

By: Senator(s) Carlton

To: Judiciary

SENATE BILL NO. 2460

1 AN ACT TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE ARREST REQUIREMENTS IN DOMESTIC VIOLENCE CASES; AND FOR  
3 RELATED PURPOSES.

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

5 **SECTION 1.** Section 99-3-7, Mississippi Code of 1972, is  
6 amended as follows:

7 99-3-7. (1) An officer or private person may arrest any  
8 person without warrant, for an indictable offense committed, or a  
9 breach of the peace threatened or attempted in his presence; or  
10 when a person has committed a felony, though not in his presence;  
11 or when a felony has been committed, and he has reasonable ground  
12 to suspect and believe the person proposed to be arrested to have  
13 committed it; or on a charge, made upon reasonable cause, of the  
14 commission of a felony by the party proposed to be arrested. And  
15 in all cases of arrests without warrant, the person making such  
16 arrest must inform the accused of the object and cause of the  
17 arrest, except when he is in the actual commission of the offense,  
18 or is arrested on pursuit.

19 (2) Any law enforcement officer may arrest any person on a  
20 misdemeanor charge without having a warrant in his possession when  
21 a warrant is in fact outstanding for that person's arrest and the  
22 officer has knowledge through official channels that the warrant  
23 is outstanding for that person's arrest. In all such cases, the  
24 officer making the arrest must inform such person at the time of  
25 the arrest the object and cause therefor. If the person arrested  
26 so requests, the warrant shall be shown to him as soon as  
27 practicable.



28           (3) (a) Any law enforcement officer shall arrest a person  
29 with or without a warrant when he has probable cause to believe  
30 that the person has, within twenty-four (24) hours of such arrest,  
31 knowingly committed a misdemeanor which is an act of domestic  
32 violence or knowingly violated provisions of an ex parte  
33 protective order, protective order after hearing or court-approved  
34 consent agreement entered by a chancery, county, justice or  
35 municipal court pursuant to the Protection from Domestic Abuse  
36 Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972,  
37 or a restraining order entered by a foreign court of competent  
38 jurisdiction to protect an applicant from domestic violence as  
39 defined by Section 97-3-7 that require such person to absent  
40 himself from a particular geographic area, or prohibit such person  
41 from being within a specified distance of another person or  
42 persons.

43           (b) If a law enforcement officer has probable cause to  
44 believe that two (2) or more persons committed a misdemeanor which  
45 is an act of domestic violence as defined herein, or if two (2) or  
46 more persons make complaints to the officer, the officer shall  
47 attempt to determine who was the principal aggressor. The term  
48 "principal aggressor" is defined as the most significant, rather  
49 than the first, aggressor. The officer shall presume that arrest  
50 is not the appropriate response for the person or persons who were  
51 not the principal aggressor. If the officer believes that all  
52 parties are equally responsible, the officer shall exercise such  
53 officer's best judgment in determining probable cause.

54           (c) To determine who is the principal aggressor, the  
55 officer shall consider the following factors, although such  
56 consideration is not limited to these factors:

57                   (i) Evidence from the persons involved in the  
58 domestic abuse;

59                   (ii) The history of domestic abuse between the  
60 parties, the likelihood of future injury to each person and the



61 intent of the law to protect victims of domestic violence from  
62 continuing abuse;

63 (iii) Whether one (1) of the persons acted in  
64 self-defense; and

65 (iv) Evidence from witnesses of the domestic  
66 violence.

67 (d) A law enforcement officer shall not:

68 (i) Threaten, suggest, or otherwise indicate the  
69 possible arrest of all parties to discourage future requests for  
70 intervention by law enforcement personnel; or

71 (ii) Base the decision of whether to arrest on:

72 1. The consent or request of the victim; or

73 2. The officer's perception of the

74 willingness of the victim or of a witness to the domestic abuse to  
75 testify or participate in a judicial proceeding.

76 (e) A law enforcement officer's determination regarding  
77 the existence of probable cause or the lack of probable cause  
78 shall not adversely affect the right of any party to independently  
79 seek appropriate remedies.

80 (4) (a) Any person authorized by a court of law to  
81 supervise or monitor a convicted offender who is under an  
82 intensive supervision program may arrest the offender when the  
83 offender is in violation of the terms or conditions of the  
84 intensive supervision program, without having a warrant, provided  
85 that the person making the arrest has been trained at the Law  
86 Enforcement Officers Training Academy established under Section  
87 45-5-1 et seq. or at a course approved by the Board on Law  
88 Enforcement Officer Standards and Training.

89 (b) For the purposes of this subsection, the term  
90 "intensive supervision program" means an intensive supervision  
91 program of the Department of Corrections as described in Section  
92 47-5-1001 et seq., or any similar program authorized by a court



93 for offenders who are not under jurisdiction of the Department of  
94 Corrections.

95 (5) As used in subsection (3) of this section, the phrase  
96 "misdemeanor which is an act of domestic violence" shall mean one  
97 or more of the following acts between family or household members  
98 who reside together or formerly resided together, current or  
99 former spouses, persons who have a current dating relationship, or  
100 persons who have a biological or legally adopted child together:

101 (a) Simple domestic violence within the meaning of  
102 Section 97-3-7;

103 (b) Disturbing the family or public peace within the  
104 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

105 (c) Stalking within the meaning of Section 97-3-107.

106 (6) Any arrest made pursuant to subsection (3) of this  
107 section shall be designated as domestic assault or domestic  
108 violence on both the arrest docket and the incident report.

109 (7) A law enforcement officer shall not be held liable in  
110 any civil action for an arrest based on probable cause and in good  
111 faith pursuant to subsection (3) of this section, or failure, in  
112 good faith, to make an arrest pursuant to subsection (3) of this  
113 section.

114 **SECTION 2.** This act shall take effect and be in force from  
115 and after July 1, 2002.

