

By: Senator(s) Blount

To: Judiciary, Division B

SENATE BILL NO. 2036

1 AN ACT TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO  
 2 INCLUDE VIOLATION OF CRIMINAL PROTECTION ORDERS ON THE SAME BASIS  
 3 AS PROTECTION FROM DOMESTIC VIOLENCE CIVIL ORDERS; TO AMEND  
 4 SECTION 93-21-25, MISSISSIPPI CODE OF 1972, TO REQUIRE RECORDATION  
 5 OF DOMESTIC VIOLENCE CRIMINAL ORDERS; TO AMEND SECTION 97-3-7,  
 6 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 99-3-7, Mississippi Code of 1972, is  
 9 amended as follows:

10 99-3-7. (1) An officer or private person may arrest any  
 11 person without warrant, for an indictable offense committed, or a  
 12 breach of the peace threatened or attempted in his presence; or  
 13 when a person has committed a felony, though not in his presence;  
 14 or when a felony has been committed, and he has reasonable ground  
 15 to suspect and believe the person proposed to be arrested to have  
 16 committed it; or on a charge, made upon reasonable cause, of the  
 17 commission of a felony by the party proposed to be arrested. And  
 18 in all cases of arrests without warrant, the person making such  
 19 arrest must inform the accused of the object and cause of the



20 arrest, except when he is in the actual commission of the offense,  
21 or is arrested on pursuit.

22 (2) Any law enforcement officer may arrest any person on a  
23 misdemeanor charge without having a warrant in his possession when  
24 a warrant is in fact outstanding for that person's arrest and the  
25 officer has knowledge through official channels that the warrant  
26 is outstanding for that person's arrest. In all such cases, the  
27 officer making the arrest must inform such person at the time of  
28 the arrest the object and cause therefor. If the person arrested  
29 so requests, the warrant shall be shown to him as soon as  
30 practicable.

31 (3) (a) Any law enforcement officer shall arrest a person  
32 with or without a warrant when he has probable cause to believe  
33 that the person has, within twenty-four (24) hours of such arrest,  
34 knowingly committed a misdemeanor or felony that is an act of  
35 domestic violence or knowingly violated provisions of a criminal  
36 protection order issued pursuant to Section 97-3-7(11), an ex  
37 parte protective order, protective order after hearing or  
38 court-approved consent agreement entered by a chancery, circuit,  
39 county, justice or municipal court pursuant to the Protection from  
40 Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi  
41 Code of 1972, or a restraining order entered by a foreign court of  
42 competent jurisdiction to protect an applicant from domestic  
43 violence.



44           (b) If a law enforcement officer has probable cause to  
45 believe that two (2) or more persons committed an act of domestic  
46 violence as defined herein, or if two (2) or more persons make  
47 complaints of domestic violence to the officer, the officer shall  
48 attempt to determine who was the principal aggressor. The term  
49 principal aggressor is defined as the party who poses the most  
50 serious ongoing threat, or who is the most significant, rather  
51 than the first, aggressor. The officer shall presume that arrest  
52 is not the appropriate response for the person or persons who were  
53 not the principal aggressor. If the officer affirmatively finds  
54 more than one (1) principal aggressor was involved, the officer  
55 shall document those findings.

56           (c) To determine who is the principal aggressor, the  
57 officer shall consider the following factors, although such  
58 consideration is not limited to these factors:

59                   (i) Evidence from the persons involved in the  
60 domestic abuse;

61                   (ii) The history of domestic abuse between the  
62 parties, the likelihood of future injury to each person, and the  
63 intent of the law to protect victims of domestic violence from  
64 continuing abuse;

65                   (iii) Whether one (1) of the persons acted in  
66 self-defense; and

67                   (iv) Evidence from witnesses of the domestic  
68 violence.



69 (d) A law enforcement officer shall not base the  
70 decision of whether to arrest on the consent or request of the  
71 victim.

72 (e) A law enforcement officer's determination regarding  
73 the existence of probable cause or the lack of probable cause  
74 shall not adversely affect the right of any party to independently  
75 seek appropriate remedies.

