

By: Representatives Coleman (29th),
Fredericks

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 905

1 AN ACT TO REVISE VARIOUS PROVISIONS OF THE LAW DEALING WITH
2 DOMESTIC VIOLENCE; TO AMEND SECTION 19-5-319, MISSISSIPPI CODE OF
3 1972, TO ALLOW RECORDINGS OF EMERGENCY CALLS TO BE USED TO
4 PROSECUTE CRIMINAL OFFENSES; TO AMEND SECTION 93-21-3, MISSISSIPPI
5 CODE OF 1972, TO REVISE DEFINITIONS; TO AMEND SECTION 93-21-7,
6 MISSISSIPPI CODE OF 1972, TO REVISE PETITION PROVISIONS; TO AMEND
7 SECTION 93-21-11, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE AND
8 TEMPORARY ORDERS; TO AMEND SECTION 93-21-15, MISSISSIPPI CODE OF
9 1972, TO REVISE PROTECTIVE ORDERS; TO AMEND SECTION 93-21-16,
10 MISSISSIPPI CODE OF 1972, TO REVISE FULL FAITH AND CREDIT; TO
11 AMEND SECTION 93-21-17, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
12 ONLY THE COURT MAY AMEND PROTECTIVE ORDERS; TO AMEND SECTION
13 93-21-25, MISSISSIPPI CODE OF 1972, TO CREATE A PROTECTIVE ORDER
14 REGISTRY; TO AMEND SECTION 93-21-28, MISSISSIPPI CODE OF 1972, TO
15 REVISE EMERGENCY LAW ENFORCEMENT RESPONSE; TO AMEND SECTION
16 93-21-113, MISSISSIPPI CODE OF 1972, TO INCLUDE MUNICIPAL
17 PROSECUTORS AS A PROSECUTOR REQUIRED TO FILE DOMESTIC VIOLENCE
18 CHARGES; TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
19 REVISE DOMESTIC VIOLENCE PROVISIONS; TO AMEND SECTION 99-5-37,
20 MISSISSIPPI CODE OF 1972, TO REVISE CONDITIONS TO BE CONSIDERED IN
21 DOMESTIC VIOLENCE CASES; TO REPEAL SECTION 93-21-13, MISSISSIPPI
22 CODE OF 1972, WHICH PROVIDES FOR EX PARTE PROCEEDINGS, TEMPORARY
23 RELIEF AND ENFORCEMENT OF ORDERS IN ABUSE CASES; AND FOR RELATED
24 PURPOSES.

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

26 **SECTION 1.** Section 19-5-319, Mississippi Code of 1972, is
27 amended as follows:

28 19-5-319. (1) Automatic number identification (ANI),
29 automatic location identification (ALI) and geographic automatic
30 location identification (GeoALI) information that consist of the
31 name, address and telephone number of telephone or wireless
32 subscribers shall be confidential, and the dissemination of the
33 information contained in the 911 automatic number and location
34 data base is prohibited except for the following purpose: the
35 information will be provided to the Public Safety Answering Point
36 (PSAP) on a call-by-call basis only for the purpose of handling
37 emergency calls or for training, and any permanent record of the
38 information shall be secured by the Public Safety Answering Point

39 (PSAP) and disposed of in a manner which will retain that
40 security, except upon court order or subpoena from a court of
41 competent jurisdiction or as otherwise provided by law.

42 (2) All emergency telephone calls and telephone call
43 transmissions received pursuant to Section 19-5-301 et seq., and
44 all recordings of the emergency telephone calls, shall remain
45 confidential and shall be used only for the purposes as may be
46 needed for the prosecution or defense of criminal offenses, law
47 enforcement, fire, medical rescue or other emergency services.
48 These recordings shall not be released to any other parties
49 without court order or subpoena from a court of competent
50 jurisdiction.

