

By: Representative Compretta

To: Judiciary B

HOUSE BILL NO. 134
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE SOCIAL WORKERS, CERTAIN JUDGES, PROSECUTORS AND OTHER
3 COURT PERSONNEL OR OFFICERS OF THE COURT IN THE ENHANCED PENALTY
4 PROVISION OF THE ASSAULT STATUTE; TO REVISE THE DOMESTIC VIOLENCE
5 PROVISION OF THE ASSAULT STATUTE; TO AMEND SECTION 97-37-7,
6 MISSISSIPPI CODE OF 1972, TO AUTHORIZE DISTRICT ATTORNEYS AND
7 THEIR LEGAL ASSISTANTS TO CARRY CONCEALED WEAPONS; TO PROVIDE THAT
8 AN ARREST WARRANT MAY BE ISSUED AGAINST PUBLIC SCHOOL TEACHERS
9 CHARGED WITH A CRIME ALLEGED TO HAVE OCCURRED WHILE IN THE
10 PERFORMANCE OF DUTY ONLY AFTER COMPLIANCE WITH CERTAIN
11 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

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

31 of Appeals or a justice of the Supreme Court, district attorney,
32 legal assistant to a district attorney, county prosecutor,
33 municipal prosecutor, court reporter employed by a court, court
34 administrator, clerk or deputy clerk of the court, or public
35 defender, while such statewide elected official, judge or justice,
36 law enforcement officer, fireman, emergency medical personnel,
37 public health personnel, social worker, superintendent, principal,
38 teacher or other instructional personnel, school attendance
39 officer, school bus driver, district attorney, legal assistant to
40 a district attorney, county prosecutor, municipal prosecutor,
41 court reporter employed by a court, court administrator, clerk or
42 deputy clerk of the court, or public defender is acting within the
43 scope of his duty, office or employment, or (b) upon a legislator
44 while the Legislature is in regular or extraordinary session or
45 while otherwise acting within the scope of his duty, office or
46 employment, shall be punished by a fine of not more than One
47 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
48 five (5) years, or both.

49 (2) A person is guilty of aggravated assault if he (a)
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; or
53 (b) attempts to cause or purposely or knowingly causes bodily
54 injury to another with a deadly weapon or other means likely to
55 produce death or serious bodily harm; and, upon conviction, he
56 shall be punished by imprisonment in the county jail for not more
57 than one (1) year or in the Penitentiary for not more than twenty
58 (20) years. Provided, however, a person convicted of aggravated
59 assault (a) upon a statewide elected official, law enforcement
60 officer, fireman, emergency medical personnel, public health
61 personnel, social worker employed by the Department of Human
62 Services or another agency, superintendent, principal, teacher or
63 other instructional personnel, school attendance officer, school

64 bus driver, or a judge of a circuit, chancery, county, justice or
65 youth court or a judge of the Court of Appeals or a justice of the
66 Supreme Court, district attorney, legal assistant to a district
67 attorney, county prosecutor, municipal prosecutor, court reporter
68 employed by a court, court administrator, clerk or deputy clerk of
69 the court, or public defender, while such statewide elected
70 official, judge or justice, law enforcement officer, fireman,
71 emergency medical personnel, public health personnel, social
72 worker, superintendent, principal, teacher or other instructional
73 personnel, school attendance officer, school bus driver, district
74 attorney, legal assistant to a district attorney, county
75 prosecutor, municipal prosecutor, court reporter employed by a
76 court, court administrator, clerk or deputy clerk of the court, or
77 public defender is acting within the scope of his duty, office or
78 employment, or (b) upon a legislator while the Legislature is in
79 regular or extraordinary session or while otherwise acting within
80 the scope of his duty, office or employment, shall be punished by
81 a fine of not more than Five Thousand Dollars (\$5,000.00) or by
82 imprisonment for not more than thirty (30) years, or both.

83 (3) A person is guilty of simple domestic violence who
84 commits simple assault as described in subsection (1) of this
85 section against a family or household member who resides with the
86 defendant or who formerly resided with the defendant, a current or
87 former spouse, a person who has a current dating relationship with
88 the defendant, or a person with whom the defendant has had a
89 biological or legally adopted child and upon conviction, the
90 defendant shall be punished as provided under subsection (1) of
91 this section; provided, that upon a third or subsequent conviction
92 of simple domestic violence, whether against the same or another
93 victim and within five (5) years, the defendant shall be guilty of
94 a felony and sentenced to a term of imprisonment not less than
95 five (5) nor more than ten (10) years.

96 (4) A person is guilty of aggravated domestic violence who
97 commits aggravated assault as described in subsection (2) of this
98 section against a family or household member who resides with the
99 defendant or who formerly resided with the defendant, or a current
100 or former spouse, a person who has a current dating relationship
101 with the defendant, or a person with whom the defendant has had a
102 biological or legally adopted child and upon conviction, the
103 defendant shall be punished as provided under subsection (2) of
104 this section; provided, that upon a third or subsequent offense of
105 aggravated domestic violence, whether against the same or another
106 victim and within five (5) years, the defendant shall be guilty of
107 a felony and sentenced to a term of imprisonment of not less than
108 five (5) nor more than twenty (20) years. Reasonable discipline
109 of a child, such as spanking, is not an offense under this
110 subsection (4).

111 (5) "Dating relationship" means a social relationship of a
112 romantic or intimate nature.