76 (4) (a) Any person authorized by a court of law to  
77 supervise or monitor a convicted offender who is under an  
78 intensive supervision program may arrest the offender when the  
79 offender is in violation of the terms or conditions of the  
80 intensive supervision program, without having a warrant, provided  
81 that the person making the arrest has been trained at the Law  
82 Enforcement Officers Training Academy established under Section  
83 45-5-1 et seq., or at a course approved by the Board on Law  
84 Enforcement Officer Standards and Training.

85 (b) For the purposes of this subsection, the term  
86 "intensive supervision program" means an intensive supervision  
87 program of the Department of Corrections as described in Section  
88 47-5-1001 et seq., or any similar program authorized by a court  
89 for offenders who are not under jurisdiction of the Department of  
90 Corrections.

91 (5) As used in subsection (3) of this section, the phrase  
92 "misdemeanor or felony that is an act of domestic violence" shall  
93 mean one or more of the following acts between current or former



94 spouses or a child of current or former spouses, persons living as  
95 spouses or who formerly lived as spouses or a child of persons  
96 living as spouses or who formerly lived as spouses, a parent,  
97 grandparent, child, grandchild or someone similarly situated to  
98 the defendant, persons who have a current or former dating  
99 relationship, or persons who have a biological or legally adopted  
100 child together:

101 (a) Simple or aggravated domestic violence within the  
102 meaning of Section 97-3-7;

103 (b) Disturbing the family or public peace within the  
104 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or

105 (c) Stalking within the meaning of Section 97-3-107.

106 (6) Any arrest made pursuant to subsection (3) of this  
107 section shall be designated as domestic assault or domestic  
108 violence on both the arrest docket and the incident report. Any  
109 officer investigating a complaint of a misdemeanor or felony that  
110 is a crime of domestic violence who finds probable cause that such  
111 an offense has occurred within the past twenty-four (24) hours  
112 shall file an affidavit on behalf of the victim(s) of the crime,  
113 regardless of whether an arrest is made within that time period.  
114 If the crime is reported or investigated outside of that  
115 twenty-four-hour period, the officer may file the affidavit on  
116 behalf of the victim. In the event the officer does not file an  
117 affidavit on behalf of the victim, the officer shall instruct the  
118 victim of the procedure for filing on his or her own behalf.



119 (7) A law enforcement officer shall not be held liable in  
120 any civil action for an arrest based on probable cause and in good  
121 faith pursuant to subsection (3) of this section, or failure, in  
122 good faith, to make an arrest pursuant to subsection (3) of this  
123 section.

124 (8) The authority for the State Chief Deputy Fire Marshal  
125 and deputy state fire marshals to make arrests shall be governed  
126 by the provisions of Section 45-11-1.

127 **SECTION 2.** Section 93-21-25, Mississippi Code of 1972, is  
128 amended as follows:

129 93-21-25. (1) In order to provide a statewide registry for  
130 protection orders and to aid law enforcement, prosecutors and  
131 courts in handling such matters, the Attorney General is  
132 authorized to create and administer a Mississippi Protection Order  
133 Registry. The Attorney General's office shall implement policies  
134 and procedures governing access to the registry by authorized  
135 users, which shall include provisions addressing the  
136 confidentiality of any information which may tend to reveal the  
137 location or identity of a victim of domestic abuse.

138 (2) All orders issued pursuant to \* \* \* Sections 93-21-1  
139 through 93-21-29 and 97-3-7(11) will be maintained in the  
140 Mississippi Protection Order Registry. It shall be the duty of  
141 the clerk of the issuing court to enter all civil and criminal  
142 domestic abuse protection orders, including any modifications,  
143 amendments or dismissals of such orders, into the Mississippi



144 Protection Order Registry within twenty-four (24) hours of  
145 issuance with no exceptions for weekends or holidays. A separate  
146 copy of any order shall be provided to the sheriff's department  
147 Terminal Agency Coordinator (TAC) officers of the county of the  
148 issuing court. The copy may be provided in electronic format.  
149 Each qualifying protection order submitted to the Mississippi  
150 Protection Order Registry shall be automatically transmitted to  
151 the National Criminal Information Center Protection Order File.  
152 Failure of the clerk to enter the order into the registry or to  
153 provide a copy of the order to law enforcement shall have no  
154 effect on the validity or enforcement of an otherwise valid  
155 protection order.

