

By: Senator(s) Hill

To: Judiciary, Division B

SENATE BILL NO. 2191

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE SECOND OFFENSE OF DOMESTIC VIOLENCE SHALL BE A  
3 FELONY; 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 shall be punished by a fine  
14 of not more than Five Hundred Dollars (\$500.00) or by imprisonment  
15 in the county jail for not more than six (6) months, or both.

16 (b) However, a person convicted of simple assault upon  
17 any of the persons listed in subsection (14) of this section under  
18 the circumstances enumerated in subsection (14) shall be punished



19 by a fine of not more than One Thousand Dollars (\$1,000.00) or by  
20 imprisonment for not more than five (5) years, or both.

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

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

40 (3) (a) When the offense is committed against a current or  
41 former spouse of the defendant or a child of that person, a person  
42 living as a spouse or who formerly lived as a spouse with the  
43 defendant or a child of that person, a parent, grandparent, child,



44 grandchild or someone similarly situated to the defendant, a  
45 person who has a current or former dating relationship with the  
46 defendant, or a person with whom the defendant has had a  
47 biological or legally adopted child, a person is guilty of simple  
48 domestic violence who:

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

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

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

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

59 (b) **Simple domestic violence: \* \* \* second.** A person  
60 is guilty of the felony of simple domestic violence \* \* \* second  
61 who commits simple domestic violence as defined in this subsection  
62 (3) and who, at the time of the commission of the offense in  
63 question, has \* \* \* one (1) prior \* \* \* conviction, whether  
64 against the same or another victim, within seven (7) years,  
65 for \* \* \* either simple domestic violence under this subsection  
66 (3) or aggravated domestic violence as defined in subsection (4)  
67 of this section, or a substantially similar \* \* \* offense under  
68 the law of another state, of the United States, or of a federally



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

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

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

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

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

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

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



time of the commission of that offense, commits aggravated domestic violence as defined in this subsection (4) and who has \* \* \* one (1) prior \* \* \* conviction within the past seven (7) years, whether against the same or another victim, \* \* \* of either aggravated domestic violence under this subsection (4) or simple domestic violence \* \* \* as defined in subsection (3) of this section, or a substantially similar \* \* \* offense under the laws of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction for aggravated domestic violence \* \* \* second, the defendant shall be sentenced to a term of imprisonment of not less than ten (10) nor more than twenty (20) years.

(5) **Sentencing for \* \* \* third or subsequent domestic violence offense.** Any person who commits an offense defined in subsection (3) or (4) of this section, and who, at the time of the commission of that offense, has at least \* \* \* two (2) previous convictions, whether against the same or different victims, for any combination of offenses defined in subsections (3) and (4) of this section or substantially similar offenses under the law of another state, of the United States, or of a federally recognized Native American tribe, shall, upon conviction, be sentenced to imprisonment for not less than fifteen (15) years nor more than twenty (20) years.

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



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

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

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

(9) For the purposes of this section:

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

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

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



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

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



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

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

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

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





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

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

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



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

216           **SECTION 2.** This act shall take effect and be in force from  
217 and after July 1, 2025.

