

By: Representative Reynolds

To: Judiciary B

HOUSE BILL NO. 701

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE CRIME OF SIMPLE ASSAULT BY INCLUDING INDECENT TOUCHING;
3 AND FOR RELATED PURPOSES.

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

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

7 97-3-7. (1) (a) A person is guilty of simple assault if he
8 or she (i) attempts to cause or purposely, knowingly or recklessly
9 causes bodily injury to another; (ii) negligently causes bodily
10 injury to another with a deadly weapon or other means likely to
11 produce death or serious bodily harm; * * * (iii) attempts by
12 physical menace to put another in fear of imminent serious bodily
13 harm * * * or (iv) the person intentionally touches an intimate
14 part of another person for the purpose of sexual arousal, sexual
15 gratification or sexual abuse, while the person is unlawfully
16 restrained by another person against his or her will while he or
17 she is unconscious, incapacitated or unlawfully coerced and, upon
18 conviction, he or she shall be punished by a fine of not more than



19 Five Hundred Dollars (\$500.00) or by imprisonment in the county
20 jail for not more than six (6) months, or both.

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

26 (2) (a) A person is guilty of aggravated assault if he or
27 she (i) attempts to cause serious bodily injury to another, or
28 causes such injury purposely, knowingly or recklessly under
29 circumstances manifesting extreme indifference to the value of
30 human life; (ii) attempts to cause or purposely or knowingly
31 causes bodily injury to another with a deadly weapon or other
32 means likely to produce death or serious bodily harm; or (iii)
33 causes any injury to a child who is in the process of boarding or
34 exiting a school bus in the course of a violation of Section
35 63-3-615; and, upon conviction, he or she shall be punished by
36 imprisonment in the county jail for not more than one (1) year or
37 sentenced to the custody of the Department of Corrections for not
38 more than twenty (20) years.

39 (b) However, a person convicted of aggravated assault
40 upon any of the persons listed in subsection (14) of this section
41 under the circumstances enumerated in subsection (14) shall be
42 punished by a fine of not more than Five Thousand Dollars



43 (\$5,000.00) or by imprisonment for not more than thirty (30)
44 years, or both.

45 (3) (a) When the offense is committed against a current or
46 former spouse of the defendant or a child of that person, a person
47 living as a spouse or who formerly lived as a spouse with the
48 defendant or a child of that person, a parent, grandparent, child,
49 grandchild or someone similarly situated to the defendant, a
50 person who has a current or former dating relationship with the
51 defendant, or a person with whom the defendant has had a
52 biological or legally adopted child, a person is guilty of simple
53 domestic violence who:

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

56 (ii) Negligently causes bodily injury to another
57 with a deadly weapon or other means likely to produce death or
58 serious bodily harm; or

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

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

64 (b) **Simple domestic violence: third.** A person is
65 guilty of the felony of simple domestic violence third who commits
66 simple domestic violence as defined in this subsection (3) and
67 who, at the time of the commission of the offense in question, has



68 two (2) prior convictions, whether against the same or another
69 victim, within seven (7) years, for any combination of simple
70 domestic violence under this subsection (3) or aggravated domestic
71 violence as defined in subsection (4) of this section or
72 substantially similar offenses under the law of another state, of
73 the United States, or of a federally recognized Native American
74 tribe. Upon conviction, the defendant shall be sentenced to a
75 term of imprisonment not less than five (5) nor more than ten (10)
76 years.

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

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

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



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

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

97 (b) **Aggravated domestic violence; third.** A person is
98 guilty of aggravated domestic violence third who, at the time of
99 the commission of that offense, commits aggravated domestic
100 violence as defined in this subsection (4) and who has two (2)
101 prior convictions within the past seven (7) years, whether against
102 the same or another victim, for any combination of aggravated
103 domestic violence under this subsection (4) or simple domestic
104 violence third as defined in subsection (3) of this section, or
105 substantially similar offenses under the laws of another state, of
106 the United States, or of a federally recognized Native American
107 tribe. Upon conviction for aggravated domestic violence third,
108 the defendant shall be sentenced to a term of imprisonment of not
109 less than ten (10) nor more than twenty (20) years.

