

By: Representative Denny

To: Judiciary B

HOUSE BILL NO. 202

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION
2 97-3-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CRIMINAL
3 OFFENSE OF ATTEMPTED MURDER AND TO PROVIDE PENALTIES FOR THE
4 COMMISSION OF ATTEMPTED MURDER; TO AMEND SECTION 97-3-7,
5 MISSISSIPPI CODE OF 1972, TO REVISE THE OFFENSE OF AGGRAVATED
6 ASSAULT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** The following shall be codified as Section
9 97-3-8, Mississippi Code of 1972:

10 97-3-8. A person is guilty of attempted murder if he
11 attempts to kill another human being or attempts to cause or
12 purposely or knowingly causes bodily injury to another with a
13 deadly weapon or other means likely to produce death or serious
14 bodily harm; and, upon conviction, he shall be punished by
15 imprisonment in the State Penitentiary for not less than twenty
16 (20) years or by imprisonment for life in the State Penitentiary,
17 in the discretion of the court. A person convicted of attempted
18 murder upon a law enforcement officer or fireman while such law
19 enforcement officer or fireman is acting within the scope of his
20 duty and office shall be punished by imprisonment for life in the
21 State Penitentiary. Any person convicted of a second or
22 subsequent offense of attempted murder shall be sentenced to
23 imprisonment for life without parole in the State Penitentiary.

24 **SECTION 2.** Section 97-3-7, Mississippi Code of 1972, is
25 amended as follows:

26 97-3-7. (1) A person is guilty of simple assault if he (a)
27 attempts to cause or purposely, knowingly or recklessly causes
28 bodily injury to another; or (b) negligently causes bodily injury
29 to another with a deadly weapon or other means likely to produce

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

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

94 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
95 thirty (30) years, or both.

96 (3) A person is guilty of simple domestic violence who
97 commits simple assault as described in subsection (1) of this
98 section against a family or household member who resides with the
99 defendant or who formerly resided with the defendant, a current or
100 former spouse, a person who has a current dating relationship with
101 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 (1) of
104 this section; however, upon a third or subsequent conviction of
105 simple 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 not less than
108 five (5) nor more than ten (10) years. In sentencing, the court
109 shall consider as an aggravating factor whether the crime was
110 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 (4) A person is guilty of aggravated domestic violence who
115 commits aggravated assault as described in subsection (2) of this
116 section against a family or household member who resides with the
117 defendant or who formerly resided with the defendant, or a current
118 or former spouse, a person who has a current dating relationship
119 with the defendant, or a person with whom the defendant has had a
120 biological or legally adopted child and upon conviction, the
121 defendant shall be punished as provided under subsection (2) of
122 this section; however, upon a third or subsequent offense of
123 aggravated domestic violence, whether against the same or another
124 victim and within five (5) years, the defendant shall be guilty of
125 a felony and sentenced to a term of imprisonment of not less than
126 five (5) nor more than twenty (20) years. In sentencing, the

127 court shall consider as an aggravating factor whether the crime
128 was committed in the physical presence or hearing of a child under
129 sixteen (16) years of age who was, at the time of the offense,
130 living within either the residence of the victim, the residence of
131 the perpetrator, or the residence where the offense occurred.
132 Reasonable discipline of a child, such as spanking, is not an
133 offense under this subsection (4).

134 (5) "Dating relationship" means a social relationship of a
135 romantic or intimate nature.

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

142 (7) In any conviction of assault as described in any
143 subsection of this section which arises from an incident of
144 domestic violence, the sentencing order shall include the
145 designation "domestic violence."

146 **SECTION 3.** This act shall take effect and be in force from
147 and after July 1, 2007.