51 (3) PSAP and emergency response entities shall maintain and,
52 upon request, release a record of the date of call, time of call,
53 the time the emergency response entity was notified, and the
54 identity of the emergency response entity. The emergency response
55 entity shall maintain and, upon request, release a record of the
56 date and time the call was received by the emergency response
57 entity and the time the emergency response entity arrived on the
58 scene. Requests for release of records must be made in writing
59 and must specify the information desired. Requestors shall pay
60 the cost of providing the information requested in accordance with
61 the Mississippi Public Records Act of 1983, Section 25-61-1 et
62 seq. The identity of any caller or person or persons who are the
63 subject of any call, or the address, phone number or other
64 identifying information about any such person, shall not be
65 released except as provided in subsection (2) of this section.

66 **SECTION 2.** Section 93-21-3, Mississippi Code of 1972, is
67 amended as follows:

68 93-21-3. As used in this chapter, unless the context
69 otherwise requires:

70 (a) "Abuse" means the occurrence of one or more of the
71 following acts between family or household members who reside

72 together or who formerly resided together or between individuals
73 who have a current dating relationship:

74 (i) Attempting to cause or intentionally,
75 knowingly or recklessly causing bodily injury or serious bodily
76 injury with or without a deadly weapon;

77 (ii) Placing, by physical menace or threat,
78 another in fear of imminent serious bodily injury; * * *

79 (iii) Criminal sexual conduct committed against a
80 minor within the meaning of Section 97-5-23;

81 (iv) Stalking within the meaning of Section
82 97-3-107; or

83 (v) Sexual offenses within the meaning of Sections
84 97-3-65 or 97-3-95.

85 (b) "Adult" means any person eighteen (18) years of age
86 or older, or any person under eighteen (18) years of age who has
87 been emancipated by marriage.

88 (c) "Court" means the chancery court, circuit court or
89 county court.

90 (d) "Dating relationship" means a social relationship
91 of a romantic or intimate nature.

92 (e) "Family or household member" means spouses, former
93 spouses, persons living as spouses, parents and children, or other
94 persons related by consanguinity or affinity.

95 **SECTION 3.** Section 93-21-7, Mississippi Code of 1972, is
96 amended as follows:

97 93-21-7. (1) Any person may seek relief under this chapter
98 for himself by filing a petition with the court alleging abuse by
99 the respondent. Any parent, adult household member, or next
100 friend of the abused person may seek relief under this chapter on
101 behalf of any minor children or any person alleged to be
102 incompetent by filing a petition with the court alleging abuse by
103 the respondent. Cases seeking relief under this chapter shall be
104 priority cases on the court's docket and the judge shall be

105 immediately notified when a case is filed in order to provide for
106 expedited proceedings.

107 (2) The petitioner in an action brought pursuant to this
108 chapter shall not bear the costs associated with its filing or the
109 costs associated with the issuance or service of any notice of a
110 hearing to the respondent, issuance or service of an order of
111 protection on the respondent, or issuance or service of a warrant
112 or witness subpoena. If the court finds that the petitioner is
113 entitled to an order protecting the petitioner from abuse, the
114 court shall be authorized to assess all costs including attorney's
115 fees of the proceedings to the respondent. The court may assess
116 costs including attorney's fees to the petitioner if the
117 allegations of abuse are determined to be without merit and the
118 court finds that the petitioner is not a victim of abuse as
119 defined by Section 93-21-3.

120 (3) Costs assessed pursuant to this chapter shall include a
121 One Dollar (\$1.00) fee on every order of protection that is
122 issued, which shall be collected by the court and payable to the
123 Attorney General for expenses in providing forms to the courts.

124 **SECTION 4.** Section 93-21-11, Mississippi Code of 1972, is
125 amended as follows:

126 93-21-11. (1) Within ten (10) days of filing of a petition
127 under the provisions of this act, the court shall hold a hearing,
128 at which time the petitioner must prove the allegation of abuse by
129 a preponderance of the evidence. The respondent shall be given
130 notice by service of process as otherwise provided by law.

