

By: Representatives Whittington, McBride,
Brown, Watson, Barnett (116th), Eads,
Fredericks

To: Judiciary B

HOUSE BILL NO. 982

1 AN ACT TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO
2 DELETE THE PROVISIONS THAT REQUIRE ANY LAW ENFORCEMENT OFFICER TO
3 ARREST A PERSON WITH OR WITHOUT A WARRANT WHEN HE HAS PROBABLE
4 CAUSE TO BELIEVE THAT THE PERSON HAS WITHIN TWENTY-FOUR HOURS OF
5 SUCH ARREST KNOWINGLY VIOLATED CERTAIN PROTECTIVE ORDERS,
6 RESTRAINING ORDERS AND CONSENT AGREEMENTS ENTERED INTO IN DOMESTIC
7 ABUSE AND DOMESTIC VIOLENCE CASES; AND FOR RELATED PURPOSES.

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

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

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

23 (2) Any law enforcement officer may arrest any person on a
24 misdemeanor charge without having a warrant in his possession when
25 a warrant is in fact outstanding for that person's arrest and the
26 officer has knowledge through official channels that the warrant
27 is outstanding for that person's arrest. In all such cases, the
28 officer making the arrest must inform such person at the time of
29 the arrest the object and cause therefor. If the person arrested



30 so requests, the warrant shall be shown to him as soon as
31 practicable.

32 (3) (a) Any law enforcement officer shall arrest a person
33 with or without a warrant when he has probable cause to believe
34 that the person has, within twenty-four (24) hours of such arrest,
35 knowingly committed a misdemeanor that is an act of domestic
36 violence * * *.

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

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

51 (i) Evidence from the persons involved in the
52 domestic abuse;

53 (ii) The history of domestic abuse between the
54 parties, the likelihood of future injury to each person and the
55 intent of the law to protect victims of domestic violence from
56 continuing abuse;

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

59 (iv) Evidence from witnesses of the domestic
60 violence.



61 (d) A law enforcement officer shall not base the
62 decision of whether to arrest on the consent or request of the
63 victim.

64 (e) A law enforcement officer's determination regarding
65 the existence of probable cause or the lack of probable cause
66 shall not adversely affect the right of any party to independently
67 seek appropriate remedies.

68 (4) (a) Any person authorized by a court of law to
69 supervise or monitor a convicted offender who is under an
70 intensive supervision program may arrest the offender when the
71 offender is in violation of the terms or conditions of the
72 intensive supervision program, without having a warrant, provided
73 that the person making the arrest has been trained at the Law
74 Enforcement Officers Training Academy established under Section
75 45-5-1 et seq. or at a course approved by the Board on Law
76 Enforcement Officer Standards and Training.

77 (b) For the purposes of this subsection, the term
78 "intensive supervision program" means an intensive supervision
79 program of the Department of Corrections as described in Section
80 47-5-1001 et seq., or any similar program authorized by a court
81 for offenders who are not under jurisdiction of the Department of
82 Corrections.

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

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

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

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



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

97 (7) A law enforcement officer shall not be held liable in
98 any civil action for an arrest based on probable cause and in good
99 faith pursuant to subsection (3) of this section, or failure, in
100 good faith, to make an arrest pursuant to subsection (3) of this
101 section.

102 **SECTION 2.** This act shall take effect and be in force from
103 and after July 1, 2003.

