

By: Senator(s) Thames

To: Judiciary, Division B

SENATE BILL NO. 2699

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 PROTECT RETIRED LEGISLATORS AND LAW ENFORCEMENT OFFICERS FROM
3 ASSAULT; 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, corrections officer, fireman,
18 emergency medical personnel, public health personnel, social
19 worker employed by the Department of Human Services or another
20 agency, superintendent, principal, teacher or other instructional
21 personnel, school attendance officer, school bus driver, or a
22 judge of a circuit, chancery, county, justice or youth court or a
23 judge of the Court of Appeals or a justice of the Supreme Court,
24 district attorney, legal assistant to a district attorney, county
25 prosecutor, municipal prosecutor, court reporter employed by a
26 court, court administrator, clerk or deputy clerk of the court, or
27 public defender, either while such statewide elected official,

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

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

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

81 (3) A person is guilty of simple domestic violence who
82 commits simple assault as described in subsection (1) of this
83 section against a family or household member who resides with the
84 defendant or who formerly resided with the defendant, a current or
85 former spouse, a person who has a current dating relationship with
86 the defendant, or a person with whom the defendant has had a
87 biological or legally adopted child and upon conviction, the
88 defendant shall be punished as provided under subsection (1) of
89 this section; provided, that upon a third or subsequent conviction
90 of simple domestic violence, whether against the same or another
91 victim and within five (5) years, the defendant shall be guilty of
92 a felony and sentenced to a term of imprisonment not less than
93 five (5) nor more than ten (10) years. In sentencing, the court

94 shall consider as an aggravating factor whether the crime was
95 committed in the physical presence or hearing of a child under
96 sixteen (16) years of age who was, at the time of the offense,
97 living within either the residence of the victim, the residence of
98 the perpetrator, or the residence where the offense occurred.

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

119 (5) "Dating relationship" means a social relationship of a
120 romantic or intimate nature.

121 (6) Every conviction of domestic violence may require as a
122 condition of any suspended sentence that the defendant participate
123 in counseling or treatment to bring about the cessation of
124 domestic abuse. The defendant may be required to pay all or part
125 of the cost of the counseling or treatment, in the discretion of
126 the court.

127 (7) In any conviction of assault as described in any
128 subsection of this section which arises from an incident of
129 domestic violence, the sentencing order shall include the
130 designation "domestic violence."

131 **SECTION 2.** This act shall take effect and be in force from
132 and after July 1, 2004.