131 (2) Upon showing of immediate and present danger in an ex
132 parte proceeding, and upon specific request by the petitioner, the
133 court may, prior to the date set for the hearing, enter such
134 temporary ex parte order as it deems necessary to protect from
135 abuse the petitioner, any minor children, or any person alleged to
136 be incompetent. Immediate and present danger of abuse to the
137 petitioner, any minor children, or any person alleged to be

138 incompetent, shall constitute good cause for issuance of a
139 temporary ex parte order. A temporary ex parte order shall last
140 no longer than ten (10) days and upon issuance of a temporary ex
141 parte order, the respondent shall be served with a copy of the
142 order and given notice of a hearing to be held within ten (10)
143 days as provided in subsection (1).

144 (3) If a hearing under subsection (1) of this section is
145 continued, the court may make or extend such temporary ex parte
146 orders under subsection (2) of this section as it deems necessary.
147 A continuance under this subsection shall last no longer than
148 twenty (20) days.

149 (4) Any temporary ex parte protective order to bring about a
150 cessation of abuse of the petitioner, any minor children, or any
151 person alleged to be incompetent, may include the following
152 relief:

153 (a) Directing the defendant to refrain from abusing the
154 petitioner, any minor children, or any person alleged to be
155 incompetent;

156 (b) Granting possession to the petitioner of the
157 residence or household to the exclusion of the defendant by
158 evicting the defendant and/or restoring possession to the
159 petitioner;

160 (c) Prohibiting or limiting respondent's physical
161 proximity to the abused, including residence and place of work;

162 (d) Prohibiting or limiting contact with the abused by
163 the respondent, whether in person, by telephone or by electronic
164 communication; and

165 (e) Prohibiting the transferring, encumbering or
166 otherwise disposing of property mutually owned or leased by the
167 parties, except when in the ordinary course of business.

168 (5) The court may amend its order or agreement at any time
169 upon subsequent petition by either party.

170 (6) No temporary ex parte protective order shall be issued
171 unless supported by an independent petition requesting relief
172 pursuant to this chapter. Every order granting a temporary ex
173 parte protective order pursuant to this section shall set forth
174 the reasons for its issuance, shall contain specific findings of
175 fact regarding the existence of abuse, shall be specific in its
176 terms and shall describe in reasonable detail the act or acts to
177 be restrained.

178 (7) In issuing temporary ex parte protective orders pursuant
179 to this section, the court shall utilize the uniform form
180 developed, approved and distributed by the Attorney General.

181 **SECTION 5.** Section 93-21-15, Mississippi Code of 1972, is
182 amended as follows:

183 93-21-15. (1) Upon petition the chancery, circuit or county
184 court shall be empowered to grant any protective order or approve
185 any consent agreement to bring about a cessation of abuse of the
186 petitioner, any minor children, or any person alleged to be
187 incompetent, which relief may include:

188 (a) Directing the defendant to refrain from abusing the
189 petitioner, any minor children, or any person alleged to be
190 incompetent;

191 (b) Granting possession to the petitioner of the
192 residence or household to the exclusion of the defendant by
193 evicting the defendant and/or restoring possession to the
194 petitioner;

195 (c) When the defendant has a duty to support the
196 petitioner, any minor children, or any person alleged to be
197 incompetent living in the residence or household and the defendant
198 is the sole owner or lessee, granting possession to the petitioner
199 of the residence or household to the exclusion of the defendant by
200 evicting the defendant and/or restoring possession to the
201 petitioner, or by consent agreement allowing the defendant to
202 provide suitable, alternate housing;

203 (d) Awarding temporary custody of and/or establishing
204 temporary visitation rights with regard to any minor children or
205 any person alleged to be incompetent;

206 (e) If the defendant is legally obligated to support
207 the petitioner, any minor children, or any person alleged to be
208 incompetent, ordering the defendant to pay temporary support for
209 the petitioner, any minor children, or any person alleged to be
210 incompetent;

