

By: Representatives Whittington, Watson,
Barnett (116th), Brown, Eads, Fredericks,
Mayo, McBride

To: Judiciary B

HOUSE BILL NO. 977

1 AN ACT TO AMEND SECTION 99-3-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT VIOLATION WITHIN THIS STATE OF A PROTECTIVE ORDER
3 AGAINST DOMESTIC VIOLENCE, WHETHER ISSUED IN MISSISSIPPI OR NOT,
4 IS A MISDEMEANOR; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 99-3-7, Mississippi Code of 1972, is
7 amended as follows:

8 99-3-7. (1) An officer or private person may arrest any
9 person without warrant, for an indictable offense committed, or a
10 breach of the peace threatened or attempted in his presence; or
11 when a person has committed a felony, though not in his presence;
12 or when a felony has been committed, and he has reasonable ground
13 to suspect and believe the person proposed to be arrested to have
14 committed it; or on a charge, made upon reasonable cause, of the
15 commission of a felony by the party proposed to be arrested. And
16 in all cases of arrests without warrant, the person making such
17 arrest must inform the accused of the object and cause of the
18 arrest, except when he is in the actual commission of the offense,
19 or is arrested on pursuit.

20 (2) Any law enforcement officer may arrest any person on a
21 misdemeanor charge without having a warrant in his possession when
22 a warrant is in fact outstanding for that person's arrest and the
23 officer has knowledge through official channels that the warrant
24 is outstanding for that person's arrest. In all such cases, the
25 officer making the arrest must inform such person at the time of
26 the arrest the object and cause therefor. If the person arrested
27 so requests, the warrant shall be shown to him as soon as
28 practicable.



29 (3) (a) Any law enforcement officer shall arrest a person
30 with or without a warrant when he has probable cause to believe
31 that the person has, within twenty-four (24) hours of such arrest,
32 knowingly committed a misdemeanor which is an act of domestic
33 violence or knowingly violated provisions of an ex parte
34 protective order, protective order after hearing or court-approved
35 consent agreement entered by a chancery, county, justice or
36 municipal court pursuant to the Protection from Domestic Abuse
37 Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972,
38 or a restraining order entered by a foreign court of competent
39 jurisdiction to protect an applicant from domestic violence as
40 defined by Section 97-3-7 that require such person to absent
41 himself from a particular geographic area, or prohibit such person
42 from being within a specified distance of another person or
43 persons.

44 (b) If a law enforcement officer has probable cause to
45 believe that two (2) or more persons committed a misdemeanor which
46 is an act of domestic violence as defined herein, or if two (2) or
47 more persons make complaints to the officer, the officer shall
48 attempt to determine who was the principal aggressor. The term
49 "principal aggressor" is defined as the most significant, rather
50 than the first, aggressor. The officer shall presume that arrest
51 is not the appropriate response for the person or persons who were
52 not the principal aggressor. If the officer believes that all
53 parties are equally responsible, the officer shall exercise such
54 officer's best judgment in determining probable cause.

55 (c) To determine who is the principal aggressor, the
56 officer shall consider the following factors, although such
57 consideration is not limited to these factors:

58 (i) Evidence from the persons involved in the
59 domestic abuse;

60 (ii) The history of domestic abuse between the
61 parties, the likelihood of future injury to each person and the



62 intent of the law to protect victims of domestic violence from
63 continuing abuse;

64 (iii) Whether one (1) of the persons acted in
65 self-defense; and

66 (iv) Evidence from witnesses of the domestic
67 violence.

68 (d) A law enforcement officer shall not base the
69 decision of whether to arrest on the consent or request of the
70 victim.

71 (e) A law enforcement officer's determination regarding
72 the existence of probable cause or the lack of probable cause
73 shall not adversely affect the right of any party to independently
74 seek appropriate remedies.

75 (4) (a) Any person authorized by a court of law to
76 supervise or monitor a convicted offender who is under an
77 intensive supervision program may arrest the offender when the
78 offender is in violation of the terms or conditions of the
79 intensive supervision program, without having a warrant, provided
80 that the person making the arrest has been trained at the Law
81 Enforcement Officers Training Academy established under Section
82 45-5-1 et seq. or at a course approved by the Board on Law
83 Enforcement Officer Standards and Training.

84 (b) For the purposes of this subsection, the term
85 "intensive supervision program" means an intensive supervision
86 program of the Department of Corrections as described in Section
87 47-5-1001 et seq., or any similar program authorized by a court
88 for offenders who are not under jurisdiction of the Department of
89 Corrections.

90 (5) As used in subsection (3) of this section, the phrase
91 "misdemeanor which is an act of domestic violence" shall mean one
92 or more of the following acts between family or household members
93 who reside together or formerly resided together, current or



94 former spouses, persons who have a current dating relationship, or
95 persons who have a biological or legally adopted child together:

96 (a) Simple domestic violence within the meaning of
97 Section 97-3-7;

98 (b) Disturbing the family or public peace within the
99 meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; * * *

100 (c) Stalking within the meaning of Section 97-3-107; or

101 (d) Violation of the provisions of a protective order
102 issued pursuant to Section 93-21-11, 93-21-13 or 93-21-15 or
103 violation of a protective order of a foreign court issued to
104 protect the victim from domestic violence.

105 (6) Any arrest made pursuant to subsection (3) of this
106 section shall be designated as domestic assault or domestic
107 violence on both the arrest docket and the incident report.

108 (7) A law enforcement officer shall not be held liable in
109 any civil action for an arrest based on probable cause and in good
110 faith pursuant to subsection (3) of this section, or failure, in
111 good faith, to make an arrest pursuant to subsection (3) of this
112 section.

113 **SECTION 2.** This act shall take effect and be in force from
114 and after July 1, 2003.

