

By: Representatives Watson, Scott (80th)

To: Judiciary B

HOUSE BILL NO. 871

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE DOMESTIC VIOLENCE PROVISION OF THE ASSAULT STATUTE; AND  
3 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 while such statewide elected  
21 official, law enforcement officer, fireman, emergency medical  
22 personnel, public health personnel, superintendent, principal,  
23 teacher or other instructional personnel and school attendance  
24 officers or school bus driver is acting within the scope of his  
25 duty, office or employment, or (b) upon a legislator while the  
26 Legislature is in regular or extraordinary session shall be  
27 punished by a fine of not more than One Thousand Dollars

28 (\$1,000.00) or by imprisonment for not more than five (5) years,  
29 or both.

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

53 (3) A person is guilty of simple domestic violence who  
54 commits simple assault as described in subsection (1) of this  
55 section against a family or household member who resides with the  
56 defendant or who formerly resided with the defendant, a current or  
57 former spouse, a person who has or has had a dating relationship  
58 with the defendant, or a person with whom the defendant has had a  
59 biological or legally adopted child and upon conviction, the  
60 defendant shall be punished as provided under subsection (1) of

61 this section; provided, that upon a third or subsequent conviction  
62 of simple domestic violence, whether against the same or another  
63 victim and within five (5) years, the defendant shall be guilty of  
64 a felony and sentenced to a term of imprisonment not less than  
65 five (5) nor more than ten (10) years.

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

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

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

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