211 (f) Ordering the defendant to pay to the abused person
212 monetary compensation for losses suffered as a direct result of
213 the abuse, including, but not limited to, medical expenses
214 resulting from such abuse, loss of earnings or support,
215 out-of-pocket losses for injuries sustained, moving expenses, a
216 reasonable attorney's fee, and/or ordering counseling or
217 professional medical treatment for the defendant and/or the abused
218 person; * * *

219 (g) Prohibiting the transferring, encumbering, or
220 otherwise disposing of property mutually owned or leased by the
221 parties, except when in the ordinary course of business;

222 (h) Prohibiting or limiting respondent's physical
223 proximity to the abused, including residence and place of work;
224 and

225 (i) Prohibiting or limiting contact with the abused by
226 the respondent, whether in person, by telephone or by electronic
227 communication.

228 (2) No protective order shall be issued unless supported by
229 an independent petition requesting relief pursuant to this
230 chapter. Every order granting a protective order pursuant to this
231 section shall set forth the reasons for its issuance, shall
232 contain specific findings of fact regarding the existence of
233 abuse, shall be specific in its terms and shall describe in
234 reasonable detail the act or acts to be prohibited.

235 (3) In issuing protective orders pursuant to this section,
236 the court shall utilize the uniform form developed, approved and
237 distributed by the Attorney General.

238 (4) Upon issuance of any protective order by the court, the
239 order shall be forwarded to the sheriff for enforcement and entry
240 into the National Criminal Information Center's Protection Order
241 File.

242 **SECTION 6.** Section 93-21-16, Mississippi Code of 1972, is
243 amended as follows:

244 93-21-16. (1) A protective order from another jurisdiction
245 issued to protect the applicant from abuse as defined in Section
246 93-21-3, or a protection order as defined in Section 93-22-3,
247 issued by a tribunal of another state shall be accorded full faith
248 and credit by the courts of this state and enforced in this state
249 as provided for in the Uniform Interstate Enforcement of Domestic
250 Violence Protection Orders Act.

251 (2) For purposes of enforcement by Mississippi law
252 enforcement officers, a protective order from another
253 jurisdiction, or a protection order as defined in Section 93-22-3
254 and issued by a tribunal of another state, is presumed to be valid
255 if it meets the requirements of Section 93-22-7.

256 (3) For purposes of judicial enforcement of a protective
257 order issued in another jurisdiction, or a protection order as
258 defined in Section 93-22-3 and issued by a tribunal of another
259 state, an order is presumed valid if it meets the requirements of
260 Section 93-22-5(4). It is an affirmative defense in any action
261 seeking enforcement of a protective order issued in another
262 jurisdiction, or a protection order as defined in Section 93-22-3
263 and issued by a tribunal of another state, that any criteria for
264 the validity of the order is absent.

265 **SECTION 7.** Section 93-21-17, Mississippi Code of 1972, is
266 amended as follows:

267 93-21-17. (1) The granting of any relief authorized under
268 this chapter shall not preclude any other relief provided by law.

269 (2) * * * The court may amend its order or agreement at any
270 time upon subsequent petition filed by either party. Protective
271 orders issued under the provisions of this chapter may only be
272 amended by approval of the court.

273 (3) No order or agreement under this chapter shall in any
274 manner affect title to any real property.

275 **SECTION 8.** Section 93-21-25, Mississippi Code of 1972, is
276 amended as follows:

277 93-21-25. (1) In order to provide a statewide registry for
278 protective orders and to aid law enforcement, prosecutors and
279 courts in handling such matters, there is created a Mississippi
280 Protective Order Registry administered by the Office of the
281 Attorney General. The Attorney General's Office shall collect the
282 data transmitted to it from the courts and enter it into the
283 Mississippi Protective Order Registry.

284 (2) All orders issued pursuant to this chapter will be
285 maintained in the Mississippi Protective Order Registry.

286 (3) The clerk of the issuing court shall send a copy of the
287 order or any modification thereof to the Mississippi Protection
288 Order Registry as expeditiously as possible but no later than by
289 the end of the next business day after the order is filed with the
290 clerk of the court. Transmittal of the order may be by facsimile
291 transmission, mail or email.

