

**Adopted**  
**COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 202**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

25       **SECTION 1.** The following shall be codified as Section  
26   97-3-8, Mississippi Code of 1972:  
27       97-3-8. A person is guilty of attempted murder if he  
28   attempts to kill another human being or attempts to cause or  
29   purposely or knowingly causes bodily injury to another with a  
30   deadly weapon or other means likely to produce death or serious  
31   bodily harm; and, upon conviction, he shall be punished by  
32   imprisonment in the custody of the Department of Corrections for  
33   not less than twenty (20) years or by imprisonment for life in the  
34   custody of the Department of Corrections, in the discretion of the  
35   court. A person convicted of attempted murder upon a law  
36   enforcement officer or fireman while such law enforcement officer  
37   or fireman is acting within the scope of his duty and office shall  
38   be punished by imprisonment for life in the custody of the  
39   Department of Corrections. Any person convicted of a second or  
40   subsequent offense of attempted murder shall be sentenced to  
41   imprisonment for life without parole in the custody of the  
42   Department of Corrections.

43           **SECTION 2.** Section 97-3-7, Mississippi Code of 1972, is  
44 amended as follows:

45           97-3-7. (1) A person is guilty of simple assault if he (a)  
46 attempts to cause or purposely, knowingly or recklessly causes  
47 bodily injury to another; or (b) negligently causes bodily injury  
48 to another with a deadly weapon or other means likely to produce  
49 death or serious bodily harm; or (c) attempts by physical menace  
50 to put another in fear of imminent serious bodily harm; and, upon  
51 conviction, he shall be punished by a fine of not more than Five  
52 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
53 for not more than six (6) months, or both. However, a person  
54 convicted of simple assault (a) upon a statewide elected official,  
55 law enforcement officer, fireman, emergency medical personnel,  
56 public health personnel, social worker or family protection  
57 specialist or family protection worker employed by the Department  
58 of Human Services or another agency, superintendent, principal,  
59 teacher or other instructional personnel, school attendance  
60 officer, school bus driver, or a judge of a circuit, chancery,  
61 county, justice, municipal or youth court or a judge of the Court  
62 of Appeals or a justice of the Supreme Court, district attorney,  
63 legal assistant to a district attorney, county prosecutor,  
64 municipal prosecutor, court reporter employed by a court, court  
65 administrator, clerk or deputy clerk of the court, or public  
66 defender, while such statewide elected official, judge or justice,  
67 law enforcement officer, fireman, emergency medical personnel,  
68 public health personnel, social worker, family protection  
69 specialist, family protection worker, superintendent, principal,  
70 teacher or other instructional personnel, school attendance  
71 officer, school bus driver, district attorney, legal assistant to  
72 a district attorney, county prosecutor, municipal prosecutor,  
73 court reporter employed by a court, court administrator, clerk or  
74 deputy clerk of the court, or public defender is acting within the

75 scope of his duty, office or employment; \* \* \* (b) upon a  
76 legislator while the Legislature is in regular or extraordinary  
77 session or while otherwise acting within the scope of his duty,  
78 office or employment; or (c) upon a witness in a pending criminal  
79 proceeding as those terms are defined in Section 97-3-19, if the  
80 person at the time of the offense was a defendant or suspect in  
81 the criminal proceeding or was acting at the request of a  
82 defendant or suspect in the criminal proceeding or was aiding and  
83 abetting or acting in concert with a defendant or suspect, shall  
84 be punished by a fine of not more than One Thousand Dollars  
85 (\$1,000.00) or by imprisonment for not more than five (5) years,  
86 or both.

87 (2) A person is guilty of aggravated assault if he \* \* \*  
88 attempts to cause serious bodily injury to another, or causes such  
89 injury purposely, knowingly or recklessly under circumstances  
90 manifesting extreme indifference to the value of human life \* \* \*  
91 and, upon conviction, he shall be punished by imprisonment in the  
92 county jail for not more than one (1) year or in the Penitentiary  
93 for not more than twenty (20) years. However, a person convicted  
94 of aggravated assault (a) upon a statewide elected official, law  
95 enforcement officer, fireman, emergency medical personnel, public  
96 health personnel, social worker, family protection specialist,  
97 family protection worker employed by the Department of Human  
98 Services or another agency, superintendent, principal, teacher or  
99 other instructional personnel, school attendance officer, school  
100 bus driver, or a judge of a circuit, chancery, county, justice,  
101 municipal or youth court or a judge of the Court of Appeals or a  
102 justice of the Supreme Court, district attorney, legal assistant  
103 to a district attorney, county prosecutor, municipal prosecutor,  
104 court reporter employed by a court, court administrator, clerk or  
105 deputy clerk of the court, or public defender, while such  
106 statewide elected official, judge or justice, law enforcement

