

By: Representative Warren

To: Judiciary B

HOUSE BILL NO. 673

1 AN ACT TO REENACT SECTION 93-21-23, MISSISSIPPI CODE OF 1972,
2 WHICH PROVIDES IMMUNITY FOR CERTAIN PERSONS PARTICIPATING IN
3 DOMESTIC ABUSE REPORTS AND JUDICIAL PROCEEDINGS; TO REENACT
4 SECTION 97-3-7, MISSISSIPPI CODE OF 1972, WHICH DEFINES THE CRIMES
5 OF SIMPLE ASSAULT, AGGRAVATED ASSAULT AND DOMESTIC VIOLENCE AND
6 ESTABLISHES PENALTIES FOR THOSE CRIMES; TO AMEND REENACTED
7 SECTIONS 93-21-23 AND 97-3-7, MISSISSIPPI CODE OF 1972, TO INSERT
8 THE REPEALER ON THOSE SECTIONS INTO THE SECTIONS AND TO EXTEND THE
9 REPEALER TO JULY 1, 2008; TO AMEND SECTION 43-1-55, MISSISSIPPI
10 CODE OF 1972, TO DELETE THE REPEALER ON SECTIONS 93-21-23 AND
11 97-3-7, MISSISSIPPI CODE OF 1972; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 93-21-23, Mississippi Code of 1972, is
14 reenacted and amended as follows:

15 93-21-23. (1) Any licensed doctor of medicine, licensed
16 doctor of dentistry, intern, resident or registered nurse,
17 psychologist, social worker, child protection specialist,
18 preacher, teacher, attorney, law enforcement officer, or any other
19 person or institution participating in the making of a report
20 pursuant to this chapter or participating in judicial proceedings
21 resulting therefrom shall be presumed to be acting in good faith,
22 and if found to have acted in good faith shall be immune from any
23 liability, civil or criminal, that might otherwise be incurred or
24 imposed. The reporting of an abused person shall not constitute a
25 breach of confidentiality.

26 (2) This section shall stand repealed on July 1, 2008.

27 **SECTION 2.** Section 97-3-7, Mississippi Code of 1972, is
28 reenacted and amended as follows:

29 97-3-7. (1) A person is guilty of simple assault if he (a)
30 attempts to cause or purposely, knowingly or recklessly causes
31 bodily injury to another; or (b) negligently causes bodily injury

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

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

97 employment, shall be punished by a fine of not more than Five
98 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
99 thirty (30) years, or both.

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

118 (4) A person is guilty of aggravated domestic violence who
119 commits aggravated assault as described in subsection (2) of this
120 section against a family or household member who resides with the
121 defendant or who formerly resided with the defendant, or a current
122 or former spouse, a person who has a current dating relationship
123 with the defendant, or a person with whom the defendant has had a
124 biological or legally adopted child and upon conviction, the
125 defendant shall be punished as provided under subsection (2) of
126 this section; however, upon a third or subsequent offense of
127 aggravated domestic violence, whether against the same or another
128 victim and within five (5) years, the defendant shall be guilty of
129 a felony and sentenced to a term of imprisonment of not less than

130 five (5) nor more than twenty (20) years. In sentencing, the
131 court shall consider as an aggravating factor whether the crime
132 was committed in the physical presence or hearing of a child under
133 sixteen (16) years of age who was, at the time of the offense,
134 living within either the residence of the victim, the residence of
135 the perpetrator, or the residence where the offense occurred.
136 Reasonable discipline of a child, such as spanking, is not an
137 offense under this subsection (4).

138 (5) "Dating relationship" means a social relationship of a
139 romantic or intimate nature.

140 (6) Every conviction of domestic violence may require as a
141 condition of any suspended sentence that the defendant participate
142 in counseling or treatment to bring about the cessation of
143 domestic abuse. The defendant may be required to pay all or part
144 of the cost of the counseling or treatment, in the discretion of
145 the court.

146 (7) In any conviction of assault as described in any
147 subsection of this section which arises from an incident of
148 domestic violence, the sentencing order shall include the
149 designation "domestic violence."

150 (8) This section shall stand repealed on July 1, 2008.

151 **SECTION 3.** Section 43-1-55, Mississippi Code of 1972, is
152 amended as follows:

153 43-1-55. (1) The Office of Family and Children's Services
154 shall devise formal social worker standards for employment and
155 service delivery designed to measure the quality of services
156 delivered to clients, as well as the timeliness of services. Each
157 social worker shall be assessed annually by a supervisor who is
158 knowledgeable in the standards promulgated. The standards shall
159 be applicable to all social workers working under the office.

160 (2) The Office of Family and Children's Services shall
161 devise formal standards for child protection specialists of the

162 Department of Human Services who are not licensed social workers.
163 Those standards shall require that:

164 (a) In order to be employed as a child protection
165 specialist, a person must have a bachelor's degree in either
166 psychology, sociology, nursing, criminal justice or a related
167 field, or a graduate degree in either law, psychology, sociology,
168 nursing, criminal justice or a related field. The determination
169 of what is a related field shall be made by certification of the
170 State Personnel Board; and

171 (b) Before a person may provide services as a child
172 protection specialist, the person shall complete four (4) weeks of
173 intensive training provided by the training unit of the Office of
174 Family and Children's Services, and shall take and receive a
175 passing score on the certification test administered by the
176 training unit upon completion of the four-week training. Upon
177 receiving a passing score on the certification test, the person
178 shall be certified as a child protection specialist by the
179 Department of Human Services. Any person who does not receive a
180 passing score on the certification test shall not be employed or
181 maintain employment as a child protection specialist for the
182 department. Further, a person, qualified as a child protection
183 specialist through the procedures set forth above, shall not
184 conduct forensic interviews of children until the specialist
185 receives additional specialized training in child forensic
186 interview protocols and techniques by a course or curriculum
187 approved by the Department of Human Services to be not less than
188 forty (40) hours.

189 (3) For the purpose of providing services in child abuse or
190 neglect cases, youth court proceedings, vulnerable adults cases,
191 and such other cases as designated by the Executive Director of
192 Human Services, the caseworker or service provider may be a child
193 protection specialist whose work is overseen by a licensed social
194 worker.

195 (4) The Department of Human Services and the Office of
196 Family and Children's Services shall seek to employ and use
197 licensed social workers to provide the services of the office, and
198 may employ and use child protection specialists to provide those
199 services only in counties in which there is not a sufficient
200 number of licensed social workers to adequately provide those
201 services in the county.

202 (5) This section and Sections 43-21-261, 43-21-353,
203 43-21-355, 43-21-603, 43-27-109 and 43-47-7 * * * shall stand
204 repealed on July 1, 2006.

205 **SECTION 4.** This act shall take effect and be in force from
206 and after its passage.