

By: Representatives Denny, Akins, Aldridge,
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Ellington, Fillingane, Formby, Gunn, Hamilton
(6th), Howell, Lott, Martinson, Mayhall,
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To: Judiciary B

HOUSE BILL NO. 105

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 97-3-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CRIMINAL
3 OFFENSE OF ATTEMPTED MURDER AND TO PROVIDE PENALTIES FOR THE
4 COMMISSION OF ATTEMPTED MURDER; TO AMEND SECTION 97-3-7,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE OFFENSE OF AGGRAVATED
6 ASSAULT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The following shall be codified as Section
9 97-3-8, Mississippi Code of 1972:

10 97-3-8. A person is guilty of attempted murder if he
11 attempts to kill another human being or attempts to cause or
12 purposely or knowingly causes bodily injury to another with a
13 deadly weapon or other means likely to produce death or serious
14 bodily harm; and, upon conviction, he shall be punished by
15 imprisonment in the State Penitentiary for not less than twenty
16 (20) years or by imprisonment for life in the State Penitentiary,
17 in the discretion of the court. A person convicted of attempted
18 murder upon a law enforcement officer or fireman while such law
19 enforcement officer or fireman is acting within the scope of his
20 duty and office shall be punished by imprisonment for life in the
21 State Penitentiary. Any person convicted of a second or
22 subsequent offense of attempted murder shall be sentenced to
23 imprisonment for life without parole in the State Penitentiary.

24 **SECTION 2.** Section 97-3-7, Mississippi Code of 1972, is
25 amended as follows:

26 97-3-7. (1) A person is guilty of simple assault if he (a)
27 attempts to cause or purposely, knowingly or recklessly causes
28 bodily injury to another; or (b) negligently causes bodily injury
29 to another with a deadly weapon or other means likely to produce

30 death or serious bodily harm; or (c) attempts by physical menace
31 to put another in fear of imminent serious bodily harm; and, upon
32 conviction, he shall be punished by a fine of not more than Five
33 Hundred Dollars (\$500.00) or by imprisonment in the county jail
34 for not more than six (6) months, or both. Provided, however, a
35 person convicted of simple assault (a) upon a statewide elected
36 official, law enforcement officer, fireman, emergency medical
37 personnel, public health personnel, social worker employed by the
38 Department of Human Services or another agency, superintendent,
39 principal, teacher or other instructional personnel, school
40 attendance officer, school bus driver, or a judge of a circuit,
41 chancery, county, justice or youth court or a judge of the Court
42 of Appeals or a justice of the Supreme Court, district attorney,
43 legal assistant to a district attorney, county prosecutor,
44 municipal prosecutor, court reporter employed by a court, court
45 administrator, clerk or deputy clerk of the court, or public
46 defender, while such statewide elected official, judge or justice,
47 law enforcement officer, fireman, emergency medical personnel,
48 public health personnel, social worker, superintendent, principal,
49 teacher or other instructional personnel, school attendance
50 officer, school bus driver, district attorney, legal assistant to
51 a district attorney, county prosecutor, municipal prosecutor,
52 court reporter employed by a court, court administrator, clerk or
53 deputy clerk of the court, or public defender is acting within the
54 scope of his duty, office or employment, or (b) upon a legislator
55 while the Legislature is in regular or extraordinary session or
56 while otherwise acting within the scope of his duty, office or
57 employment, shall be punished by a fine of not more than One
58 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
59 five (5) years, or both.