107 officer, fireman, emergency medical personnel, public health  
108 personnel, social worker, family protection specialist, family  
109 protection worker, superintendent, principal, teacher or other  
110 instructional personnel, school attendance officer, school bus  
111 driver, district attorney, legal assistant to a district attorney,  
112 county prosecutor, municipal prosecutor, court reporter employed  
113 by a court, court administrator, clerk or deputy clerk of the  
114 court, or public defender is acting within the scope of his duty,  
115 office or employment; \* \* \* (b) upon a legislator while the  
116 Legislature is in regular or extraordinary session or while  
117 otherwise acting within the scope of his duty, office or  
118 employment; or (c) upon a witness in a pending criminal proceeding  
119 as those terms are defined in Section 97-3-19, if the person at  
120 the time of the offense was a defendant or suspect in the criminal  
121 proceeding or was acting at the request of a defendant or suspect  
122 in the criminal proceeding or was aiding and abetting or acting in  
123 concert with a defendant or suspect, shall be punished by a fine  
124 of not more than Five Thousand Dollars (\$5,000.00) or by  
125 imprisonment for not more than thirty (30) years, or both.

126 (3) A person is guilty of simple domestic violence who  
127 commits simple assault as described in subsection (1) of this  
128 section against a family or household member who resides with the  
129 defendant or who formerly resided with the defendant, a current or  
130 former spouse, a person who has a current dating relationship with  
131 the defendant, or a person with whom the defendant has had a  
132 biological or legally adopted child and upon conviction, the  
133 defendant shall be punished as provided under subsection (1) of  
134 this section; however, upon a third or subsequent conviction of  
135 simple domestic violence, whether against the same or another  
136 victim and within five (5) years, the defendant shall be guilty of  
137 a felony and sentenced to a term of imprisonment not less than  
138 five (5) nor more than ten (10) years. In sentencing, 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.

(4) A person is guilty of aggravated domestic violence who commits aggravated assault as described in subsection (2) of this section against a family or household member who resides with the defendant or who formerly resided with the defendant, or a current or former spouse, a person who has a current dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child and upon conviction, the defendant shall be punished as provided under subsection (2) of this section; however, upon a third or subsequent offense of aggravated domestic violence, whether against the same or another victim and within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment of not less than five (5) nor more than twenty (20) years. In sentencing, 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. Reasonable discipline of a child, such as spanking, is not an offense under this subsection (4).

(5) "Dating relationship" means a social relationship of a romantic or intimate nature.

(6) Every conviction of domestic violence 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.

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

**SECTION 3.** Section 97-3-19, Mississippi Code of 1972, is amended as follows:

97-3-19. (1) The killing of a human being without the authority of law by any means or in any manner shall be murder in the following cases:

(a) When done with deliberate design to effect the death of the person killed, or of any human being;

(b) When done in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, although without any premeditated design to effect the death of any particular individual;

(c) When done without any design to effect death by any person engaged in the commission of any felony other than rape, kidnapping, burglary, arson, robbery, sexual battery, unnatural intercourse with any child under the age of twelve (12), or nonconsensual unnatural intercourse with mankind, or felonious abuse and/or battery of a child in violation of subsection (2) of Section 97-5-39, or in any attempt to commit such felonies;

(d) When done with deliberate design to effect the death of an unborn child.

