

By: Representative Compretta

To: Judiciary B

HOUSE BILL NO. 134
(As Passed the House)

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) and by
62 imprisonment in the county jail for not more than one (1) year or
63 in the Penitentiary for not more than thirty (30) years * * *.

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

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

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

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

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

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