60 (2) A person is guilty of aggravated assault if he * * *
61 attempts to cause serious bodily injury to another, or causes such
62 injury purposely, knowingly or recklessly under circumstances

63 manifesting extreme indifference to the value of human life, * * *
64 and, upon conviction, he shall be punished by imprisonment in the
65 county jail for not more than one (1) year or in the Penitentiary
66 for not more than twenty (20) years. Provided, however, a person
67 convicted of aggravated assault (a) upon a statewide elected
68 official, law enforcement officer, fireman, emergency medical
69 personnel, public health personnel, social worker employed by the
70 Department of Human Services or another agency, superintendent,
71 principal, teacher or other instructional personnel, school
72 attendance officer, school bus driver, or a judge of a circuit,
73 chancery, county, justice or youth court or a judge of the Court
74 of Appeals or a justice of the Supreme Court, district attorney,
75 legal assistant to a district attorney, county prosecutor,
76 municipal prosecutor, court reporter employed by a court, court
77 administrator, clerk or deputy clerk of the court, or public
78 defender, while such statewide elected official, judge or justice,
79 law enforcement officer, fireman, emergency medical personnel,
80 public health personnel, social worker, superintendent, principal,
81 teacher or other instructional personnel, school attendance
82 officer, school bus driver, district attorney, legal assistant to
83 a district attorney, county prosecutor, municipal prosecutor,
84 court reporter employed by a court, court administrator, clerk or
85 deputy clerk of the court, or public defender is acting within the
86 scope of his duty, office or employment, or (b) upon a legislator
87 while the Legislature is in regular or extraordinary session or
88 while otherwise acting within the scope of his duty, office or
89 employment, shall be punished by a fine of not more than Five
90 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
91 thirty (30) years, or both.

92 (3) A person is guilty of simple domestic violence who
93 commits simple assault as described in subsection (1) of this
94 section against a family or household member who resides with the
95 defendant or who formerly resided with the defendant, a current or

96 former spouse, a person who has a current dating relationship with
97 the defendant, or a person with whom the defendant has had a
98 biological or legally adopted child and upon conviction, the
99 defendant shall be punished as provided under subsection (1) of
100 this section; provided, that upon a third or subsequent conviction
101 of simple domestic violence, whether against the same or another
102 victim and within five (5) years, the defendant shall be guilty of
103 a felony and sentenced to a term of imprisonment not less than
104 five (5) nor more than ten (10) years. In sentencing, the court
105 shall consider as an aggravating factor whether the crime was
106 committed in the physical presence or hearing of a child under
107 sixteen (16) years of age who was, at the time of the offense,
108 living within either the residence of the victim, the residence of
109 the perpetrator, or the residence where the offense occurred.

110 (4) A person is guilty of aggravated domestic violence who
111 commits aggravated assault as described in subsection (2) of this
112 section against a family or household member who resides with the
113 defendant or who formerly resided with the defendant, or a current
114 or former spouse, a person who has a current dating relationship
115 with the defendant, or a person with whom the defendant has had a
116 biological or legally adopted child and upon conviction, the
117 defendant shall be punished as provided under subsection (2) of
118 this section; provided, that upon a third or subsequent offense of
119 aggravated domestic violence, whether against the same or another
120 victim and within five (5) years, the defendant shall be guilty of
121 a felony and sentenced to a term of imprisonment of not less than
122 five (5) nor more than twenty (20) years. In sentencing, the
123 court shall consider as an aggravating factor whether the crime
124 was committed in the physical presence or hearing of a child under
125 sixteen (16) years of age who was, at the time of the offense,
126 living within either the residence of the victim, the residence of
127 the perpetrator, or the residence where the offense occurred.

128 Reasonable discipline of a child, such as spanking, is not an
129 offense under this subsection (4).

130 (5) "Dating relationship" means a social relationship of a
131 romantic or intimate nature.

132 (6) Every conviction of domestic violence may require as a
133 condition of any suspended sentence that the defendant participate
134 in counseling or treatment to bring about the cessation of
135 domestic abuse. The defendant may be required to pay all or part
136 of the cost of the counseling or treatment, in the discretion of
137 the court.

138 (7) In any conviction of assault as described in any
139 subsection of this section which arises from an incident of
140 domestic violence, the sentencing order shall include the
141 designation "domestic violence."

142 **SECTION 3.** This act shall take effect and be in force from
143 and after July 1, 2004.