

By: Blackmon

To: Judiciary B

HOUSE BILL NO. 815

1 AN ACT TO CREATE A NEW CODE SECTION TO BE CODIFIED AS SECTION  
2 97-3-8, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE CRIMINAL  
3 OFFENSE OF ATTEMPTED MURDER AND TO PROVIDE PENALTIES FOR THE  
4 COMMISSION OF ATTEMPTED MURDER; TO AMEND SECTION 97-3-7,  
5 MISSISSIPPI CODE OF 1972, TO REVISE THE OFFENSE OF AGGRAVATED  
6 ASSAULT; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, IN  
7 CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED  
8 PURPOSES.

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

10 SECTION 1. The following shall be codified as Section  
11 97-3-8, Mississippi Code of 1972:

12 97-3-8. A person is guilty of attempted murder if he  
13 attempts to kill another human being or attempts to cause or  
14 purposely or knowingly causes bodily injury to another with a  
15 deadly weapon or other means likely to produce death or serious  
16 bodily harm; and, upon conviction, he shall be punished by  
17 imprisonment in the State Penitentiary for not less than twenty  
18 (20) years or by imprisonment for life in the State Penitentiary,  
19 in the discretion of the court. A person convicted of attempted  
20 murder upon a law enforcement officer or fireman while such law  
21 enforcement officer or fireman is acting within the scope of his  
22 duty and office shall be punished by imprisonment for life in the  
23 State Penitentiary. Any person convicted of a second or  
24 subsequent offense of attempted murder shall be sentenced to

25 imprisonment for life without parole in the State Penitentiary.

26 SECTION 2. Section 97-3-7, Mississippi Code of 1972, is  
27 amended as follows:

28 97-3-7. (1) A person is guilty of simple assault if he (a)  
29 attempts to cause or purposely, knowingly or recklessly causes  
30 bodily injury to another; or (b) negligently causes bodily injury  
31 to another with a deadly weapon or other means likely to produce  
32 death or serious bodily harm; or (c) attempts by physical menace  
33 to put another in fear of imminent serious bodily harm; and, upon  
34 conviction, he shall be punished by a fine of not more than Five  
35 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
36 for not more than six (6) months, or both. Provided, however, a  
37 person convicted of simple assault (a) upon a statewide elected  
38 official, law enforcement officer, fireman, emergency medical  
39 personnel, public health personnel, superintendent, principal,  
40 teacher or other instructional personnel and school attendance  
41 officers or school bus driver while such statewide elected  
42 official, law enforcement officer, fireman, emergency medical  
43 personnel, public health personnel, superintendent, principal,  
44 teacher or other instructional personnel and school attendance  
45 officers or school bus driver is acting within the scope of his  
46 duty, office or employment, or (b) upon a legislator while the  
47 Legislature is in regular or extraordinary session shall be  
48 punished by a fine of not more than One Thousand Dollars  
49 (\$1,000.00) or by imprisonment for not more than five (5) years,  
50 or both.

51 (2) A person is guilty of aggravated assault if he \* \* \*  
52 attempts to cause serious bodily injury to another, or causes such  
53 injury purposely, knowingly or recklessly under circumstances  
54 manifesting extreme indifference to the value of human life; \* \* \*  
55 and, upon conviction, he shall be punished by imprisonment in the

56 county jail for not more than one (1) year or in the penitentiary  
57 for not more than twenty (20) years. Provided, however, a person  
58 convicted of aggravated assault (a) upon a statewide elected  
59 official, law enforcement officer, fireman, emergency medical  
60 personnel, public health personnel, superintendent, principal,  
61 teacher or other instructional personnel and school attendance  
62 officers or school bus driver while such statewide elected  
63 official, law enforcement officer, fireman, emergency medical  
64 personnel, public health personnel, superintendent, principal,  
65 teacher or other instructional personnel and school attendance  
66 officers or school bus driver is acting within the scope of his  
67 duty, office or employment, or (b) upon a legislator while the  
68 Legislature is in regular or extraordinary session shall be  
69 punished by a fine of not more than Five Thousand Dollars  
70 (\$5,000.00) or by imprisonment for not more than thirty (30)  
71 years, or both.

72 (3) A person is guilty of simple domestic violence who  
73 commits simple assault as described in subsection (1) of this  
74 section against a family or household member who resides with the  
75 defendant or who formerly resided with the defendant, or against a  
76 person with whom the defendant has had a child, and upon  
77 conviction, the defendant shall be punished as provided under  
78 subsection (1) of this section; provided, that upon a third or  
79 subsequent conviction of simple domestic violence, whether against  
80 the same or another victim and within five (5) years, the  
81 defendant shall be guilty of a felony and sentenced to a term of  
82 imprisonment not less than five (5) nor more than ten (10) years.

83 (4) A person is guilty of aggravated domestic violence who

84 commits aggravated assault as described in subsection (2) of this  
85 section against a family or household member who resides with the  
86 defendant or who formerly resided with the defendant, or against a  
87 person with whom the defendant has had a child, and upon  
88 conviction, the defendant shall be punished as provided under  
89 subsection (2) of this section; provided, that upon a third or  
90 subsequent offense of aggravated domestic violence, whether  
91 against the same or another victim and within five (5) years, the  
92 defendant shall be guilty of a felony and sentenced to a term of  
93 imprisonment of not less than five (5) nor more than twenty (20)  
94 years. Reasonable discipline of a child, such as spanking, is not  
95 an offense under this subsection (3).

