

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2460

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE SIMPLE ASSAULT TO INCLUDE A NONCONSENSUAL SEXUAL TOUCHING
3 WITHOUT NECESSITY OF FEAR OR ALARM ON THE PART OF THE VICTIM; AND
4 FOR 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 person is guilty of simple assault if he (a)
9 attempts to cause or purposely, knowingly or recklessly causes
10 bodily injury to another; or (b) negligently causes bodily injury
11 to another with a deadly weapon or other means likely to produce
12 death or serious bodily harm; or (c) attempts by physical menace
13 to put another in fear of imminent serious bodily harm; or (d)
14 knowingly and intentionally touches another person on the breasts,
15 buttocks, genital area or anal area without the consent of the
16 other person who is so touched; and, upon conviction, he shall be
17 punished by a fine of not more than Five Hundred Dollars (\$500.00)
18 or by imprisonment in the county jail for not more than six (6)
19 months, or both. However, a person convicted of simple assault
20 (a) upon a statewide elected official, law enforcement officer,
21 fireman, emergency medical personnel, public health personnel,
22 social worker or child protection specialist employed by the
23 Department of Human Services or another agency, 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 statewide elected official, judge or justice,
32 law enforcement officer, fireman, emergency medical personnel,
33 public health personnel, social worker, child protection
34 specialist, superintendent, principal, teacher or other
35 instructional personnel, school attendance officer, school bus
36 driver, district attorney, legal assistant to a district attorney,
37 county prosecutor, municipal prosecutor, court reporter employed
38 by a court, court administrator, clerk or deputy clerk of the
39 court, or public defender is acting within the scope of his duty,
40 office or employment, or (b) upon a legislator while the
41 Legislature is in regular or extraordinary session or while
42 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 or child protection specialist employed by the
59 Department of Human Services or another agency, superintendent,
60 principal, teacher or other instructional personnel, school
61 attendance officer, school bus driver, or a judge of a circuit,

62 chancery, county, justice or youth court or a judge of the Court
63 of Appeals or a justice of the Supreme Court, district attorney,
64 legal assistant to a district attorney, county prosecutor,
65 municipal prosecutor, court reporter employed by a court, court
66 administrator, clerk or deputy clerk of the court, or public
67 defender, while such statewide elected official, judge or justice,
68 law enforcement officer, fireman, emergency medical personnel,
69 public health personnel, social worker, child protection
70 specialist, superintendent, principal, teacher or other
71 instructional personnel, school attendance officer, school bus
72 driver, district attorney, legal assistant to a district attorney,
73 county prosecutor, municipal prosecutor, court reporter employed
74 by a court, court administrator, clerk or deputy clerk of the
75 court, or public defender is acting within the scope of his duty,
76 office or employment, or (b) upon a legislator while the
77 Legislature is in regular or extraordinary session or while
78 otherwise acting within the scope of his duty, office or
79 employment, shall be punished by a fine of not more than Five
80 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
81 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.** This act shall take effect and be in force from
133 and after July 1, 2006.