

By: Senator(s) McMahan

To: Judiciary, Division B

SENATE BILL NO. 2243

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE CRIMINAL PENALTIES FOR SIMPLE ASSAULT WITH AN
 3 AGGRAVATING CIRCUMSTANCE AND AGGRAVATED ASSAULT WITH AN
 4 AGGRAVATING CIRCUMSTANCE; TO PROVIDE THAT AN ASSAULT UPON ANY
 5 ELECTED OFFICIAL SHALL BE AN AGGRAVATING CIRCUMSTANCE; AND FOR
 6 RELATED PURPOSES.

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

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

10 97-3-7. (1) (a) A person is guilty of simple assault if he
 11 or she (i) attempts to cause or purposely, knowingly or recklessly
 12 causes bodily injury to another; (ii) negligently causes bodily
 13 injury to another with a deadly weapon or other means likely to
 14 produce death or serious bodily harm; or (iii) attempts by
 15 physical menace to put another in fear of imminent serious bodily
 16 harm; and, upon conviction, he or she shall be punished by a fine
 17 of not more than Five Hundred Dollars (\$500.00) or by imprisonment
 18 in the county jail for not more than six (6) months, or both.

19 (b) However, a person convicted of simple assault upon
 20 any of the persons listed in subsection (14) of this section under



21 the circumstances enumerated in subsection (14) shall be punished
22 by a fine of not more than * * * Two Thousand Five Hundred Dollars
23 (\$2,500.00) or by imprisonment for not more than five (5) years,
24 or both.

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

38 (b) However, a person convicted of aggravated assault
39 upon any of the persons listed in subsection (14) of this section
40 under the circumstances enumerated in subsection (14) shall be
41 punished by a fine of not more than * * * Ten Thousand Dollars
42 (\$10,000.00) or by imprisonment for not more than * * * ten (10)
43 years, or both.

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



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

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

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

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

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

63 (b) **Simple domestic violence: third.** A person is
64 guilty of the felony of simple domestic violence third who commits
65 simple domestic violence as defined in this subsection (3) and
66 who, at the time of the commission of the offense in question, has
67 two (2) prior convictions, whether against the same or another
68 victim, within seven (7) years, for any combination of simple
69 domestic violence under this subsection (3) or aggravated domestic
70 violence as defined in subsection (4) of this section or



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

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

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

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

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

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



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

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

119 (6) In sentencing under subsections (3), (4) and (5) of this
120 section, the court shall consider as an aggravating factor whether



121 the crime was committed in the physical presence or hearing of a
122 child under sixteen (16) years of age who was, at the time of the
123 offense, living within either the residence of the victim, the
124 residence of the perpetrator, or the residence where the offense
125 occurred.

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

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

132 (9) For the purposes of this section:

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

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

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



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

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



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

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

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

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



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

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

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



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

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