156 Any information regarding the registration of a domestic  
157 violence protection order, the filing of a petition for a domestic  
158 violence protection order, or the issuance of a domestic violence  
159 protection order which is maintained in the Mississippi Protection  
160 Order Registry which would tend to reveal the identity or location  
161 of the protected person(s) shall not constitute a public record  
162 and shall be exempt from disclosure pursuant to the Mississippi  
163 Public Records Act of 1983. This information may be disclosed to  
164 appropriate law enforcement, prosecutors or courts for protection  
165 order enforcement purposes.

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



168           97-3-7. (1) (a) A person is guilty of simple assault if he  
169 (i) attempts to cause or purposely, knowingly or recklessly causes  
170 bodily injury to another; (ii) negligently causes bodily injury to  
171 another with a deadly weapon or other means likely to produce  
172 death or serious bodily harm; or (iii) attempts by physical menace  
173 to put another in fear of imminent serious bodily harm; and, upon  
174 conviction, he shall be punished by a fine of not more than Five  
175 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
176 for not more than six (6) months, or both.

177           (b) However, a person convicted of simple assault upon  
178 any of the persons listed in subsection (14) of this section under  
179 the circumstances enumerated in subsection (14) shall be punished  
180 by a fine of not more than One Thousand Dollars (\$1,000.00) or by  
181 imprisonment for not more than five (5) years, or both.

182           (2) (a) A person is guilty of aggravated assault if he (i)  
183 attempts to cause serious bodily injury to another, or causes such  
184 injury purposely, knowingly or recklessly under circumstances  
185 manifesting extreme indifference to the value of human life; (ii)  
186 attempts to cause or purposely or knowingly causes bodily injury  
187 to another with a deadly weapon or other means likely to produce  
188 death or serious bodily harm; or (iii) causes any injury to a  
189 child who is in the process of boarding or exiting a school bus in  
190 the course of a violation of Section 63-3-615; and, upon  
191 conviction, he shall be punished by imprisonment in the county





192 jail for not more than one (1) year or in the Penitentiary for not  
193 more than twenty (20) years.

194 (b) However, a person convicted of aggravated assault  
195 upon any of the persons listed in subsection (14) of this section  
196 under the circumstances enumerated in subsection (14) shall be  
197 punished by a fine of not more than Five Thousand Dollars  
198 (\$5,000.00) or by imprisonment for not more than thirty (30)  
199 years, or both.

200 (3) (a) When the offense is committed against a current or  
201 former spouse of the defendant or a child of that person, a person  
202 living as a spouse or who formerly lived as a spouse with the  
203 defendant or a child of that person, a parent, grandparent, child,  
204 grandchild or someone similarly situated to the defendant, a  
205 person who has a current or former dating relationship with the  
206 defendant, or a person with whom the defendant has had a  
207 biological or legally adopted child, a person is guilty of simple  
208 domestic violence who:

209 (i) Attempts to cause or purposely, knowingly or  
210 recklessly causes bodily injury to another;

211 (ii) Negligently causes bodily injury to another  
212 with a deadly weapon or other means likely to produce death or  
213 serious bodily harm; or

214 (iii) Attempts by physical menace to put another  
215 in fear of imminent serious bodily harm.



216           Upon conviction, the defendant shall be punished by a fine of  
217 not more than Five Hundred Dollars (\$500.00) or by imprisonment in  
218 the county jail for not more than six (6) months, or both.