292 (4) Upon formation, the registry shall immediately implement
293 a daily process for the entry of newly issued protective orders
294 and removal of records and names of the parties in all cases in
295 which a protective order expires by its own terms or is modified
296 or rescinded by the court.

297 (5) The Mississippi Protective Order Registry shall be a
298 public record and the Attorney General's Office shall make such
299 registry available to the public.

300 **SECTION 9.** Section 93-21-28, Mississippi Code of 1972, is
301 amended as follows:

302 93-21-28. (1) A person who alleges that he or she or a
303 minor child has been the victim of domestic violence may request
304 the assistance of a local law enforcement agency. The local law
305 enforcement agency shall respond to the request for assistance
306 with all deliberate speed. The local law enforcement officer
307 responding to the request for assistance shall take whatever steps
308 are reasonably necessary to protect the complainant from harm and
309 shall advise the complainant of sources of shelter, medical care,
310 counseling and other services. Upon request by the complainant
311 and where feasible, the law enforcement officer shall transport
312 the complainant to appropriate facilities such as hospitals or
313 public or private facilities for shelter and accompany the
314 complainant to his or her residence, within the jurisdiction in
315 which the request for assistance was made, so that the complainant
316 may remove food, clothing, medication and such other personal
317 property as is reasonably necessary to enable the complainant and
318 any minor children who are presently in the care of the
319 complainant to remain elsewhere pending further proceedings.

320 (2) In providing the assistance authorized by subsection
321 (1), no officer may be held criminally or civilly liable on
322 account of reasonable measures taken under authority of subsection
323 (1).

324 **SECTION 10.** Section 93-21-113, Mississippi Code of 1972, is
325 amended as follows:

326 93-21-113. Domestic violence shelters through their
327 employees and officials shall, on every occasion other than the
328 initial request for assistance, report to the district attorney,
329 the county attorney, or the appropriate law enforcement official
330 or other state agencies any occurrence or instance coming to their
331 attention which would involve the commission of a crime or the

332 failure to perform or render a service or assistance to a victim
333 of domestic violence when required by law to do so.

334 Every municipal prosecutor, county attorney, district
335 attorney or other appropriate law enforcement official who, having
336 had reported to him a case of domestic violence, if the facts
337 submitted be sufficient, shall immediately file charges against
338 the offender on the behalf of the victim. Such prosecutor may in
339 plea bargaining with the offender enter into an agreement whereby
340 the offender shall receive counseling in lieu of further
341 prosecution, and if the offender shall successfully attend
342 counseling as agreed upon for the period of time agreed upon, the
343 municipal prosecutor, county attorney or district attorney, as the
344 case may be, shall pass such case to the file.

345 No municipal prosecutor, county attorney or district attorney
346 shall grant such right in plea bargaining to the same offender
347 more than once.

348 **SECTION 11.** Section 97-3-7, Mississippi Code of 1972, is
349 amended as follows:

350 97-3-7. (1) A person is guilty of simple assault if he (a)
351 attempts to cause or purposely, knowingly or recklessly causes
352 bodily injury to another; or (b) negligently causes bodily injury
353 to another with a deadly weapon or other means likely to produce
354 death or serious bodily harm; or (c) attempts by physical menace
355 to put another in fear of imminent serious bodily harm; and, upon
356 conviction, he shall be punished by a fine of not more than Five
357 Hundred Dollars (\$500.00) or by imprisonment in the county jail
358 for not more than six (6) months, or both. However, a person
359 convicted of simple assault (a) upon a statewide elected official,
360 law enforcement officer, fireman, emergency medical personnel,
361 public health personnel, social worker or family protection
362 specialist or family protection worker employed by the Department
363 of Human Services or another agency, superintendent, principal,
364 teacher or other instructional personnel, school attendance