(2) The killing of a human being without the authority of law by any means or in any manner shall be capital murder in the following cases:

(a) Murder which is perpetrated by killing a peace officer or fireman while such officer or fireman is acting in his official capacity or by reason of an act performed in his official

202 capacity, and with knowledge that the victim was a peace officer  
203 or fireman. For purposes of this paragraph, the term "peace  
204 officer" means any state or federal law enforcement officer,  
205 including, but not limited to, a federal park ranger, the sheriff  
206 of or police officer of a city or town, a conservation officer, a  
207 parole officer, a judge, senior status judge, special judge,  
208 district attorney, legal assistant to a district attorney, county  
209 prosecuting attorney or any other court official, an agent of the  
210 Alcoholic Beverage Control Division of the State Tax Commission,  
211 an agent of the Bureau of Narcotics, personnel of the Mississippi  
212 Highway Patrol, and the employees of the Department of Corrections  
213 who are designated as peace officers by the Commissioner of  
214 Corrections pursuant to Section 47-5-54, and the superintendent  
215 and his deputies, guards, officers and other employees of the  
216 Mississippi State Penitentiary;

217 (b) Murder which is perpetrated by a person who is  
218 under sentence of life imprisonment;

219 (c) Murder which is perpetrated by use or detonation of  
220 a bomb or explosive device;

221 (d) Murder which is perpetrated by any person who has  
222 been offered or has received anything of value for committing the  
223 murder, and all parties to such a murder, are guilty as  
224 principals;

225 (e) When done with or without any design to effect  
226 death, by any person engaged in the commission of the crime of  
227 rape, burglary, kidnapping, arson, robbery, sexual battery,  
228 unnatural intercourse with any child under the age of twelve (12),  
229 or nonconsensual unnatural intercourse with mankind, or in any  
230 attempt to commit such felonies;

231 (f) When done with or without any design to effect  
232 death, by any person engaged in the commission of the crime of  
233 felonious abuse and/or battery of a child in violation of

234 subsection (2) of Section 97-5-39, or in any attempt to commit  
235 such felony;

236 (g) Murder which is perpetrated on educational property  
237 as defined in Section 97-37-17;

238 (h) Murder which is perpetrated by the killing of any  
239 elected official of a county, municipal, state or federal  
240 government with knowledge that the victim was such public  
241 official;

242 (i) Murder which is perpetrated by the killing of a  
243 witness in a pending criminal proceeding by a defendant or suspect  
244 in the proceeding or by any other person at the request of a  
245 defendant or suspect in the criminal proceeding or by a person who  
246 was aiding and abetting or acting in concert with a defendant or  
247 suspect in a criminal proceeding. For purposes of this paragraph,  
248 the following terms shall have the meanings ascribed:

249 (i) "Witness" means any person, whether ever  
250 subpoenaed or called to testify in a trial or hearing, who has, or  
251 is believed to have, knowledge relevant to a criminal proceeding,  
252 which knowledge may include, but shall not be limited to,  
253 allegedly being present at the time or at the scene of the  
254 offense, allegedly possessing documentary or other evidence as to  
255 the offense or the person who committed the offense, or allegedly  
256 having heard the defendant discussing the offense either before or  
257 after the offense occurred, which person is identified in one or  
258 more police reports or discovery provided by the prosecution to  
259 the defendant or his attorney;

260 (ii) "Pending criminal proceeding" means any  
261 felony prosecution that has been commenced by an arrest,  
262 indictment or an investigation by a duly authorized law  
263 enforcement agency.

264 (3) An indictment for murder or capital murder shall serve  
265 as notice to the defendant that the indictment may include any and

266 all lesser included offenses thereof, including, but not limited  
267 to, manslaughter.

268       **SECTION 4.** Section 97-3-53, Mississippi Code of 1972, is  
269 amended as follows:

270       97-3-53. Any person who, without lawful authority and with  
271 or without intent to secretly confine, shall forcibly seize and  
272 confine any other person, or shall inveigle or kidnap any other  
273 person with intent to cause such person to be confined or  
274 imprisoned against his or her will, or without lawful authority  
275 shall forcibly seize, inveigle or kidnap any child under the age  
276 of sixteen (16) years against the will of the parents or guardian  
277 or person having the lawful custody of the child, upon conviction,  
278 shall be imprisoned for life in the custody of the Department of  
279 Corrections if the punishment is so fixed by the jury in its  
280 verdict. If the jury fails to agree on fixing the penalty at  
281 imprisonment for life, the court shall fix the penalty at not less  
282 than one (1) year nor more than thirty (30) years in the custody  
283 of the Department of Corrections; provided, that where the person  
284 seized, confined, inveigled or kidnapped in violation of this  
285 section is a witness in a pending criminal proceeding as those  
286 terms are defined in Section 97-3-19, and the person at the time  
287 of the offense was a defendant or suspect in the criminal  
288 proceeding or was acting at the request of a defendant or suspect  
289 in the criminal proceeding or was aiding and abetting or acting in  
290 concert with a defendant or suspect, the court shall fix the  
291 penalty at not less than five (5) years nor more than life in  
292 prison, with the sentencing determination to be made by the court,  
293 sitting without a jury, after a trial or plea.

