

By: Representative Denny

To: Judiciary B

HOUSE BILL NO. 39

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. However, a person
35 convicted of simple assault (a) upon a statewide elected official,
36 law enforcement officer, fireman, emergency medical personnel,
37 public health personnel, social worker or child protection
38 specialist employed by the Department of Human Services or another
39 agency, superintendent, principal, teacher or other instructional
40 personnel, school attendance officer, school bus driver, or a
41 judge of a circuit, chancery, county, justice or youth court or a
42 judge of the Court of Appeals or a justice of the Supreme Court,
43 district attorney, legal assistant to a district attorney, county
44 prosecutor, municipal prosecutor, court reporter employed by a
45 court, court administrator, clerk or deputy clerk of the court, or
46 public defender, while such statewide elected official, judge or
47 justice, law enforcement officer, fireman, emergency medical
48 personnel, public health personnel, social worker, child
49 protection specialist, superintendent, principal, teacher or other
50 instructional personnel, school attendance officer, school bus
51 driver, district attorney, legal assistant to a district attorney,
52 county prosecutor, municipal prosecutor, court reporter employed
53 by a court, court administrator, clerk or deputy clerk of the
54 court, or public defender is acting within the scope of his duty,
55 office or employment, or (b) upon a legislator while the
56 Legislature is in regular or extraordinary session or while
57 otherwise acting within the scope of his duty, office or
58 employment, shall be punished by a fine of not more than One
59 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
60 five (5) years, or both.

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

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

94 (3) A person is guilty of simple domestic violence who
95 commits simple assault as described in subsection (1) of this

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

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

129 the perpetrator, or the residence where the offense occurred.
130 Reasonable discipline of a child, such as spanking, is not an
131 offense under this subsection (4).

132 (5) "Dating relationship" means a social relationship of a
133 romantic or intimate nature.

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

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

144 **SECTION 3.** This act shall take effect and be in force from
145 and after July 1, 2006.