

By: Senator(s) Williamson

To: Judiciary

SENATE BILL NO. 2603

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE AN AGGRAVATING FACTOR IN SENTENCING FOR DOMESTIC ASSAULT;
3 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, social worker employed by the
19 Department of Human Services or another agency, superintendent,
20 principal, teacher or other instructional personnel, school
21 attendance officer, school bus driver, or a judge of a circuit,
22 chancery, county, justice or youth court or a judge of the Court
23 of Appeals or a justice of the Supreme Court, district attorney,
24 legal assistant to a district attorney, county prosecutor,
25 municipal prosecutor, court reporter employed by a court, court
26 administrator, clerk or deputy clerk of the court, or public
27 defender, while such statewide elected official, judge or justice,



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

41 (2) A person is guilty of aggravated assault if he (a)
42 attempts to cause serious bodily injury to another, or causes such
43 injury purposely, knowingly or recklessly under circumstances
44 manifesting extreme indifference to the value of human life; or
45 (b) attempts to cause or purposely or knowingly causes bodily
46 injury to another with a deadly weapon or other means likely to
47 produce death or serious bodily harm; and, upon conviction, he
48 shall be punished by imprisonment in the county jail for not more
49 than one (1) year or in the Penitentiary for not more than twenty
50 (20) years. Provided, however, a person convicted of aggravated
51 assault (a) upon a statewide elected official, law enforcement
52 officer, fireman, emergency medical personnel, public health
53 personnel, social worker employed by the Department of Human
54 Services or another agency, superintendent, principal, teacher or
55 other instructional personnel, school attendance officer, school
56 bus driver, or a judge of a circuit, chancery, county, justice or
57 youth court or a judge of the Court of Appeals or a justice of the
58 Supreme Court, district attorney, legal assistant to a district
59 attorney, county prosecutor, municipal prosecutor, court reporter
60 employed by a court, court administrator, clerk or deputy clerk of



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

75 (3) A person is guilty of simple domestic violence who
76 commits simple assault as described in subsection (1) of this
77 section against a family or household member who resides with the
78 defendant or who formerly resided with the defendant, a current or
79 former spouse, a person who has a current dating relationship with
80 the defendant, 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 (1) of
83 this section; provided, that upon a third or subsequent conviction
84 of simple 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 not less than
87 five (5) nor more than ten (10) years. In sentencing, the court
88 shall consider as an aggravating factor whether the crime was
89 committed in the physical presence or hearing of a child under
90 sixteen (16) years of age who was, at the time of the offense,
91 living within either the residence of the victim, the residence of
92 the perpetrator, or the residence where the offense occurred.



93 (4) A person is guilty of aggravated domestic violence who
94 commits aggravated assault as described in subsection (2) of this
95 section against a family or household member who resides with the
96 defendant or who formerly resided with the defendant, or a current
97 or former spouse, a person who has a current dating relationship
98 with the defendant, or a person with whom the defendant has had a
99 biological or legally adopted child and upon conviction, the
100 defendant shall be punished as provided under subsection (2) of
101 this section; provided, that upon a third or subsequent offense of
102 aggravated domestic violence, whether against the same or another
103 victim and within five (5) years, the defendant shall be guilty of
104 a felony and sentenced to a term of imprisonment of not less than
105 five (5) nor more than twenty (20) years. In sentencing, the
106 court shall consider as an aggravating factor whether the crime
107 was committed in the physical presence or hearing of a child under
108 sixteen (16) years of age who was, at the time of the offense,
109 living within either the residence of the victim, the residence of
110 the perpetrator, or the residence where the offense occurred.
111 Reasonable discipline of a child, such as spanking, is not an
112 offense under this subsection (4).

113 (5) "Dating relationship" means a social relationship of a
114 romantic or intimate nature.

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

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



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