294       This section shall not be held to repeal, modify or amend any  
295 other criminal statute of this state.

296       **SECTION 5.** The following shall be codified as Section  
297 99-7-26, Mississippi Code of 1972:

298        99-7-26. An indictment for kidnapping under Section 97-3-53,  
299 wherein the victim is alleged to be a witness in a pending  
300 criminal proceeding as defined by Section 97-3-19, shall include  
301 such allegation, which shall be treated for all purposes as an  
302 element of the crime to be determined by the jury, notwithstanding  
303 the power of the court to sentence without involvement of the jury  
304 in the sentencing process.

305        **SECTION 6.** (1) The Mississippi Witness Protection Program  
306 Study Committee is hereby created. It shall consist of eight (8)  
307 members who are to be selected as follows:

308                (a) The Commissioner of Public Safety, who shall chair  
309 the study committee.

310                (b) One (1) circuit judge appointed by the Conference  
311 of Circuit Judges.

312                (c) One (1) sheriff appointed by the Sheriffs'  
313 Association.

314                (d) One (1) police chief appointed by the Police  
315 Chiefs' Association.

316                (e) The President of the Mississippi Criminal Defense  
317 Lawyers Association shall appoint one (1) member from its  
318 membership.

319                (f) Two (2) prosecutors appointed by the Prosecutors'  
320 Association, at least one (1) of whom is a District Attorney or  
321 employed by a District Attorney.

322                (g) The Chief Justice of the Supreme Court shall  
323 appoint one (1) Public Defender.

324        Appointments and vacancies on the study committee shall be  
325 filled by the respective selecting and appointing authorities.

326        (2) The purpose of the study committee shall be to make  
327 recommendations to the Legislature and the Supreme Court as to the  
328 need in Mississippi for a state-level Witness Protection Program,  
329 including obtaining statistical information with reference to

330 cases in the various courts in Mississippi; conducting research  
331 relating to improvement of the administration of justice; the  
332 needs of law enforcement agencies in the State of Mississippi; and  
333 making a comprehensive study of the potential usefulness to the  
334 state of a Witness Protection Program. In addition, the study  
335 committee is charged with the examination of the operational  
336 needs, including budget, staffing, and the best placement  
337 administratively, of any future Witness Protection Program, and  
338 may make such policy recommendations as will promote the  
339 administration of justice.

340       (3) (a) The chairman shall set and give notice of the time,  
341 date and place of the initial meeting, at which time the study  
342 committee shall elect a vice chairperson from its members and any  
343 other officers which it considers necessary to carry out the  
344 purpose of the committee. The chair shall not vote unless  
345 necessary to break a tie vote of the committee. The committee may  
346 form any committees from its membership in order to assist the  
347 committee in accomplishing its purposes as provided in this act.

348       (b) The committee shall meet at least quarterly and at  
349 such other times as meetings may be called by the chair. A  
350 majority of the members shall constitute a quorum at any meeting.  
351 Any final action taken by the study committee shall require the  
352 affirmative vote of a majority.

353       (4) The Department of Public Safety shall provide such  
354 support of the Mississippi Witness Protection Program Study  
355 Committee as is necessary to accomplish the purposes of this act,  
356 including, but not limited to, research and clerical assistance.

357       (5) (a) In addition to the other duties specified, the  
358 committee shall file a report with the Legislature not later than  
359 December 15, 2007. The document shall report on the need, if any,  
360 for a state-level Witness Protection Program. The report shall  
361 also make specific recommendations for structure of any future

362 Witness Protection Program as well as a projected cost for the  
363 program over the first five (5) years of operation, setting forth  
364 start-up costs separately from operating costs.

365           (b) The committee is authorized and empowered for the  
366 accomplishment of its purposes to undertake any studies, reviews,  
367 inquiries, hearings, examinations, surveys or analyses as it may  
368 deem pertinent, relevant and justified. The committee shall  
369 propose and prepare in detailed form for the consideration of the  
370 Legislature such amendments to existing law, such statutes, and  
371 such constitutional amendments as in the judgment of the committee  
372 will facilitate the operation of the Witness Protection Program  
373 and promote the administration of justice.

