

By: Representatives Denny, Upshaw

To: Judiciary B

HOUSE BILL NO. 120

1 AN ACT TO CREATE A NEW 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. Every person who shall design and endeavor to commit  
11 an act, which, if accomplished, would constitute an offense of  
12 homicide under Section 97-3-19, shall be guilty of attempted  
13 murder and, upon conviction, shall be punished by imprisonment in  
14 the custody of the Department of Corrections for not less than  
15 twenty (20) years or for life, in the discretion of the court. A  
16 person convicted of attempted murder upon a law enforcement  
17 officer or fireman while such law enforcement officer or fireman  
18 is acting within the scope of his duty and office shall be  
19 punished for life in the custody of the Department of Corrections.  
20 Any person convicted of a second or subsequent offense of  
21 attempted murder shall be sentenced to imprisonment for life  
22 without parole in the custody of the Department of Corrections.

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

25 97-3-7. (1) (a) A person is guilty of simple assault if he  
26 (i) attempts to cause or purposely, knowingly or recklessly causes  
27 bodily injury to another; or (ii) negligently causes bodily injury  
28 to another with a deadly weapon or other means likely to produce



29 death or serious bodily harm; or (iii) attempts by physical menace  
30 to put another in fear of imminent serious bodily harm; and, upon  
31 conviction, he shall be punished by a fine of not more than Five  
32 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
33 for not more than six (6) months, or both.

34 (b) However, a person convicted of simple assault (i)  
35 upon a statewide elected official, law enforcement officer,  
36 fireman, emergency medical personnel, public health personnel,  
37 social worker or family protection specialist or family protection  
38 worker employed by the Department of Human Services or another  
39 agency, youth detention center personnel, training school juvenile  
40 care worker, any county or municipal jail officer, superintendent,  
41 principal, teacher or other instructional personnel, school  
42 attendance officer, school-bus driver, or a judge of a circuit,  
43 chancery, county, justice, municipal or youth court or a judge of  
44 the Court of Appeals or a justice of the Supreme Court, district  
45 attorney, legal assistant to a district attorney, county  
46 prosecutor, municipal prosecutor, court reporter employed by a  
47 court, court administrator, clerk or deputy clerk of the court, or  
48 public defender, while such statewide elected official, judge or  
49 justice, law enforcement officer, fireman, emergency medical  
50 personnel, public health personnel, social worker, family  
51 protection specialist, family protection worker, youth detention  
52 center personnel, training school juvenile care worker, any county  
53 or municipal jail officer, superintendent, principal, teacher or  
54 other instructional personnel, school attendance officer,  
55 school-bus driver, district attorney, legal assistant to a  
56 district attorney, county prosecutor, municipal prosecutor, court  
57 reporter employed by a court, court administrator, clerk or deputy  
58 clerk of the court, or public defender is acting within the scope  
59 of his duty, office or employment; (ii) upon a legislator while  
60 the Legislature is in regular or extraordinary session or while  
61 otherwise acting within the scope of his duty, office or



62 employment; or (iii) upon a person who is sixty-five (65) years of  
63 age or older or a person who is a vulnerable adult, as defined in  
64 Section 43-47-5, shall be punished by a fine of not more than One  
65 Thousand Dollars (\$1,000.00) or by imprisonment for not more than  
66 five (5) years, or both.

67 (2) (a) A person is guilty of aggravated assault if he (i)  
68 attempts to cause serious bodily injury to another, or causes such  
69 injury purposely, knowingly or recklessly under circumstances  
70 manifesting extreme indifference to the value of human life; or  
71 (ii) causes any injury to a child who is in the process of  
72 boarding or exiting a school bus in the course of a violation of  
73 Section 63-3-615; and, upon conviction, he shall be punished by  
74 imprisonment in the county jail for not more than one (1) year or  
75 in the Penitentiary for not more than twenty (20) years.

76 (b) However, a person convicted of aggravated assault  
77 (i) upon a statewide elected official, law enforcement officer,  
78 fireman, emergency medical personnel, public health personnel,  
79 social worker, family protection specialist, family protection  
80 worker employed by the Department of Human Services or another  
81 agency, youth detention center personnel, training school juvenile  
82 care worker, any county or municipal jail officer, superintendent,  
83 principal, teacher or other instructional personnel, school  
84 attendance officer, school-bus driver, or a judge of a circuit,  
85 chancery, county, justice, municipal or youth court or a judge of  
86 the Court of Appeals or a justice of the Supreme Court, district  
87 attorney, legal assistant to a district attorney, county  
88 prosecutor, municipal prosecutor, court reporter employed by a  
89 court, court administrator, clerk or deputy clerk of the court, or  
90 public defender, while such statewide elected official, judge or  
91 justice, law enforcement officer, fireman, emergency medical  
92 personnel, public health personnel, social worker, family  
93 protection specialist, family protection worker, youth detention  
94 center personnel, training school juvenile care worker, any county



