

By: Representative Shanks

To: Judiciary B

HOUSE BILL NO. 758

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 ADD ATHLETIC UMPIRES TO THE LIST OF PERSONS FOR WHICH THE ACT OF  
3 SIMPLE ASSAULT IS ELEVATED TO AGGRAVATED ASSAULT; AND FOR RELATED  
4 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 or  
33 sentenced to the custody of the Department of Corrections for not  
34 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



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

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

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

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

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

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

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



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

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

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



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

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

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

129 (9) For the purposes of this section:

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

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

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

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



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

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

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

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



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

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

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

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

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





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

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

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

215 (d) A person who is serving as an umpire at an athletic  
216 event when he or she is assaulted.

217 **SECTION 2.** This act shall take effect and be in force from  
218 and after July 1, 2023.

