

By: Representative Zuber

To: Judiciary B

HOUSE BILL NO. 1139

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 GIVE THE JUDGE DISCRETION IN ASSESSING FINES FOR SIMPLE ASSAULT;  
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; or (iii) attempts by  
12 physical menace to put another in fear of imminent serious bodily  
13 harm; and, upon conviction, he or she \* \* \* may be punished by a  
14 fine of not more than Five Hundred Dollars (\$500.00) or by  
15 imprisonment in the county jail for not more than six (6) months,  
16 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) \* \* \* may be  
20 punished by a fine of not more than One Thousand Dollars  
21 (\$1,000.00) or by imprisonment for not more than five (5) years,  
22 or both.

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

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

42 (3) (a) When the offense is committed against a current or  
43 former spouse of the defendant or a child of that person, a person



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

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

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

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

58 Upon conviction, the defendant \* \* \* may be punished by a  
59 fine of not more than \* \* \* One Thousand Dollars (\$1,000.00) or by  
60 imprisonment in the county jail for not more than six (6) months,  
61 or both.

62 (b) **Simple domestic violence: third.** A person is  
63 guilty of the felony of simple domestic violence third who commits  
64 simple domestic violence as defined in this subsection (3) and  
65 who, at the time of the commission of the offense in question, has  
66 two (2) prior convictions, whether against the same or another  
67 victim, within seven (7) years, for any combination of simple  
68 domestic violence under this subsection (3) or aggravated domestic



69 violence as defined in subsection (4) of this section or  
70 substantially similar offenses under the law of another state, of  
71 the United States, or of a federally recognized Native American  
72 tribe. Upon conviction, the defendant shall be sentenced to a  
73 term of imprisonment not less than five (5) nor more than ten (10)  
74 years.

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

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

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

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



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

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

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



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

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

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

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

131 (9) For the purposes of this section:

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

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

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



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

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

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



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

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

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

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

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





189 disposition of the matter into the corresponding uniform offense  
190 report.

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

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

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



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

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

