

By: Senator(s) Dearing

To: Judiciary, Division B

SENATE BILL NO. 2094

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE AGGRAVATING FACTORS FOR BOTH SIMPLE AND AGGRAVATED
3 ASSAULT; 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 family protection
19 specialist or family protection worker employed by the Department
20 of Human Services or another agency, youth detention center
21 personnel, any county or municipal jail officer, superintendent,
22 principal, teacher or other instructional personnel, school
23 attendance officer, school bus driver, or a judge of a circuit,
24 chancery, county, justice, municipal or youth court or a judge of
25 the Court of Appeals or a justice of the Supreme Court, district
26 attorney, legal assistant to a district attorney, county
27 prosecutor, municipal prosecutor, court reporter employed by a

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

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

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

84 (3) A person is guilty of simple domestic violence who
85 commits simple assault as described in subsection (1) of this
86 section against a family or household member who resides with the
87 defendant or who formerly resided with the defendant, a current or
88 former spouse, a person who has a current dating relationship with
89 the defendant, or a person with whom the defendant has had a
90 biological or legally adopted child and upon conviction, the
91 defendant shall be punished as provided under subsection (1) of
92 this section; however, upon a third or subsequent conviction of
93 simple domestic violence, whether against the same or another

94 victim and within five (5) years, the defendant shall be guilty of
95 a felony and sentenced to a term of imprisonment not less than
96 five (5) nor more than ten (10) years. In sentencing, the court
97 shall consider as an aggravating factor whether the crime was
98 committed in the physical presence or hearing of a child under
99 sixteen (16) years of age who was, at the time of the offense,
100 living within either the residence of the victim, the residence of
101 the perpetrator, or the residence where the offense occurred.

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

122 (5) "Dating relationship" means a social relationship of a
123 romantic or intimate nature.

124 (6) Every conviction of domestic violence may require as a
125 condition of any suspended sentence that the defendant participate
126 in counseling or treatment to bring about the cessation of

127 domestic abuse. The defendant may be required to pay all or part
128 of the cost of the counseling or treatment, in the discretion of
129 the court.

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

134 **SECTION 2.** This act shall take effect and be in force from
135 and after July 1, 2007.