

By: Representative Compretta

To: Judiciary A

HOUSE BILL NO. 1307

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 INCLUDE MUNICIPAL COURT JUDGES IN THE ENHANCED PROVISIONS OF THE  
3 AGGRAVATED ASSAULT STATUTE; TO AMEND SECTION 43-1-55, MISSISSIPPI  
4 CODE OF 1972, TO REMOVE THE REPEALER ON THE ASSAULT STATUTE; AND  
5 FOR RELATED PURPOSES.

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

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

9 97-3-7. (1) A person is guilty of simple assault if he (a)  
10 attempts to cause or purposely, knowingly or recklessly causes  
11 bodily injury to another; or (b) negligently causes bodily injury  
12 to another with a deadly weapon or other means likely to produce  
13 death or serious bodily harm; or (c) attempts by physical menace  
14 to put another in fear of imminent serious bodily harm; and, upon  
15 conviction, he shall be punished by a fine of not more than Five  
16 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
17 for not more than six (6) months, or both. However, a person  
18 convicted of simple assault (a) upon a statewide elected official,  
19 law enforcement officer, fireman, emergency medical personnel,  
20 public health personnel, social worker or child protection  
21 specialist employed by the Department of Human Services or another  
22 agency, superintendent, principal, teacher or other instructional  
23 personnel, school attendance officer, school bus driver, or a  
24 judge of a circuit, chancery, county, justice, municipal or youth  
25 court or a judge of the Court of Appeals or a justice of the  
26 Supreme Court, district attorney, legal assistant to a district  
27 attorney, county prosecutor, municipal prosecutor, court reporter  
28 employed by a court, court administrator, clerk or deputy clerk of

29 the court, or public defender, while such statewide elected  
30 official, judge or justice, law enforcement officer, fireman,  
31 emergency medical personnel, public health personnel, social  
32 worker, child protection specialist, superintendent, principal,  
33 teacher or other instructional personnel, school attendance  
34 officer, school bus driver, district attorney, legal assistant to  
35 a district attorney, county prosecutor, municipal prosecutor,  
36 court reporter employed by a court, court administrator, clerk or  
37 deputy clerk of the court, or public defender is acting within the  
38 scope of his duty, office or employment, or (b) upon a legislator  
39 while the Legislature is in regular or extraordinary session or  
40 while otherwise acting within the scope of his duty, office or  
41 employment, 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. However, a person convicted of aggravated assault (a)  
54 upon a statewide elected official, law enforcement officer,  
55 fireman, emergency medical personnel, public health personnel,  
56 social worker or child protection specialist 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, municipal or youth court or a judge of  
61 the Court of Appeals or a justice of the Supreme Court, district

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

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

95 sixteen (16) years of age who was, at the time of the offense,  
96 living within either the residence of the victim, the residence of  
97 the perpetrator, or the residence where the offense occurred.

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

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

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

126 (7) In any conviction of assault as described in any  
127 subsection of this section which arises from an incident of

128 domestic violence, the sentencing order shall include the  
129 designation "domestic violence."

130 **SECTION 2.** Section 43-1-55, Mississippi Code of 1972, is  
131 amended as follows:

132 43-1-55. (1) The Office of Family and Children's Services  
133 shall devise formal social worker standards for employment and  
134 service delivery designed to measure the quality of services  
135 delivered to clients, as well as the timeliness of services. Each  
136 social worker shall be assessed annually by a supervisor who is  
137 knowledgeable in the standards promulgated. The standards shall  
138 be applicable to all social workers working under the office.

139 (2) The Office of Family and Children's Services shall  
140 devise formal standards for child protection specialists of the  
141 Department of Human Services who are not licensed social workers.  
142 Those standards shall require that:

143 (a) In order to be employed as a child protection  
144 specialist, a person must have a bachelor's degree in either  
145 psychology, sociology, nursing, criminal justice or a related  
146 field, or a graduate degree in either law, psychology, sociology,  
147 nursing, criminal justice or a related field. The determination  
148 of what is a related field shall be made by certification of the  
149 State Personnel Board; and

150 (b) Before a person may provide services as a child  
151 protection specialist, the person shall complete four (4) weeks of  
152 intensive training provided by the training unit of the Office of  
153 Family and Children's Services, and shall take and receive a  
154 passing score on the certification test administered by the  
155 training unit upon completion of the four-week training. Upon  
156 receiving a passing score on the certification test, the person  
157 shall be certified as a child protection specialist by the  
158 Department of Human Services. Any person who does not receive a  
159 passing score on the certification test shall not be employed or  
160 maintain employment as a child protection specialist for the

161 department. Further, a person, qualified as a child protection  
162 specialist through the procedures set forth above, shall not  
163 conduct forensic interviews of children until the specialist  
164 receives additional specialized training in child forensic  
165 interview protocols and techniques by a course or curriculum  
166 approved by the Department of Human Services to be not less than  
167 forty (40) hours.

168 (3) For the purpose of providing services in child abuse or  
169 neglect cases, youth court proceedings, vulnerable adults cases,  
170 and such other cases as designated by the Executive Director of  
171 Human Services, the caseworker or service provider may be a child  
172 protection specialist whose work is overseen by a licensed social  
173 worker.

174 (4) The Department of Human Services and the Office of  
175 Family and Children's Services shall seek to employ and use  
176 licensed social workers to provide the services of the office, and  
177 may employ and use child protection specialists to provide those  
178 services only in counties in which there is not a sufficient  
179 number of licensed social workers to adequately provide those  
180 services in the county.

181 (5) This section and Sections 43-21-261, 43-21-353,  
182 43-21-355, 43-21-603, 43-27-109, 43-47-7 and 93-21-23 \* \* \* shall  
183 stand repealed on July 1, 2007.

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