

By: Senator(s) Albritton

To: Judiciary, Division B

SENATE BILL NO. 2715

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 REVISE SIMPLE ASSAULT TO INCLUDE A NONCONSENSUAL SEXUAL TOUCHING  
3 WITHOUT NECESSITY OF FEAR OR ALARM ON THE PART OF THE VICTIM; AND  
4 FOR RELATED PURPOSES.

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

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

8 97-3-7. (1) A person is guilty of simple assault if he (a)  
9 attempts to cause or purposely, knowingly or recklessly causes  
10 bodily injury to another; or (b) negligently causes bodily injury  
11 to another with a deadly weapon or other means likely to produce  
12 death or serious bodily harm; or (c) attempts by physical menace  
13 to put another in fear of imminent serious bodily harm; or (d)  
14 knowingly and intentionally touches another person on the breasts,  
15 buttocks, genital area or anal area without the consent of the  
16 other person who is so touched; and, upon conviction, he shall be  
17 punished by a fine of not more than Five Hundred Dollars (\$500.00)  
18 or by imprisonment in the county jail for not more than six (6)  
19 months, or both. However, a person convicted of simple assault  
20 (a) upon a statewide elected official, law enforcement officer,  
21 fireman, emergency medical personnel, public health personnel,  
22 social worker or family protection specialist or family protection  
23 worker employed by the Department of Human Services or another  
24 agency, superintendent, principal, teacher or other instructional  
25 personnel, school attendance officer, school bus driver, or a  
26 judge of a circuit, chancery, county, justice, municipal or youth  
27 court or a judge of the Court of Appeals or a justice of the  
28 Supreme Court, district attorney, legal assistant to a district

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

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

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

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

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

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

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

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

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

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