not more
40 than one (1) year or in the penitentiary for not more than twenty
41 (20) years. Provided, however, a person convicted of aggravated
42 assault (a) upon a statewide elected official, law enforcement
43 officer, fireman, emergency medical personnel, public health
44 personnel, superintendent, principal, teacher or other
45 instructional personnel and school attendance officers or school
46 bus driver or a judge of a circuit, chancery, county or youth
47 court or a judge of the Court of Appeals or a justice of the
48 Supreme Court while such statewide elected official, judge or
49 justice law enforcement officer, fireman, emergency medical
50 personnel, public health personnel, superintendent, principal,
51 teacher or other instructional personnel and school attendance
52 officers or school bus driver is acting within the scope of his
53 duty, office or employment, or (b) upon a legislator while the
54 Legislature is in regular or extraordinary session shall be
55 punished by a fine of not more than Five Thousand Dollars
56 (\$5,000.00) or by imprisonment for not more than thirty (30)
57 years, or both.

58 (3) A person is guilty of simple domestic violence who
59 commits simple assault as described in subsection (1) of this
60 section against a family or household member who resides with the

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

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

84 (5) Every conviction of domestic violence may require as a
85 condition of any suspended sentence that the defendant participate
86 in counseling or treatment to bring about the cessation of
87 domestic abuse. The defendant may be required to pay all or part
88 of the cost of the counseling or treatment, in the discretion of
89 the court.

90 (6) In any conviction of assault as described in any
91 subsection of this section which arises from an incident of
92 domestic violence, the sentencing order shall include the
93 designation "domestic violence."

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