219           (b)   **Simple domestic violence: third.** A person is  
220 guilty of the felony of simple domestic violence third who commits  
221 simple domestic violence as defined in this subsection (3) and  
222 who, at the time of the commission of the offense in question, has  
223 two (2) prior convictions, whether against the same or another  
224 victim, within seven (7) years, for any combination of simple  
225 domestic violence under this subsection (3) or aggravated domestic  
226 violence as defined in subsection (4) of this section or  
227 substantially similar offenses under the law of another state, of  
228 the United States, or of a federally recognized Native American  
229 tribe. Upon conviction, the defendant shall be sentenced to a  
230 term of imprisonment not less than five (5) nor more than ten (10)  
231 years.

232           (4) (a) When the offense is committed against a current or  
233 former spouse of the defendant or a child of that person, a person  
234 living as a spouse or who formerly lived as a spouse with the  
235 defendant or a child of that person, a parent, grandparent, child,  
236 grandchild or someone similarly situated to the defendant, a  
237 person who has a current or former dating relationship with the  
238 defendant, or a person with whom the defendant has had a  
239 biological or legally adopted child, a person is guilty of  
240 aggravated domestic violence who:



241 (i) Attempts to cause serious bodily injury to  
242 another, or causes such an injury purposely, knowingly or  
243 recklessly under circumstances manifesting extreme indifference to  
244 the value of human life;

245 (ii) Attempts to cause or purposely or knowingly  
246 causes bodily injury to another with a deadly weapon or other  
247 means likely to produce death or serious bodily harm; or

248 (iii) Strangles, or attempts to strangle another.

249 Upon conviction, the defendant shall be punished by  
250 imprisonment in the custody of the Department of Corrections for  
251 not less than two (2) nor more than twenty (20) years.

252 (b) **Aggravated domestic violence; third.** A person is  
253 guilty of aggravated domestic violence third who, at the time of  
254 the commission of that offense, commits aggravated domestic  
255 violence as defined in this subsection (4) and who has two (2)  
256 prior convictions within the past seven (7) years, whether against  
257 the same or another victim, for any combination of aggravated  
258 domestic violence under this subsection (4) or simple domestic  
259 violence third as defined in subsection (3) of this section, or  
260 substantially similar offenses under the laws of another state, of  
261 the United States, or of a federally recognized Native American  
262 tribe. Upon conviction for aggravated domestic violence third,  
263 the defendant shall be sentenced to a term of imprisonment of not  
264 less than ten (10) nor more than twenty (20) years.



265           (5)   **Sentencing for fourth or subsequent domestic violence**  
266 **offense.** Any person who commits an offense defined in subsection  
267 (3) or (4) of this section, and who, at the time of the commission  
268 of that offense, has at least three (3) previous convictions,  
269 whether against the same or different victims, for any combination  
270 of offenses defined in subsections (3) and (4) of this section or  
271 substantially similar offenses under the law of another state, of  
272 the United States, or of a federally recognized Native American  
273 tribe, shall, upon conviction, be sentenced to imprisonment for  
274 not less than fifteen (15) years nor more than twenty (20) years.

275           (6) In sentencing under subsections (3), (4) and (5) of this  
276 section, the court shall consider as an aggravating factor whether  
277 the crime was committed in the physical presence or hearing of a  
278 child under sixteen (16) years of age who was, at the time of the  
279 offense, living within either the residence of the victim, the  
280 residence of the perpetrator, or the residence where the offense  
281 occurred.

282           (7) Reasonable discipline of a child, such as spanking, is  
283 not an offense under subsections (3) and (4) of this section.

284           (8) A person convicted under subsection (4) or (5) of this  
285 section shall not be eligible for parole under the provisions of  
286 Section 47-7-3(1)(c) until he shall have served one (1) year of  
287 his sentence.

288           (9) For the purposes of this section:



289 (a) "Strangle" means to restrict the flow of oxygen or  
290 blood by intentionally applying pressure on the neck, throat or  
291 chest of another person by any means or to intentionally block the  
292 nose or mouth of another person by any means.

293 (b) "Dating relationship" means a social relationship  
294 as defined in Section 93-21-3.

295 (10) Every conviction under subsection (3), (4) or (5) of  
296 this section may require as a condition of any suspended sentence  
297 that the defendant participate in counseling or treatment to bring  
298 about the cessation of domestic abuse. The defendant may be  
299 required to pay all or part of the cost of the counseling or  
300 treatment, in the discretion of the court.