96 (5) Every conviction of domestic violence may require as a  
97 condition of any suspended sentence that the defendant participate  
98 in counseling or treatment to bring about the cessation of  
99 domestic abuse. The defendant may be required to pay all or part  
100 of the cost of the counseling or treatment, in the discretion of  
101 the court.

102 (6) In any conviction of assault as described in any  
103 subsection of this section which arises from an incident of  
104 domestic violence, the sentencing order shall include the  
105 designation "domestic violence."

106 SECTION 3. Section 47-7-3, Mississippi Code of 1972, is  
107 amended as follows:

108 47-7-3. (1) Every prisoner who has been convicted of any  
109 offense against the State of Mississippi, and is confined in the  
110 execution of a judgment of such conviction in the Mississippi  
111 State Penitentiary for a definite term or terms of one (1) year or

over, or for the term of his or her natural life, whose record of conduct shows that such prisoner has observed the rules of the penitentiary, and who has served not less than one-fourth (1/4) of the total of such term or terms for which such prisoner was sentenced, or, if sentenced to serve a term or terms of thirty (30) years or more, or, if sentenced for the term of the natural life of such prisoner, has served not less than ten (10) years of such life sentence, may be released on parole as hereinafter provided, except that:

(a) No prisoner convicted as a confirmed and habitual criminal under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) Any person who shall have been convicted of a sex crime shall not be released on parole except for a person under the age of nineteen (19) who has been convicted under Section 97-3-67;

(c) No one shall be eligible for parole until he shall have served one (1) year of his sentence, unless such person has accrued any meritorious earned time allowances, in which case he shall be eligible for parole if he has served (i) nine (9) months of his sentence or sentences, when his sentence or sentences is two (2) years or less; (ii) ten (10) months of his sentence or sentences when his sentence or sentences is more than two (2) years but no more than five (5) years; and (iii) one (1) year of his sentence or sentences when his sentence or sentences is more than five (5) years;

(d) (i) No person shall be eligible for parole who shall, on or after January 1, 1977, be convicted of robbery or

140 attempted robbery through the display of a firearm until he shall  
141 have served ten (10) years if sentenced to a term or terms of more  
142 than ten (10) years or if sentenced for the term of the natural  
143 life of such person. If such person is sentenced to a term or  
144 terms of ten (10) years or less, then such person shall not be  
145 eligible for parole. The provisions of this paragraph (d) shall  
146 also apply to any person who shall commit robbery or attempted  
147 robbery on or after July 1, 1982, through the display of a deadly  
148 weapon. This subparagraph (d)(i) shall not apply to persons  
149 convicted after September 30, 1994;

150               (ii) No person shall be eligible for parole who  
151 shall, on or after October 1, 1994, be convicted of robbery,  
152 attempted robbery or carjacking as provided in Section 97-3-115 et  
153 seq., through the display of a firearm or drive-by shooting as  
154 provided in Section 97-3-109. The provisions of this subparagraph  
155 (d)(ii) shall also apply to any person who shall commit robbery,  
156 attempted robbery, carjacking or a drive-by shooting on or after  
157 October 1, 1994, through the display of a deadly weapon;

158               (e) No person shall be eligible for parole who, on or  
159 after July 1, 1994, is charged, tried, convicted and sentenced to  
160 life imprisonment without eligibility for parole under the  
161 provisions of Section 99-19-101;

162               (f) No person shall be eligible for parole who is  
163 charged, tried, convicted and sentenced to life imprisonment under  
164 the provisions of Section 99-19-101;

165               (g) No person shall be eligible for parole who is  
166 convicted or whose suspended sentence is revoked after June 30,  
167 1995;

(h) An offender may be eligible for medical release under Section 47-7-4;

(i) No person shall be eligible for parole, who shall be convicted of a second or subsequent offense of attempted murder under Section 97-3-8.

(2) Notwithstanding any other provision of law, an inmate shall not be eligible to receive earned time, good time or any other administrative reduction of time which shall reduce the time necessary to be served for parole eligibility as provided in subsection (1) of this section; however, this subsection shall not apply to the advancement of parole eligibility dates pursuant to the Prison Overcrowding Emergency Powers Act. Moreover, meritorious earned time allowances may be used to reduce the time necessary to be served for parole eligibility as provided in paragraph (c) of subsection (1) of this section.

(3) The State Parole Board shall by rules and regulations establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. Such tentative parole hearing date shall be calculated by a formula taking into account the offender's age upon first commitment, number of prior incarcerations, prior probation or parole failures, the severity and the violence of the offense committed, employment history and other criteria which in the opinion of the board tend to validly and reliably predict the length of incarceration necessary before the offender can be successfully paroled.

196           (4) Any inmate within twenty-four (24) months of his parole  
197 eligibility date and who meets the criteria established by the  
198 classification committee shall receive priority for placement in  
199 any educational development and job training programs. Any inmate  
200 refusing to participate in an educational development or job  
201 training program may be ineligible for parole.

202           SECTION 4. This act shall take effect and be in force from  
203 and after July 1, 2000.