

By: Representative Zuber

To: Judiciary B

HOUSE BILL NO. 228

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, 2024.