301 (11) (a) Upon conviction under subsection (3), (4) or (5)  
302 of this section, the court shall be empowered to issue a criminal  
303 protection order prohibiting the defendant from any contact with  
304 the victim. The court may include in a criminal protection order  
305 any other condition available under Section 93-21-15. The  
306 duration of a criminal protection order shall be based upon the  
307 seriousness of the facts before the court, the probability of  
308 future violations, and the continued safety of the victim or  
309 another person. However, municipal and justice courts may issue  
310 criminal protection orders for a maximum period of time not to  
311 exceed one (1) year. Circuit and county courts may issue a  
312 criminal protection order for any period of time deemed necessary.  
313 Upon issuance of a criminal protection order, the clerk of the



314 issuing court shall enter the order into the Mississippi  
315 Protection Order Registry within twenty-four (24) hours of  
316 issuance, with no exceptions for weekends or holidays, pursuant to  
317 Section 93-21-25.

318 (b) A criminal protection order shall not be issued  
319 against the defendant if the victim of the offense, or the  
320 victim's lawful representative where the victim is a minor or  
321 incompetent person, objects to its issuance, except in  
322 circumstances where the court, in its discretion, finds that a  
323 criminal protection order is necessary for the safety and  
324 well-being of a victim who is a minor child or incompetent adult.

325 (c) Criminal protection orders shall be issued on the  
326 standardized form developed by the Office of the Attorney General  
327 and a copy provided to both the victim and the defendant.

328 (d) It shall be a misdemeanor to knowingly violate any  
329 condition of a criminal protection order. Upon conviction for a  
330 violation, the defendant shall be punished by a fine of not more  
331 than Five Hundred Dollars (\$500.00) or by imprisonment in the  
332 county jail for not more than six (6) months, or both.

333 (12) When investigating allegations of a violation of  
334 subsection (3), (4), (5) or (11) of this section, whether or not  
335 an arrest results, law enforcement officers shall utilize the form  
336 prescribed for such purposes by the Office of the Attorney General  
337 in consultation with the sheriff's and police chief's  
338 associations. However, failure of law enforcement to utilize the



339 uniform offense report shall not be a defense to a crime charged  
340 under this section. The uniform offense report shall not be  
341 required if, upon investigation, the offense does not involve  
342 persons in the relationships specified in subsections (3) and (4)  
343 of this section.

344 (13) In any conviction under subsection (3), (4), (5) or  
345 (11) of this section, the sentencing order shall include the  
346 designation "domestic violence." The court clerk shall enter the  
347 disposition of the matter into the corresponding uniform offense  
348 report.

349 (14) Assault upon any of the following listed persons is an  
350 aggravating circumstance for charging under subsections (1)(b) and  
351 (2)(b) of this section if the person is:

352 (a) A statewide elected official; law enforcement  
353 officer; fireman; emergency medical personnel; public health  
354 personnel; social worker, family protection specialist or family  
355 protection worker employed by the Department of Human Services or  
356 another agency; \* \* \* Division of Youth Services personnel; any  
357 county or municipal jail officer; superintendent, principal,  
358 teacher or other instructional personnel, school attendance  
359 officer or school bus driver; a judge of a circuit, chancery,  
360 county, justice, municipal or youth court or a judge of the Court  
361 of Appeals or a justice of the Supreme Court; district attorney or  
362 legal assistant to a district attorney; county prosecutor or  
363 municipal prosecutor; court reporter employed by a court, court



364 administrator, clerk or deputy clerk of the court; or public  
365 defender when that person is acting within the scope of his duty,  
366 office or employment;

367 (b) A legislator while the Legislature is in regular or  
368 extraordinary session or while otherwise acting within the scope  
369 of his duty, office or employment; or

370 (c) A person who is sixty-five (65) years of age or  
371 older or a person who is a vulnerable person, as defined in  
372 Section 43-47-5.

373 **SECTION 4.** This act shall take effect and be in force from  
374 and after July 1, 2015.

