

By: Representative Currie

To: Judiciary B

HOUSE BILL NO. 1413

1 AN ACT TO CREATE THE CRIME OF FEMALE GENITAL MUTILATION; TO
 2 DEFINE CERTAIN TERMS RELATING TO THE CRIME; TO REQUIRE A REPORT OF
 3 UNPROFESSIONAL CONDUCT TO BE MADE TO THE APPROPRIATE STATE
 4 LICENSING BOARD FOR A PROFESSIONAL WHO VIOLATES THIS ACT; TO
 5 PROVIDE THAT A VIOLATION OF THIS ACT CONSTITUTES AGGRAVATED
 6 ASSAULT; TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, IN
 7 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
 8 PURPOSES.

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

10 **SECTION 1.** (1) As used in this section, the following words
 11 and phrases have the meanings ascribed in this subsection unless
 12 the context clearly indicates otherwise:

13 (a) "Female genital mutilation," "mutilate" or
 14 "mutilation" means:

15 (i) The excision, infibulation or circumcision, in
 16 whole or in part, of the labia majora, labia minora or clitoris of
 17 another;

18 (ii) The narrowing of the vaginal opening through
 19 the creation of a covering seal formed by cutting and
 20 repositioning the inner or outer labia, with or without the
 21 removal of the clitoris; or



22 (iii) Any harmful procedure to the genitalia,
23 including pricking, piercing, incising, scraping or cauterizing.

24 (b) "Facilitate" means knowingly raising, soliciting,
25 collecting or providing material support or resources with intent
26 that such will be used, in whole or in part, to: plan, prepare,
27 carry out or aid in any act of female genital mutilation; hinder
28 the prosecution of an act of female genital mutilation; or conceal
29 an act of female genital mutilation.

30 (c) "Material support or resources" means currency or
31 other financial securities, financial services, instruments of
32 value, lodging, training, false documentation or identification,
33 medical equipment, computer equipment, software, facilities,
34 personnel, transportation or other physical assets.

35 (d) "Hinder the prosecution of an act of female genital
36 mutilation" means, but is not limited to, the following:

37 (i) Harboring or concealing a person who is known
38 or believed by the facilitator to be planning to commit an act of
39 female genital mutilation;

40 (ii) Warning a person who is known or believed by
41 the facilitator to be planning to commit an act of female genital
42 mutilation of impending discovery or apprehension; or

43 (iii) Suppressing any physical evidence that might
44 aid in the discovery or apprehension of a person who is known or
45 believed by the facilitator to be planning to commit an act of
46 female genital mutilation.



47 (2) It is unlawful for a person to:
48 (a) Knowingly mutilate or attempt to mutilate a female
49 who is under eighteen (18) years of age;
50 (b) Knowingly facilitate the mutilation of a female who
51 is under eighteen (18) years of age; or
52 (c) Knowingly transport or facilitate the
53 transportation of a female who is under eighteen (18) years of age
54 from this state for the purpose of mutilation.

55 (3) It is not a defense to prosecution for a violation of
56 this section that a female genital mutilation procedure is:
57 (a) Required as a matter of belief, custom or ritual;
58 (b) Consented to by the minor on whom the procedure is
59 performed; or
60 (c) Consented to by the parent or legal guardian of the
61 minor on whom the procedure is performed.

62 (4) A procedure that otherwise is within the definition of
63 "female genital mutilation," as defined under subsection (1) of
64 this section, is not a violation of this section if the procedure
65 is:
66 (a) Necessary to the physical health of the minor on
67 whom it is performed; or
68 (b) Performed on a minor who is in labor or who has
69 just given birth for medical purposes connected with that labor or
70 birth.



71 (5) A person holding a professional license in Mississippi
72 who violates this section must be deemed to have committed
73 unprofessional conduct and must be reported to the appropriate
74 licensing board for appropriate action.

75 (6) A person convicted of a violation of this section is
76 guilty of the crime of aggravated assault and is subject to the
77 same penalties prescribed under Section 97-3-7(2) for aggravated
78 assault.

79 (7) This section does not prohibit a person from being
80 charged with, convicted of or punished for any other violation of
81 law arising out of the same transaction or occurrence as a
82 violation of this section.

83 (8) If a criminal prosecution under this section proceeds
84 against any person who committed the act of female genital
85 mutilation, or against any person or entity that facilitated the
86 actions of the person who committed the act of female genital
87 mutilation, or against any person or entity who coerced, induced
88 or solicited the person who committed the act of female genital
89 mutilation, the running of the period must be suspended during the
90 pendency of the prosecution.

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

93 97-3-7. (1) (a) A person is guilty of simple assault if he
94 or she (i) attempts to cause or purposely, knowingly or recklessly
95 causes bodily injury to another; (ii) negligently causes bodily



96 injury to another with a deadly weapon or other means likely to
97 produce death or serious bodily harm; or (iii) attempts by
98 physical menace to put another in fear of imminent serious bodily
99 harm; and, upon conviction, he or she shall be punished by a fine
100 of not more than Five Hundred Dollars (\$500.00) or by imprisonment
101 in the county jail for not more than six (6) months, or both.

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

107 (2) (a) A person is guilty of aggravated assault if he or
108 she: (i) attempts to cause serious bodily injury to another, or
109 causes such injury purposely, knowingly or recklessly under
110 circumstances manifesting extreme indifference to the value of
111 human life; (ii) attempts to cause or purposely or knowingly
112 causes bodily injury to another with a deadly weapon or other
113 means likely to produce death or serious bodily harm; * * * (iii)
114 causes any injury to a child who is in the process of boarding or
115 exiting a school bus in the course of a violation of Section
116 63-3-615; or (iv) commits any act related to female genital
117 mutilation prohibited by Section 1 of House Bill _____, 2020 Regular
118 Session; and, upon conviction, he or she shall be punished by
119 imprisonment in the county jail for not more than one (1) year or



120 sentenced to the custody of the Department of Corrections for not
121 more than twenty (20) years.

