

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2702

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE AN ENHANCED PENALTY FOR ASSAULT WHEN COMMITTED UPON AN  
3 ELDERLY PERSON; 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, superintendent, principal,  
21 teacher or other instructional personnel, school attendance  
22 officer, school bus driver, or a judge of a circuit, chancery,  
23 county, justice, municipal or youth court or a judge of the Court  
24 of Appeals or a justice of the Supreme Court, district attorney,  
25 legal assistant to a district attorney, county prosecutor,  
26 municipal prosecutor, court reporter employed by a court, court  
27 administrator, clerk or deputy clerk of the court, or public

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

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

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

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

94 shall consider as an aggravating factor whether the crime was  
95 committed in the physical presence or hearing of a child under  
96 sixteen (16) years of age who was, at the time of the offense,  
97 living within either the residence of the victim, the residence of  
98 the perpetrator, or the residence where the offense occurred.

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

119 (5) "Dating relationship" means a social relationship of a  
120 romantic or intimate nature.

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

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

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