

By: Senator(s) Williamson

To: Judiciary, Division B

SENATE BILL NO. 2774

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE AGGRAVATED ASSAULT TO EXPAND ELIGIBLE VICTIMS LIST TO
3 INCLUDE MUNICIPAL COURT JUDGES; AND FOR RELATED PURPOSES.

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

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

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

28 official, judge or justice, law enforcement officer, fireman,
29 emergency medical personnel, public health personnel, social
30 worker, child protection specialist, superintendent, principal,
31 teacher or other instructional personnel, school attendance
32 officer, school bus driver, district attorney, legal assistant to
33 a district attorney, county prosecutor, municipal prosecutor,
34 court reporter employed by a court, court administrator, clerk or
35 deputy clerk of the court, or public defender is acting within the
36 scope of his duty, office or employment, or (b) upon a legislator
37 while the Legislature is in regular or extraordinary session or
38 while otherwise acting within the scope of his duty, office or
39 employment, shall be punished by a fine of not more than One
40 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
41 five (5) years, or both.

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

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

78 (3) A person is guilty of simple domestic violence who
79 commits simple assault as described in subsection (1) of this
80 section against a family or household member who resides with the
81 defendant or who formerly resided with the defendant, a current or
82 former spouse, a person who has a current dating relationship with
83 the defendant, or a person with whom the defendant has had a
84 biological or legally adopted child and upon conviction, the
85 defendant shall be punished as provided under subsection (1) of
86 this section; however, upon a third or subsequent conviction of
87 simple domestic violence, whether against the same or another
88 victim and within five (5) years, the defendant shall be guilty of
89 a felony and sentenced to a term of imprisonment not less than
90 five (5) nor more than ten (10) years. In sentencing, the court
91 shall consider as an aggravating factor whether the crime was
92 committed in the physical presence or hearing of a child under
93 sixteen (16) years of age who was, at the time of the offense,

94 living within either the residence of the victim, the residence of
95 the perpetrator, or the residence where the offense occurred.

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

116 (5) "Dating relationship" means a social relationship of a
117 romantic or intimate nature.

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

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

126 domestic violence, the sentencing order shall include the
127 designation "domestic violence."

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2006.