374           (6) The committee is authorized to call upon any and all  
375 existing courts, agencies, departments, divisions, officers,  
376 employees, boards, bureaus, commissions and institutions of the  
377 State of Mississippi, or any political subdivision thereof, to  
378 furnish such information, data and assistance as will enable it to  
379 carry out its powers and duties hereunder and all such agencies,  
380 departments, divisions, officers, employees, boards, bureaus,  
381 commissions and institutions of the State of Mississippi and its  
382 political subdivisions are hereby directed to cooperate with the  
383 committee and render such information, data, aid and assistance as  
384 may be requested by the committee.

385           (7) The committee shall have the power to enlist the  
386 services of any agency, either public or private, or any  
387 individual or educational institution, bar association, research  
388 organization, foundation or educational or civic organization for  
389 assistance in accomplishing the purposes of this act, conducting  
390 research studies, gathering information or printing and publishing  
391 its reports. The committee is authorized to make and sign any  
392 agreements or contracts to do or perform any actions that may be

393 necessary, desirable or proper to carry out the purposes and  
394 objectives of this act.

395 (8) The committee may employ any agents, clerks,  
396 researchers, counsel, consultants and other personnel necessary  
397 for the performance of the duties of the study committee and fix  
398 their respective rates of compensation, all subject to the  
399 approval of the State Personnel Board and within the amounts made  
400 available by appropriation therefor or received from other  
401 sources.

402 (9) Members of the committee shall receive a per diem as  
403 provided in Section 25-3-69 for actual attendance upon meetings of  
404 the study committee, together with reimbursement for traveling and  
405 subsistence expenses incurred as provided in Section 25-3-41,  
406 Mississippi Code of 1972, except that members of the study  
407 committee whose regular compensation is payable by the state or  
408 any political subdivision of the state shall not receive per diem  
409 for attendance upon meetings of the study committee.

410 (10) The committee is authorized and empowered to receive  
411 and expend any funds appropriated to it by the Legislature and any  
412 funds received by it from any other source in carrying out the  
413 objectives and purposes of this act.

414 **SECTION 7.** Sections 1 through 5 of this act shall take  
415 effect and be in force from and after July 1, 2007, and the  
416 remainder of this act shall take effect and be in force from and  
417 after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 SECTIONS 97-3-7, 97-3-19  
5 AND 97-3-53, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIMES OF  
6 ASSAULT, MURDER AND KIDNAPPING WHEN COMMITTED AGAINST A WITNESS IN  
7 A CRIMINAL PROCEEDING AND TO CONFORM TO ATTEMPTED MURDER; TO  
8 CREATE SECTION 99-7-26, MISSISSIPPI CODE OF 1972, TO REVISE  
9 INDICTMENT FOR ASSAULT AND KIDNAPPING WHEN THE VICTIM IS A WITNESS

10 IN A CRIMINAL PROCEEDING; TO CREATE THE MISSISSIPPI WITNESS  
11 PROTECTION PROGRAM STUDY COMMITTEE; TO SPECIFY THE MEMBERSHIP  
12 THEREOF; TO SET FORTH THE PURPOSE OF THE STUDY COMMITTEE; TO  
13 PROVIDE FOR THE ELECTION OF A CHAIRPERSON AND OTHER OFFICERS; TO  
14 PROVIDE FOR MEETINGS OF THE COMMITTEE; TO REQUIRE THE DEPARTMENT  
15 OF PUBLIC SAFETY TO PROVIDE ADMINISTRATIVE SUPPORT TO THE  
16 COMMITTEE; TO SET FORTH ADDITIONAL DUTIES AND POWERS OF THE  
17 COMMITTEE; TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES TO  
18 ASSIST THE COMMITTEE; TO AUTHORIZE THE COMMITTEE TO ENLIST THE  
19 SERVICE OF OTHER AGENCIES, ASSOCIATIONS AND ORGANIZATIONS TO  
20 ASSIST THE COMMITTEE; TO AUTHORIZE THE COMMITTEE TO EMPLOY SUPPORT  
21 PERSONNEL; TO AUTHORIZE PER DIEM PAYMENT AND TRAVEL EXPENSES; TO  
22 AUTHORIZE EXPENDITURE OF APPROPRIATED FUNDS; AND FOR RELATED  
23 PURPOSES.