110 (5) **Sentencing for fourth or subsequent domestic violence**
111 **offense.** Any person who commits an offense defined in subsection
112 (3) or (4) of this section, and who, at the time of the commission
113 of that offense, has at least three (3) previous convictions,
114 whether against the same or different victims, for any combination
115 of offenses defined in subsections (3) and (4) of this section or
116 substantially similar offenses under the law of another state, of
117 the United States, or of a federally recognized Native American



118 tribe, shall, upon conviction, be sentenced to imprisonment for
119 not less than fifteen (15) years nor more than twenty (20) years.

120 (6) In sentencing under subsections (3), (4) and (5) of this
121 section, the court shall consider as an aggravating factor whether
122 the crime was committed in the physical presence or hearing of a
123 child under sixteen (16) years of age who was, at the time of the
124 offense, living within either the residence of the victim, the
125 residence of the perpetrator, or the residence where the offense
126 occurred.

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

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

133 (9) For the purposes of this section:

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

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

140 (10) Every conviction under subsection (3), (4) or (5) of
141 this section may require as a condition of any suspended sentence
142 that the defendant participate in counseling or treatment to bring



143 about the cessation of domestic abuse. The defendant may be
144 required to pay all or part of the cost of the counseling or
145 treatment, in the discretion of the court.

146 (11) (a) Upon conviction under subsection (3), (4) or (5)
147 of this section, the court shall be empowered to issue a criminal
148 protection order prohibiting the defendant from any contact with
149 the victim. The court may include in a criminal protection order
150 any other condition available under Section 93-21-15. The
151 duration of a criminal protection order shall be based upon the
152 seriousness of the facts before the court, the probability of
153 future violations, and the continued safety of the victim or
154 another person. However, municipal and justice courts may issue
155 criminal protection orders for a maximum period of time not to
156 exceed one (1) year. Circuit and county courts may issue a
157 criminal protection order for any period of time deemed necessary.
158 Upon issuance of a criminal protection order, the clerk of the
159 issuing court shall enter the order in the Mississippi Protection
160 Order Registry within twenty-four (24) hours of issuance with no
161 exceptions for weekends or holidays, pursuant to Section 93-21-25.

162 (b) A criminal protection order shall not be issued
163 against the defendant if the victim of the offense, or the
164 victim's lawful representative where the victim is a minor or
165 incompetent person, objects to its issuance, except in
166 circumstances where the court, in its discretion, finds that a



167 criminal protection order is necessary for the safety and
168 well-being of a victim who is a minor child or incompetent adult.

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

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

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

188 (13) In any conviction under subsection (3), (4), (5) or
189 (11) of this section, the sentencing order shall include the
190 designation "domestic violence." The court clerk shall enter the



191 disposition of the matter into the corresponding uniform offense
192 report.

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

196 (a) When acting within the scope of his or her duty,
197 office or employment at the time of the assault: a statewide
198 elected official; law enforcement officer; fireman; emergency
199 medical personnel; health care provider; employees of a health
200 care provider or health care facility; social worker, family
201 protection specialist or family protection worker employed by the
202 Department of Human Services or another agency; Division of Youth
203 Services personnel; any county or municipal jail officer;
204 superintendent, principal, teacher or other instructional
205 personnel, school attendance officer or school bus driver; any
206 member of the Mississippi National Guard or United States Armed
207 Forces; a judge of a circuit, chancery, county, justice, municipal
208 or youth court or a judge of the Court of Appeals or a justice of
209 the Supreme Court; district attorney or legal assistant to a
210 district attorney; county prosecutor or municipal prosecutor;
211 court reporter employed by a court, court administrator, clerk or
212 deputy clerk of the court; public defender; or utility worker;

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



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

219 **SECTION 2.** This act shall take effect and be in force from
220 and after July 1, 2022.