113 (6) Every conviction of domestic violence may require as a
114 condition of any suspended sentence that the defendant participate
115 in counseling or treatment to bring about the cessation of
116 domestic abuse. The defendant may be required to pay all or part
117 of the cost of the counseling or treatment, in the discretion of
118 the court.

119 (7) In any conviction of assault as described in any
120 subsection of this section which arises from an incident of
121 domestic violence, the sentencing order shall include the
122 designation "domestic violence."

123 SECTION 2. Section 97-37-7, Mississippi Code of 1972, is
124 amended as follows:

125 97-37-7. (1) It shall not be a violation of Section 97-37-1
126 or any other statute for pistols, firearms or other suitable and
127 appropriate weapons to be carried by duly constituted bank guards,
128 company guards, watchmen, railroad special agents or duly

129 authorized representatives, agents or employees of a patrol
130 service, guard service, or a company engaged in the business of
131 transporting money, securities or other valuables, while actually
132 engaged in the performance of their duties as such, provided that
133 such persons are under bond in a sum of not less than One Thousand
134 Dollars (\$1,000.00) for the lawful and faithful performance of
135 their duties, the cost of which bond shall be paid by the employer
136 of such persons; and further provided that such persons have first
137 made written application and obtained an annual permit so to do
138 from the sheriff of the county in which they are employed.
139 Provided, however, that where the duties of any person covered by
140 the provisions of this paragraph may carry him into more than one
141 (1) county, such person may file a bond in the sum of Two Thousand
142 Dollars (\$2,000.00) with the Commissioner of Public Safety, for
143 the lawful and faithful performance of his duties, the cost of the
144 bond shall be paid by the employer of such person, and provided
145 further that such person has first made written application with
146 and obtained a permit so to do from the Commissioner of Public
147 Safety, and said permit shall be valid as a statewide permit. No
148 such permit shall be issued to any person who has ever been
149 convicted of a felony under the laws of this or any other state or
150 of the United States.

151 (2) It shall further not be a violation of this or any other
152 statute for pistols, firearms or other suitable and appropriate
153 weapons to be carried by Department of Wildlife, Fisheries and
154 Parks law enforcement officers, investigators employed by the
155 Attorney General, district attorneys, legal assistants to district
156 attorneys, criminal investigators employed by the district
157 attorneys, investigators or probation officers employed by the
158 Department of Corrections, employees of the State Auditor who are
159 authorized by the State Auditor to perform investigative
160 functions, or any deputy fire marshal or investigator employed by
161 the State Fire Marshal, while engaged in the performance of their

162 duties as such, or by fraud investigators with the Department of
163 Human Services, or by judges of the Mississippi Supreme Court,
164 Court of Appeals, circuit, chancery, county and municipal courts.
165 Before any person shall be authorized under this subsection to
166 carry a weapon, he shall complete a weapons training course
167 approved by the Board of Law Enforcement Officer Standards and
168 Training. Before any criminal investigator employed by a district
169 attorney shall be authorized under this section to carry a pistol,
170 firearm or other weapon, he shall have complied with Section
171 45-6-11 or any training program required for employment as an
172 agent of the Federal Bureau of Investigation. A law enforcement
173 officer, as defined in Section 45-6-3, shall be authorized to
174 carry weapons in courthouses in performance of his official
175 duties. This section shall in no way interfere with the right of
176 a trial judge to restrict the carrying of firearms in the
177 courtroom.

178 (3) It shall not be a violation of this or any other statute
179 for pistols, firearms or other suitable and appropriate weapons,
180 to be carried by any out-of-state, full-time commissioned law
181 enforcement officer who holds a valid commission card from the
182 appropriate out-of-state law enforcement agency and a photo
183 identification. The provisions of this subsection shall only
184 apply if the state where the out-of-state officer is employed has
185 entered into a reciprocity agreement with the state that allows
186 full-time commissioned law enforcement officers in Mississippi to
187 lawfully carry or possess a weapon in such other states. The
188 Commissioner of Public Safety is authorized to enter into
189 reciprocal agreements with other states to carry out the
190 provisions of this subsection.

191 SECTION 3. (1) (a) Except as provided in subsection (2) of
192 this section, before an arrest warrant shall be issued against any
193 teacher who is a licensed public school employee as defined in
194 Section 37-9-1 for a criminal act, whether misdemeanor or felony,

195 which is alleged to have occurred while the teacher was in the
196 performance of the teacher's official duties, a probable cause
197 hearing shall be held before a circuit court judge. The purpose
198 of the hearing shall be to determine if adequate probable cause
199 exists for the issuance of a warrant. All parties testifying in
200 these proceedings shall do so under oath. The accused shall have
201 the right to enter an appearance at the hearing, represented by
202 legal counsel at his own expense, to hear the accusations and
203 evidence against him; he may present evidence or testify in his
204 own behalf.

205 (b) The authority receiving any such charge or
206 complaint against a teacher shall immediately present same to the
207 county prosecuting attorney having jurisdiction who shall
208 immediately present the charge or complaint to a circuit judge in
209 the judicial district where the action arose for disposition
210 pursuant to this section.

211 (2) Nothing in this section shall prohibit the issuance of
212 an arrest warrant by a circuit court judge upon presentation of
213 probable cause, without the holding of a probable cause hearing,
214 if adequate evidence is presented to satisfy the court that there
215 is a significant risk that the accused will flee the court's
216 jurisdiction or that the accused poses a threat to the safety or
217 well-being of the public.

218 SECTION 4. This act shall take effect and be in force from
219 and after July 1, 2001.