

By: Representative Compretta

To: Judiciary A

HOUSE BILL NO. 1307
(As Sent to Governor)

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, as
8 amended by Senate Bill No. 2388, 2006 Regular Session, is amended
9 as follows:

10 97-3-7. (1) A person is guilty of simple assault if he (a)
11 attempts to cause or purposely, knowingly or recklessly causes
12 bodily injury to another; or (b) negligently causes bodily injury
13 to another with a deadly weapon or other means likely to produce
14 death or serious bodily harm; or (c) attempts by physical menace
15 to put another in fear of imminent serious bodily harm; and, upon
16 conviction, he shall be punished by a fine of not more than Five
17 Hundred Dollars (\$500.00) or by imprisonment in the county jail
18 for not more than six (6) months, or both. However, a person
19 convicted of simple assault (a) upon a statewide elected official,
20 law enforcement officer, fireman, emergency medical personnel,
21 public health personnel, social worker or family protection
22 specialist or family protection worker employed by the Department
23 of Human Services or another agency, superintendent, principal,
24 teacher or other instructional personnel, school attendance
25 officer, school bus driver, or a judge of a circuit, chancery,
26 county, justice, municipal 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 statewide elected official, judge or justice,
32 law enforcement officer, fireman, emergency medical personnel,
33 public health personnel, social worker, family protection
34 specialist, family protection worker, superintendent, principal,
35 teacher or other instructional personnel, school attendance
36 officer, school bus driver, district attorney, legal assistant to
37 a district attorney, county prosecutor, municipal prosecutor,
38 court reporter employed by a court, court administrator, clerk or
39 deputy clerk of the court, or public defender is acting within the
40 scope of his duty, office or employment, or (b) upon a legislator
41 while the Legislature is in regular or extraordinary session or
42 while otherwise acting within the scope of his duty, office or
43 employment, shall be punished by a fine of not more than One
44 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
45 five (5) years, or both.

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

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

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

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

100 (4) A person is guilty of aggravated domestic violence who
101 commits aggravated assault as described in subsection (2) of this
102 section against a family or household member who resides with the
103 defendant or who formerly resided with the defendant, or a current
104 or former spouse, a person who has a current dating relationship
105 with 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 (2) of
108 this section; however, upon a third or subsequent offense of
109 aggravated 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 of not less than
112 five (5) nor more than twenty (20) years. In sentencing, the
113 court shall consider as an aggravating factor whether the crime
114 was 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 Reasonable discipline of a child, such as spanking, is not an
119 offense under this subsection (4).

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

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

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

132 **SECTION 2.** Section 43-1-55, Mississippi Code of 1972, as
133 amended by Senate Bill No. 2388, 2006 Regular Session, is amended
134 as follows:

135 43-1-55. (1) The Office of Family and Children's Services
136 and the Division of Aging and Adult Services shall devise
137 formal * * * standards for employment as a family protection
138 worker and as a family protection specialist within their
139 respective offices and for service delivery designed to measure
140 the quality of services delivered to clients, as well as the
141 timeliness of services. Each family protection worker and family
142 protection specialist shall be assessed annually by a supervisor
143 who is a licensed social worker who is knowledgeable in the
144 standards promulgated. The standards devised by each office shall
145 be applicable to all family protection workers and family
146 protection specialists working under that office.

147 (2) The Office of Family and Children's Services shall
148 devise formal standards for family protection workers of the
149 Department of Human Services who are not licensed social workers.
150 Those standards shall require that:

151 (a) In order to be employed as a family protection
152 worker, a person must have a bachelor's degree in either
153 psychology, sociology, nursing, family studies, or a related
154 field, or a graduate degree in either * * * psychology, sociology,
155 nursing, criminal justice, counseling, marriage and family therapy
156 or a related field. The determination of what is a related field
157 shall be made by certification of the State Personnel Board; and

158 (b) Before a person may provide services as a family
159 protection worker, the person shall complete four (4) weeks of
160 intensive training provided by the training unit of the Office of

161 Family and Children's Services, and shall take and receive a
162 passing score on the certification test administered by the
163 training unit upon completion of the four-week training. Upon
164 receiving a passing score on the certification test, the person
165 shall be certified as a family protection worker by the Department
166 of Human Services. Any person who does not receive a passing
167 score on the certification test shall not be employed or maintain
168 employment as a family protection worker for the department.
169 Further, a person, qualified as a family protection worker through
170 the procedures set forth above, shall not conduct forensic
171 interviews of children until the worker receives additional
172 specialized training in child forensic interview protocols and
173 techniques by a course or curriculum approved by the Department of
174 Human Services to be not less than forty (40) hours.

175 (3) For the purpose of providing services in child abuse or
176 neglect cases, youth court proceedings, vulnerable adults cases,
177 and such other cases as designated by the Executive Director of
178 Human Services, the caseworker or service provider shall be a
179 family protection specialist or a family protection worker whose
180 work is overseen by a family protection specialist who is a
181 licensed social worker.

182 (4) The Department of Human Services and the Office of
183 Family and Children's Services shall seek to employ and use * * *
184 family protection specialists to provide the services of the
185 office, and may employ and use family protection workers to
186 provide those services only in counties in which there is not a
187 sufficient number of * * * family protection specialists to
188 adequately provide those services in the county.

189 (5) (a) There is created a Training and Testing Advisory
190 Council to review the department's program of training and testing
191 of family protection workers and to make recommendations
192 pertaining to the program to the department. The advisory council
193 shall be composed of the following ten (10) members: two (2)

194 employees of the department appointed by the Executive Director of
195 Human Services, including one (1) representative of the Office of
196 Family and Children's Services and one (1) representative of the
197 Division of Aging and Adult Services; the Chairman of the
198 Consortium of Accredited Schools of Social Work in Mississippi;
199 and the executive director or a board member of a professional
200 association or licensing board for each field of study named in
201 paragraph (2)(a) of this section, as follows: the Mississippi
202 Chapter of the National Association of Social Workers; a marriage
203 and family therapist who is a member of the Board of Examiners for
204 Social Workers and Marriage and Family Therapists, to be selected
205 by the four (4) members of the board of examiners who are marriage
206 and family therapists; the Mississippi Nurses' Association; the
207 Mississippi Prosecutors Association; the Mississippi Counseling
208 Association; the Mississippi Psychological Association; and an
209 officer of the Alabama-Mississippi Sociological Association who is
210 a Mississippi resident elected by the executive committee of the
211 association. The executive director of each association
212 (excluding the Alabama-Mississippi Sociological Association) and
213 chairman of the consortium may designate an alternate member to
214 serve in his stead on the advisory counsel. Members of the
215 advisory council shall serve without salary or per diem.

216 (b) A majority of the advisory council members shall
217 select from their membership a chairperson to preside over
218 meetings and a vice chairperson to preside in the absence of the
219 chairperson or when the chairperson is excused. The advisory
220 council shall adopt procedures governing the manner of conducting
221 its business. A majority of the members shall constitute a quorum
222 to do business.

223 (6) This section and Section * * * 43-27-107, Mississippi
224 Code of 1972, shall stand repealed on July 1, 2009.

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