

By: Representative Carpenter

To: Judiciary B

HOUSE BILL NO. 1447

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE PROVISION OF LAW REGARDING THE REQUIREMENTS FOR
3 ENHANCED PENALTIES FOR SIMPLE ASSAULT AND AGGRAVATED ASSAULT BY
4 ADDING "HEALTH CARE PROVIDERS"; AND 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) A person is guilty of simple assault if he
9 or she (i) attempts to cause or purposely, knowingly or recklessly
10 causes bodily injury to another; (ii) negligently causes bodily
11 injury to another with a deadly weapon or other means likely to
12 produce death or serious bodily harm; or (iii) attempts by
13 physical menace to put another in fear of imminent serious bodily
14 harm; and, upon conviction, he or she shall be punished by a fine
15 of not more than Five Hundred Dollars (\$500.00) or by imprisonment
16 in the county jail for not more than six (6) months, or both.

17 (b) However, a person convicted of simple assault upon
18 any of the persons listed in subsection (14) of this section under
19 the circumstances enumerated in subsection (14) shall be punished



20 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
21 imprisonment for not more than five (5) years, or both.

22 (2) (a) A person is guilty of aggravated assault if he or
23 she (i) attempts to cause serious bodily injury to another, or
24 causes such injury purposely, knowingly or recklessly under
25 circumstances manifesting extreme indifference to the value of
26 human life; (ii) attempts to cause or purposely or knowingly
27 causes bodily injury to another with a deadly weapon or other
28 means likely to produce death or serious bodily harm; or (iii)
29 causes any injury to a child who is in the process of boarding or
30 exiting a school bus in the course of a violation of Section
31 63-3-615; and, upon conviction, he or she shall be punished by
32 imprisonment in the county jail for not more than one (1) year
33 or * * * sentenced to the custody of the Department of Corrections
34 for not more than twenty (20) years.

35 (b) However, a person convicted of aggravated assault
36 upon any of the persons listed in subsection (14) of this section
37 under the circumstances enumerated in subsection (14) shall be
38 punished by a fine of not more than Five Thousand Dollars
39 (\$5,000.00) or by imprisonment for not more than thirty (30)
40 years, or both.

41 (3) (a) When the offense is committed against a current or
42 former spouse of the defendant or a child of that person, a person
43 living as a spouse or who formerly lived as a spouse with the
44 defendant or a child of that person, a parent, grandparent, child,



45 grandchild or someone similarly situated to the defendant, a
46 person who has a current or former dating relationship with the
47 defendant, or a person with whom the defendant has had a
48 biological or legally adopted child, a person is guilty of simple
49 domestic violence who:

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

52 (ii) Negligently causes bodily injury to another
53 with a deadly weapon or other means likely to produce death or
54 serious bodily harm; or

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

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

60 (b) **Simple domestic violence: third.** A person is
61 guilty of the felony of simple domestic violence third who commits
62 simple domestic violence as defined in this subsection (3) and
63 who, at the time of the commission of the offense in question, has
64 two (2) prior convictions, whether against the same or another
65 victim, within seven (7) years, for any combination of simple
66 domestic violence under this subsection (3) or aggravated domestic
67 violence as defined in subsection (4) of this section or
68 substantially similar offenses under the law of another state, of
69 the United States, or of a federally recognized Native American



tribe. Upon conviction, the defendant shall be sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years.

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

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

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

(iii) Strangles, or attempts to strangle another.

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

(b) **Aggravated domestic violence; third.** A person is guilty of aggravated domestic violence third who, at the time of



the commission of that offense, commits aggravated domestic violence as defined in this subsection (4) and who has two (2) prior convictions within the past seven (7) years, whether against the same or another victim, for any combination of aggravated domestic violence under this subsection (4) or simple domestic violence third as defined in subsection (3) of this section, or substantially similar offenses under the laws of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction for aggravated domestic violence third, the defendant shall be sentenced to a term of imprisonment of not less than ten (10) nor more than twenty (20) years.

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

(6) In sentencing under subsections (3), (4) and (5) of this section, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the



offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

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

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

(9) For the purposes of this section:

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

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

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

(11) (a) Upon conviction under subsection (3), (4) or (5) of this section, the court shall be empowered to issue a criminal protection order prohibiting the defendant from any contact with



the victim. The court may include in a criminal protection order any other condition available under Section 93-21-15. The duration of a criminal protection order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the continued safety of the victim or another person. However, municipal and justice courts may issue criminal protection orders for a maximum period of time not to exceed one (1) year. Circuit and county courts may issue a criminal protection order for any period of time deemed necessary. Upon issuance of a criminal protection order, the clerk of the issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays, pursuant to Section 93-21-25.

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

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

(d) It shall be a misdemeanor to knowingly violate any condition of a criminal protection order. Upon conviction for a



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

(12) When investigating allegations of a violation of subsection (3), (4), (5) or (11) of this section, whether or not an arrest results, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged under this section. The uniform offense report shall not be required if, upon investigation, the offense does not involve persons in the relationships specified in subsections (3) and (4) of this section.

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

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

(a) When acting within the scope of his or her duty, office or employment at the time of the assault: a statewide elected official; law enforcement officer; fireman; emergency



195 medical personnel; * * * health * * * care provider; social
196 worker, family protection specialist or family protection worker
197 employed by the Department of Human Services or another agency;
198 Division of Youth Services personnel; any county or municipal jail
199 officer; superintendent, principal, teacher or other instructional
200 personnel, school attendance officer or school bus driver; any
201 member of the Mississippi National Guard or United States Armed
202 Forces; a judge of a circuit, chancery, county, justice, municipal
203 or youth court or a judge of the Court of Appeals or a justice of
204 the Supreme Court; district attorney or legal assistant to a
205 district attorney; county prosecutor or municipal prosecutor;
206 court reporter employed by a court, court administrator, clerk or
207 deputy clerk of the court; public defender; or utility worker;

208 (b) A legislator while the Legislature is in regular or
209 extraordinary session or while otherwise acting within the scope
210 of his or her duty, office or employment; or

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

214 **SECTION 2.** This act shall take effect and be in force from
215 and after July 1, 2018.