122 (b) However, a person convicted of aggravated assault
123 upon any of the persons listed in subsection (14) of this section
124 under the circumstances enumerated in subsection (14) shall be
125 punished by a fine of not more than Five Thousand Dollars
126 (\$5,000.00) or by imprisonment for not more than thirty (30)
127 years, or both.

128 (3) (a) When the offense is committed against a current or
129 former spouse of the defendant or a child of that person, a person
130 living as a spouse or who formerly lived as a spouse with the
131 defendant or a child of that person, a parent, grandparent, child,
132 grandchild or someone similarly situated to the defendant, a
133 person who has a current or former dating relationship with the
134 defendant, or a person with whom the defendant has had a
135 biological or legally adopted child, a person is guilty of simple
136 domestic violence who:

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

139 (ii) Negligently causes bodily injury to another
140 with a deadly weapon or other means likely to produce death or
141 serious bodily harm; or

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



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

147 (b) **Simple domestic violence: third.** A person is
148 guilty of the felony of simple domestic violence third who commits
149 simple domestic violence as defined in this subsection (3) and
150 who, at the time of the commission of the offense in question, has
151 two (2) prior convictions, whether against the same or another
152 victim, within seven (7) years, for any combination of simple
153 domestic violence under this subsection (3) or aggravated domestic
154 violence as defined in subsection (4) of this section or
155 substantially similar offenses under the law of another state, of
156 the United States, or of a federally recognized Native American
157 tribe. Upon conviction, the defendant shall be sentenced to a
158 term of imprisonment not less than five (5) nor more than ten (10)
159 years.

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



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

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

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

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

180 (b) **Aggravated domestic violence; third.** A person is
181 guilty of aggravated domestic violence third who, at the time of
182 the commission of that offense, commits aggravated domestic
183 violence as defined in this subsection (4) and who has two (2)
184 prior convictions within the past seven (7) years, whether against
185 the same or another victim, for any combination of aggravated
186 domestic violence under this subsection (4) or simple domestic
187 violence third as defined in subsection (3) of this section, or
188 substantially similar offenses under the laws of another state, of
189 the United States, or of a federally recognized Native American
190 tribe. Upon conviction for aggravated domestic violence third,
191 the defendant shall be sentenced to a term of imprisonment of not
192 less than ten (10) nor more than twenty (20) years.



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

203 (6) In sentencing under subsections (3), (4) and (5) of this
204 section, the court shall consider as an aggravating factor whether
205 the crime was committed in the physical presence or hearing of a
206 child under sixteen (16) years of age who was, at the time of the
207 offense, living within either the residence of the victim, the
208 residence of the perpetrator, or the residence where the offense
209 occurred.

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

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

216 (9) For the purposes of this section:



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

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

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

229 (11) (a) Upon conviction under subsection (3), (4) or (5)
230 of this section, the court shall be empowered to issue a criminal
231 protection order prohibiting the defendant from any contact with
232 the victim. The court may include in a criminal protection order
233 any other condition available under Section 93-21-15. The
234 duration of a criminal protection order shall be based upon the
235 seriousness of the facts before the court, the probability of
236 future violations, and the continued safety of the victim or
237 another person. However, municipal and justice courts may issue
238 criminal protection orders for a maximum period of time not to
239 exceed one (1) year. Circuit and county courts may issue a
240 criminal protection order for any period of time deemed necessary.
241 Upon issuance of a criminal protection order, the clerk of the



242 issuing court shall enter the order in the Mississippi Protection
243 Order Registry within twenty-four (24) hours of issuance with no
244 exceptions for weekends or holidays, pursuant to Section 93-21-25.

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

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

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

260 (12) When investigating allegations of a violation of
261 subsection (3), (4), (5) or (11) of this section, whether or not
262 an arrest results, law enforcement officers shall utilize the form
263 prescribed for such purposes by the Office of the Attorney General
264 in consultation with the sheriff's and police chief's
265 associations. However, failure of law enforcement to utilize the
266 uniform offense report shall not be a defense to a crime charged



267 under this section. The uniform offense report shall not be
268 required if, upon investigation, the offense does not involve
269 persons in the relationships specified in subsections (3) and (4)
270 of this section.

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

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

279 (a) When acting within the scope of his or her duty,
280 office or employment at the time of the assault: a statewide
281 elected official; law enforcement officer; fireman; emergency
282 medical personnel; health care provider; employees of a health
283 care provider or health care facility; social worker, family
284 protection specialist or family protection worker employed by the
285 Department of Human Services or another agency; Division of Youth
286 Services personnel; any county or municipal jail officer;
287 superintendent, principal, teacher or other instructional
288 personnel, school attendance officer or school bus driver; any
289 member of the Mississippi National Guard or United States Armed
290 Forces; a judge of a circuit, chancery, county, justice, municipal
291 or youth court or a judge of the Court of Appeals or a justice of



292 the Supreme Court; district attorney or legal assistant to a
293 district attorney; county prosecutor or municipal prosecutor;
294 court reporter employed by a court, court administrator, clerk or
295 deputy clerk of the court; public defender; or utility worker;

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

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

302 **SECTION 3.** Section 1 of this act shall be codified as a new
303 section in Chapter 5, Title 97, Mississippi Code of 1972.

304 **SECTION 4.** This act shall take effect and be in force from
305 and after July 1, 2020.