365 officer, school bus driver, or a judge of a circuit, chancery,
366 county, justice, municipal or youth court or a judge of the Court
367 of Appeals or a justice of the Supreme Court, district attorney,
368 legal assistant to a district attorney, county prosecutor,
369 municipal prosecutor, court reporter employed by a court, court
370 administrator, clerk or deputy clerk of the court, or public
371 defender, while such statewide elected official, judge or justice,
372 law enforcement officer, fireman, emergency medical personnel,
373 public health personnel, social worker, family protection
374 specialist, family protection worker, superintendent, principal,
375 teacher or other instructional personnel, school attendance
376 officer, school bus driver, district attorney, legal assistant to
377 a district attorney, county prosecutor, municipal prosecutor,
378 court reporter employed by a court, court administrator, clerk or
379 deputy clerk of the court, or public defender is acting within the
380 scope of his duty, office or employment, or (b) upon a legislator
381 while the Legislature is in regular or extraordinary session or
382 while otherwise acting within the scope of his duty, office or
383 employment, shall be punished by a fine of not more than One
384 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
385 five (5) years, or both.

386 (2) A person is guilty of aggravated assault if he (a)
387 attempts to cause serious bodily injury to another, or causes such
388 injury purposely, knowingly or recklessly under circumstances
389 manifesting extreme indifference to the value of human life; or
390 (b) attempts to cause or purposely or knowingly causes bodily
391 injury to another with a deadly weapon or other means likely to
392 produce death or serious bodily harm; and, upon conviction, he
393 shall be punished by imprisonment in the county jail for not more
394 than one (1) year or in the Penitentiary for not more than twenty
395 (20) years. However, a person convicted of aggravated assault (a)
396 upon a statewide elected official, law enforcement officer,
397 fireman, emergency medical personnel, public health personnel,

398 social worker, family protection specialist, family protection
399 worker employed by the Department of Human Services or another
400 agency, superintendent, principal, teacher or other instructional
401 personnel, school attendance officer, school bus driver, or a
402 judge of a circuit, chancery, county, justice, municipal or youth
403 court or a judge of the Court of Appeals or a justice of the
404 Supreme Court, district attorney, legal assistant to a district
405 attorney, county prosecutor, municipal prosecutor, court reporter
406 employed by a court, court administrator, clerk or deputy clerk of
407 the court, or public defender, while such statewide elected
408 official, judge or justice, law enforcement officer, fireman,
409 emergency medical personnel, public health personnel, social
410 worker, family protection specialist, family protection worker,
411 superintendent, principal, teacher or other instructional
412 personnel, school attendance officer, school bus driver, district
413 attorney, legal assistant to a district attorney, county
414 prosecutor, municipal prosecutor, court reporter employed by a
415 court, court administrator, clerk or deputy clerk of the court, or
416 public defender is acting within the scope of his duty, office or
417 employment, or (b) upon a legislator while the Legislature is in
418 regular or extraordinary session or while otherwise acting within
419 the scope of his duty, office or employment, shall be punished by
420 a fine of not more than Five Thousand Dollars (\$5,000.00) or by
421 imprisonment for not more than thirty (30) years, or both.

422 (3) A person is guilty of simple domestic violence who
423 commits simple assault as described in subsection (1) of this
424 section against a family or household member who resides with the
425 defendant or who formerly resided with the defendant, a current or
426 former spouse, a person who has a current dating relationship with
427 the defendant, or a person with whom the defendant has had a
428 biological or legally adopted child and upon conviction, the
429 defendant shall be punished as provided under subsection (1) of
430 this section; however, upon a third or subsequent conviction of

431 simple domestic violence, whether against the same or another
432 victim and within five (5) years, the defendant shall be guilty of
433 a felony and sentenced to a term of imprisonment not less than
434 five (5) nor more than ten (10) years. In sentencing, the court
435 shall consider as an aggravating factor whether the crime was
436 committed in the physical presence or hearing of a child under
437 sixteen (16) years of age who was, at the time of the offense,
438 living within either the residence of the victim, the residence of
439 the perpetrator, or the residence where the offense occurred.