95 or municipal jail officer, superintendent, principal, teacher or  
96 other instructional personnel, school attendance officer,  
97 school-bus driver, district attorney, legal assistant to a  
98 district attorney, county prosecutor, municipal prosecutor, court  
99 reporter employed by a court, court administrator, clerk or deputy  
100 clerk of the court, or public defender is acting within the scope  
101 of his duty, office or employment; (ii) upon a legislator while  
102 the Legislature is in regular or extraordinary session or while  
103 otherwise acting within the scope of his duty, office or  
104 employment; or (iii) upon a person who is sixty-five (65) years of  
105 age or older or a person who is a vulnerable adult, as defined in  
106 Section 43-47-5, shall be punished by a fine of not more than Five  
107 Thousand Dollars (\$5,000.00) or by imprisonment for not more than  
108 thirty (30) years, or both.

109 (3) A person is guilty of simple domestic violence who  
110 commits simple assault as described in subsection (1) of this  
111 section against a current or former spouse or a child of that  
112 person, a person living as a spouse or who formerly lived as a  
113 spouse with the defendant or a child of that person, other persons  
114 related by consanguinity or affinity who reside with or formerly  
115 resided with the defendant, a person who has a current or former  
116 dating relationship with the defendant, or a person with whom the  
117 defendant has had a biological or legally adopted child and, upon  
118 conviction, the defendant shall be punished as provided under  
119 subsection (1) of this section; however, upon a third or  
120 subsequent conviction of simple domestic violence, whether against  
121 the same or another victim and within five (5) years, the  
122 defendant shall be guilty of a felony and sentenced to a term of  
123 imprisonment not less than five (5) nor more than ten (10) years.  
124 In sentencing, the court shall consider as an aggravating factor  
125 whether the crime was committed in the physical presence or  
126 hearing of a child under sixteen (16) years of age who was, at the  
127 time of the offense, living within either the residence of the



128 victim, the residence of the perpetrator, or the residence where  
129 the offense occurred.

130 (4) A person is guilty of aggravated domestic violence who  
131 commits aggravated assault as described in subsection (2) of this  
132 section against, or who strangles, or attempts to strangle, a  
133 current or former spouse or a child of that person, a person  
134 living as a spouse or who formerly lived as a spouse with the  
135 defendant or a child of that person, other persons related by  
136 consanguinity or affinity who reside with or formerly resided with  
137 the defendant, a person who has a current or former dating  
138 relationship with the defendant, or a person with whom the  
139 defendant has had a biological or legally adopted child. Upon  
140 conviction, the defendant shall be punished by imprisonment in the  
141 custody of the Department of Corrections for not less than two (2)  
142 years; however, upon a third or subsequent conviction of  
143 aggravated domestic violence, whether against the same or another  
144 victim and within five (5) years, the defendant shall be guilty of  
145 a felony and sentenced to a term of imprisonment of not less than  
146 ten (10) nor more than twenty (20) years. In sentencing, the  
147 court shall consider as an aggravating factor whether the crime  
148 was committed in the physical presence or hearing of a child under  
149 sixteen (16) years of age who was, at the time of the offense,  
150 living within either the residence of the victim, the residence of  
151 the perpetrator, or the residence where the offense occurred.  
152 Reasonable discipline of a child, such as spanking, is not an  
153 offense under this subsection (4). A person convicted of  
154 aggravated domestic violence shall not be eligible for parole  
155 under the provisions of Section 47-7-3(1)(c) until he shall have  
156 served one (1) year of his sentence.

157 For the purposes of this section, "strangle" means to  
158 restrict the flow of oxygen or blood by intentionally applying  
159 pressure on the neck or throat of another person by any means or



160 to intentionally block the nose or mouth of another person by any  
161 means.

162 (5) "Dating relationship" means a social relationship as  
163 defined in Section 93-21-3.

164 (6) Every conviction of domestic violence may require as a  
165 condition of any suspended sentence that the defendant participate  
166 in counseling or treatment to bring about the cessation of  
167 domestic abuse. The defendant may be required to pay all or part  
168 of the cost of the counseling or treatment, in the discretion of  
169 the court.

170 (7) When investigating allegations of a violation of  
171 subsection (3) or (4) of this section, law enforcement officers  
172 shall utilize the form prescribed for such purposes by the Office  
173 of the Attorney General in consultation with the sheriff's and  
174 police chief's associations.

175 (8) In any conviction of assault as described in any  
176 subsection of this section which arises from an incident of  
177 domestic violence, the sentencing order shall include the  
178 designation "domestic violence." The court shall forward a copy  
179 of each sentencing order bearing the designation "domestic  
180 violence" to the Office of the Attorney General.

181 **SECTION 3.** This act shall take effect and be in force from  
182 and after July 1, 2012.

