

By: Senator(s) Nunnelee

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2346

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE LIST OF THOSE PERSONS AGAINST WHOM ASSAULT WILL RESULT
3 IN AN AGGRAVATED PENALTY FOR THE OFFENDER UPON CONVICTION; AND FOR
4 RELATED PURPOSES.

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

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

8 97-3-7. (1) (a) A person is guilty of simple assault if he
9 (i) attempts to cause or purposely, knowingly or recklessly causes
10 bodily injury to another; or (ii) negligently causes bodily injury
11 to another with a deadly weapon or other means likely to produce
12 death or serious bodily harm; or (iii) attempts by physical menace
13 to put another in fear of imminent serious bodily harm; and, upon
14 conviction, he shall be punished by a fine of not more than Five
15 Hundred Dollars (\$500.00) or by imprisonment in the county jail
16 for not more than six (6) months, or both.

17 (b) However, a person convicted of simple assault (i)
18 upon a statewide elected official, law enforcement officer,
19 fireman, emergency medical personnel, public health personnel,
20 social worker, child protection specialist or other person
21 employed by the Department of Human Services or another agency,
22 superintendent, principal, teacher or other instructional
23 personnel, school attendance officer, school bus driver, or a
24 judge of a circuit, chancery, county, justice or youth court or a
25 judge of the Court of Appeals or a justice of the Supreme Court,
26 district attorney, legal assistant to a district attorney, county
27 prosecutor, municipal prosecutor, court reporter employed by a
28 court, court administrator, clerk or deputy clerk of the court, or

29 public defender, while such person is acting within the scope of
30 his duty, office or employment, whether on- or off-site of his
31 place of employment, or (ii) upon a legislator while the
32 Legislature is in regular or extraordinary session or while
33 otherwise acting within the scope of his duty, office or
34 employment, shall be punished by a fine of not more than One
35 Thousand Dollars (\$1,000.00) or by imprisonment for not more than
36 five (5) years, or both.

37 (2) (a) A person is guilty of aggravated assault if he (i)
38 attempts to cause serious bodily injury to another, or causes such
39 injury purposely, knowingly or recklessly under circumstances
40 manifesting extreme indifference to the value of human life; or
41 (ii) attempts to cause or purposely or knowingly causes bodily
42 injury to another with a deadly weapon or other means likely to
43 produce death or serious bodily harm; and, upon conviction, he
44 shall be punished by imprisonment in the county jail for not more
45 than one (1) year or in the Penitentiary for not more than twenty
46 (20) years.

47 (b) However, a person convicted of aggravated assault
48 (i) upon a statewide elected official, law enforcement officer,
49 fireman, emergency medical personnel, public health personnel,
50 social worker, child protection specialist or other person
51 employed by the Department of Human Services or another agency,
52 superintendent, principal, teacher or other instructional
53 personnel, school attendance officer, school bus driver, or a
54 judge of a circuit, chancery, county, justice or youth court or a
55 judge of the Court of Appeals or a justice of the Supreme Court,
56 district attorney, legal assistant to a district attorney, county
57 prosecutor, municipal prosecutor, court reporter employed by a
58 court, court administrator, clerk or deputy clerk of the court, or
59 public defender, while such person is acting within the scope of
60 his duty, office or employment, whether on- or off-site of his
61 place of employment, or (ii) upon a legislator while the

62 Legislature is in regular or extraordinary session or while
63 otherwise acting within the scope of his duty, office or
64 employment, shall be punished by a fine of not more than Five
65 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
66 thirty (30) years, or both.

67 (3) (a) A person is guilty of simple domestic violence who
68 commits simple assault as described in subsection (1) of this
69 section against a family or household member who resides with the
70 defendant or who formerly resided with the defendant, a current or
71 former spouse, a person who has a current dating relationship with
72 the defendant, or a person with whom the defendant has had a
73 biological or legally adopted child and upon conviction, the
74 defendant shall be punished as provided under subsection (1) of
75 this section; however, upon a third or subsequent conviction of
76 simple domestic violence, whether against the same or another
77 victim and within five (5) years, the defendant shall be guilty of
78 a felony and sentenced to a term of imprisonment not less than
79 five (5) nor more than ten (10) years. In sentencing, the court
80 shall consider as an aggravating factor whether the crime was
81 committed in the physical presence or hearing of a child under
82 sixteen (16) years of age who was, at the time of the offense,
83 living within either the residence of the victim, the residence of
84 the perpetrator, or the residence where the offense occurred.

85 (b) A person is guilty of aggravated domestic violence
86 who commits aggravated assault as described in subsection (2) of
87 this section against a family or household member who resides with
88 the defendant or who formerly resided with the defendant, or a
89 current or former spouse, a person who has a current dating
90 relationship with the defendant, or a person with whom the
91 defendant has had a biological or legally adopted child and upon
92 conviction, the defendant shall be punished as provided under
93 subsection (2) of this section; however, upon a third or
94 subsequent offense of aggravated domestic violence, whether

95 against the same or another victim and within five (5) years, the
96 defendant shall be guilty of a felony and sentenced to a term of
97 imprisonment of not less than five (5) nor more than twenty (20)
98 years. In sentencing, the court shall consider as an aggravating
99 factor whether the crime was committed in the physical presence or
100 hearing of a child under sixteen (16) years of age who was, at the
101 time of the offense, living within either the residence of the
102 victim, the residence of the perpetrator, or the residence where
103 the offense occurred. Reasonable discipline of a child, such as
104 spanking, is not an offense under this subsection (3).

105 (c) "Dating relationship" means a social relationship
106 of a romantic or intimate nature.

107 (d) Every conviction of domestic violence may require
108 as a condition of any suspended sentence that the defendant
109 participate in counseling or treatment to bring about the
110 cessation of domestic abuse. The defendant may be required to pay
111 all or part of the cost of the counseling or treatment, in the
112 discretion of the court.

113 (e) In any conviction of assault as described in any
114 subsection of this section which arises from an incident of
115 domestic violence, the sentencing order shall include the
116 designation "domestic violence."

117 **SECTION 2.** This act shall take effect and be in force from
118 and after July 1, 2005.