440 (4) A person is guilty of aggravated domestic violence who
441 commits aggravated assault as described in subsection (2) of this
442 section against a family or household member who resides with the
443 defendant or who formerly resided with the defendant, or a current
444 or former spouse, a person who has a current dating relationship
445 with the defendant, or a person with whom the defendant has had a
446 biological or legally adopted child and upon conviction, the
447 defendant shall be punished as provided under subsection (2) of
448 this section; however, upon a third or subsequent offense of
449 aggravated domestic violence, whether against the same or another
450 victim and within five (5) years, the defendant shall be guilty of
451 a felony and sentenced to a term of imprisonment of not less than
452 five (5) nor more than twenty (20) years. In sentencing, the
453 court shall consider as an aggravating factor whether the crime
454 was committed in the physical presence or hearing of a child under
455 sixteen (16) years of age who was, at the time of the offense,
456 living within either the residence of the victim, the residence of
457 the perpetrator, or the residence where the offense occurred.
458 Reasonable discipline of a child, such as spanking, is not an
459 offense under this subsection (4).

460 (5) "Dating relationship" means a social relationship of a
461 romantic or intimate nature.

462 (6) Every conviction of domestic violence may require as a
463 condition of any suspended sentence that the defendant participate

464 in counseling or treatment to bring about the cessation of
465 domestic abuse. The defendant may be required to pay all or part
466 of the cost of the counseling or treatment, in the discretion of
467 the court.

468 (7) When investigating allegations of a violation of
469 subsections (3) and (4) of this section, law enforcement officers
470 shall utilize the form prescribed by the Office of the Attorney
471 General in consultation with the Sheriff's and Police Chief's
472 Associations for such purposes. In cases in which the
473 investigation results in an arrest, a copy of the offense report
474 shall be provided to the Office of the Attorney General.

475 (8) In any conviction of assault as described in any
476 subsection of this section which arises from an incident of
477 domestic violence, the sentencing order shall include the
478 designation "domestic violence." The court shall forward a copy
479 of each sentencing order bearing the designation "domestic
480 violence" to the Office of the Attorney General.

481 **SECTION 12.** Section 99-5-37, Mississippi Code of 1972, is
482 amended as follows:

483 99-5-37. In any arrest for a misdemeanor which is an act of
484 domestic violence, as defined in Section 99-3-7(5), no bail shall
485 be granted until the person arrested has appeared before a judge
486 of the court of competent jurisdiction. The defendant shall be
487 brought before a judge at the first reasonable opportunity, not to
488 exceed twenty-four (24) hours from the time of the arrest. In
489 calculating the twenty-four (24) hours, weekends and holidays
490 shall be included. The appearance may be by telephone. Upon
491 setting bail in any case involving a misdemeanor which is an act
492 of domestic violence, the judge shall give particular
493 consideration to the exigencies of the case, including, but not
494 limited to, (a) the potential for further violence, (b) the past
495 history, if any, of violence between the defendant and alleged
496 victim, (c) the level of violence of the instant offense, (d) any

497 threats of further violence and (e) the existence of a domestic
498 violence protection order prohibiting the defendant from engaging
499 in abusive behavior, and shall impose any specific conditions as
500 he or she may deem necessary. Specific conditions which may be
501 imposed by the judge may include the issuance of an order
502 prohibiting the defendant from contacting the alleged victim prior
503 to trial, prohibiting the defendant from abusing or threatening
504 the alleged victim, requiring defendant to refrain from drug or
505 alcohol use, or requiring the defendant to relinquish possession
506 of any firearms or other weapons to the law enforcement agency
507 making the arrest. All such orders shall be reduced to writing
508 using the form developed by the Attorney General or a form
509 substantially similar to the form developed by the Attorney
510 General.

511 **SECTION 13.** Section 93-21-13, Mississippi Code of 1972,
512 which provides for ex parte proceedings, temporary relief and
513 enforcement of orders in abuse cases, is repealed.

514 **SECTION 14.** This act shall take effect and be in force from
515 and after July 1, 2007.