

By: Representative Holland

To: Judiciary B

HOUSE BILL NO. 808

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE LIST OF THOSE PERSONS AGAINST WHOM ASSAULT WILL RESULT  
3 IN AN AGGRAVATED PENALTY FOR THE OFFENDER UPON CONVICTION; AND FOR  
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 97-3-7, Mississippi Code of 1972, is  
7 amended as follows:

8 97-3-7. (1) (a) A person is guilty of simple assault if he  
9 (i) attempts to cause or purposely, knowingly or recklessly causes  
10 bodily injury to another; or (ii) negligently causes bodily injury  
11 to another with a deadly weapon or other means likely to produce  
12 death or serious bodily harm; or (iii) attempts by physical menace  
13 to put another in fear of imminent serious bodily harm; and, upon  
14 conviction, he shall be punished by a fine of not more than Five  
15 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
16 for not more than six (6) months, or both.

17 (b) However, a person convicted of simple assault (i)  
18 upon a statewide elected official, law enforcement officer,  
19 fireman, emergency medical personnel, public health personnel,  
20 social worker or child protection specialist employed by the  
21 Department of Human Services or another agency, other person  
22 employed by the Department of Human Services in their official  
23 capacity while performing their duties off site, superintendent,  
24 principal, teacher or other instructional personnel, school  
25 attendance officer, school bus driver, or a judge of a circuit,  
26 chancery, county, justice or youth court or a judge of the Court  
27 of Appeals or a justice of the Supreme Court, district attorney,  
28 legal assistant to a district attorney, county prosecutor,

29 municipal prosecutor, court reporter employed by a court, court  
30 administrator, clerk or deputy clerk of the court, or public  
31 defender, while such person is acting within the scope of his  
32 duty, office or employment, or (ii) upon a legislator while the  
33 Legislature is in regular or extraordinary session or while  
34 otherwise acting within the scope of his duty, office or  
35 employment, shall be punished by a fine of not more than One  
36 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
37 five (5) years, or both.

38       (2) (a) A person is guilty of aggravated assault if he (i)  
39 attempts to cause serious bodily injury to another, or causes such  
40 injury purposely, knowingly or recklessly under circumstances  
41 manifesting extreme indifference to the value of human life; or  
42 (ii) attempts to cause or purposely or knowingly causes bodily  
43 injury to another with a deadly weapon or other means likely to  
44 produce death or serious bodily harm; and, upon conviction, he  
45 shall be punished by imprisonment in the county jail for not more  
46 than one (1) year or in the Penitentiary for not more than twenty  
47 (20) years.

48       (b) However, a person convicted of aggravated assault  
49 (i) upon a statewide elected official, law enforcement officer,  
50 fireman, emergency medical personnel, public health personnel,  
51 social worker or child protection specialist employed by the  
52 Department of Human Services or another agency, other person  
53 employed by the Department of Human Services in their official  
54 capacity while performing their duties off site, superintendent,  
55 principal, teacher or other instructional personnel, school  
56 attendance officer, school bus driver, or a judge of a circuit,  
57 chancery, county, justice or youth court or a judge of the Court  
58 of Appeals or a justice of the Supreme Court, district attorney,  
59 legal assistant to a district attorney, county prosecutor,  
60 municipal prosecutor, court reporter employed by a court, court  
61 administrator, clerk or deputy clerk of the court, or public

62 defender, while such person is acting within the scope of his  
63 duty, office or employment, or (ii) upon a legislator while the  
64 Legislature is in regular or extraordinary session or while  
65 otherwise acting within the scope of his duty, office or  
66 employment, shall be punished by a fine of not more than Five  
67 Thousand Dollars (\$5,000.00) or by imprisonment for not more than  
68 thirty (30) years, or both.

69 (3) (a) A person is guilty of simple domestic violence who  
70 commits simple assault as described in subsection (1) of this  
71 section against a family or household member who resides with the  
72 defendant or who formerly resided with the defendant, a current or  
73 former spouse, a person who has a current dating relationship with  
74 the defendant, or a person with whom the defendant has had a  
75 biological or legally adopted child and upon conviction, the  
76 defendant shall be punished as provided under subsection (1) of  
77 this section; however, upon a third or subsequent conviction of  
78 simple domestic violence, whether against the same or another  
79 victim and within five (5) years, the defendant shall be guilty of  
80 a felony and sentenced to a term of imprisonment not less than  
81 five (5) nor more than ten (10) years. In sentencing, the court  
82 shall consider as an aggravating factor whether the crime was  
83 committed in the physical presence or hearing of a child under  
84 sixteen (16) years of age who was, at the time of the offense,  
85 living within either the residence of the victim, the residence of  
86 the perpetrator, or the residence where the offense occurred.

87 (b) A person is guilty of aggravated domestic violence  
88 who commits aggravated assault as described in subsection (2) of  
89 this section against a family or household member who resides with  
90 the defendant or who formerly resided with the defendant, or a  
91 current or former spouse, a person who has a current dating  
92 relationship with the defendant, or a person with whom the  
93 defendant has had a biological or legally adopted child and upon  
94 conviction, the defendant shall be punished as provided under

95 subsection (2) of this section; however, upon a third or  
96 subsequent offense of aggravated domestic violence, whether  
97 against the same or another victim and within five (5) years, the  
98 defendant shall be guilty of a felony and sentenced to a term of  
99 imprisonment of not less than five (5) nor more than twenty (20)  
100 years. In sentencing, the court shall consider as an aggravating  
101 factor whether the crime was committed in the physical presence or  
102 hearing of a child under sixteen (16) years of age who was, at the  
103 time of the offense, living within either the residence of the  
104 victim, the residence of the perpetrator, or the residence where  
105 the offense occurred. Reasonable discipline of a child, such as  
106 spanking, is not an offense under this subsection (3).

107 (c) "Dating relationship" means a social relationship  
108 of a romantic or intimate nature.

109 (d) Every conviction of domestic violence may require  
110 as a condition of any suspended sentence that the defendant  
111 participate in counseling or treatment to bring about the  
112 cessation of domestic abuse. The defendant may be required to pay  
113 all or part of the cost of the counseling or treatment, in the  
114 discretion of the court.

115 (e) In any conviction of assault as described in any  
116 subsection of this section which arises from an incident of  
117 domestic violence, the sentencing order shall include the  
118 designation "domestic violence."

119 **SECTION 2.** This act shall take effect and be in force from  
120 and after July 1, 2005.