

By: Senator(s) Boyd

To: Judiciary, Division B

SENATE BILL NO. 2199

1 AN ACT TO AMEND SECTION 99-5-37, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE A JUDGE SETTING BAIL FOR CERTAIN DOMESTIC VIOLENCE
3 OFFENSES TO REQUIRE A HOLDING PERIOD FROM THE TIME OF THE INITIAL
4 APPEARANCE OR SETTING OF BAIL; TO AMEND SECTION 99-5-38,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A COURT SHALL REQUIRE AS
6 A CONDITION OF RELEASE ON BOND THAT A DEFENDANT CHARGED WITH AN
7 OFFENSE INVOLVING DOMESTIC VIOLENCE REFRAIN FROM GOING TO OR NEAR
8 CERTAIN LOCATIONS AND WEAR A GLOBAL POSITIONING MONITORING SYSTEM
9 DEVICE; TO REQUIRE THE ENTITY THAT OPERATES THE GLOBAL POSITIONING
10 MONITORING SYSTEM TO ENSURE THAT THE DEVICE CANNOT BE REMOVED BY
11 THE DEFENDANT WITHOUT COURT APPROVAL; TO REQUIRE THE ENTITY THAT
12 OPERATES THE GLOBAL POSITIONING MONITORING SYSTEM TO ENSURE
13 INSTALLATION OF THE DEVICE BEFORE THE DEFENDANT IS RELEASED FROM
14 INCARCERATION ON BOND; TO BRING FORWARD SECTION 97-3-7,
15 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE OFFENSE OF SIMPLE
16 AND AGGRAVATED DOMESTIC VIOLENCE, FOR THE PURPOSE OF POSSIBLE
17 AMENDMENT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 99-5-37, Mississippi Code of 1972, is
20 amended as follows:

21 99-5-37. (1) In any arrest for (a) a misdemeanor that is an
22 act of domestic violence as defined in Section 99-3-7(5); (b)
23 aggravated domestic violence as defined in Section 97-3-7(4); (c)
24 aggravated stalking as defined in Section 97-3-107(2); (d) a
25 knowing violation of a condition of bond imposed pursuant to this



26 section; or (e) a knowing violation of a domestic abuse protection
27 order issued pursuant to Section 93-21-1 et seq., or a similar
28 order issued by a foreign court of competent jurisdiction for the
29 purpose of protecting a person from domestic abuse, no bail shall
30 be granted until the person arrested has appeared before a judge
31 of the court of competent jurisdiction. The appearance may be by
32 telephone. Nothing in this section shall be construed to
33 interfere with the defendant's right to an initial appearance or
34 preliminary hearing.

35 (2) Upon setting bail, the judge * * * shall impose on the
36 arrested person a holding period * * * of at least twenty-four
37 (24) hours and not to exceed forty-eight (48) hours from the time
38 of the initial appearance or setting of bail. The judge also
39 shall give particular consideration to the exigencies of the case,
40 including, but not limited to, (a) the potential for further
41 violence; (b) the past history, if any, of violence between the
42 defendant and alleged victim; (c) the level of violence of the
43 instant offense; (d) any threats of further violence; and (e) the
44 existence of a domestic violence protection order prohibiting the
45 defendant from engaging in abusive behavior, and shall impose any
46 specific conditions on the bond as he or she may deem necessary.
47 Specific conditions which may be imposed by the judge may include,
48 but are not limited to, the issuance of an order prohibiting the
49 defendant from contacting the alleged victim prior to trial,



prohibiting the defendant from abusing or threatening the alleged victim or requiring defendant to refrain from drug or alcohol use.

(3) All bond conditions imposed by the court shall be entered into the corresponding Uniform Offense Report and written notice of the conditions shall be provided at no cost to the arrested person upon his or her release, to the appropriate law enforcement agency, and to the clerk of the court. Upon request, a copy of the written notice of conditions shall be provided at no cost to the victim. In any prosecution for violation of a bond condition imposed pursuant to this section, it shall not be a defense that the bond conditions were not entered into the corresponding Uniform Offense Report.

(4) Within twenty-four (24) hours of a violation of any bond conditions imposed pursuant to this section, any law enforcement officer having probable cause to believe that the violation occurred may make a warrantless arrest of the violator.

(5) Nothing in this section shall be construed to interfere with the judges' authority, if any, to deny bail or to otherwise lawfully detain a particular defendant.

SECTION 2. Section 99-5-38, Mississippi Code of 1972, is amended as follows:

99-5-38. (1) (a) "Domestic violence" has the same meaning as the term "abuse" as defined in Section 93-21-3.

(b) "Global positioning monitoring system" means a system that electronically determines and reports the location of



an individual through the use of a transmitter or similar device carried or worn by the individual that transmits latitude and longitude data to a monitoring entity through global positioning satellite technology. The term does not include a system that contains or operates global positioning system technology, radio frequency identification technology or any other similar technology that is implanted in or otherwise invades or violates the individual's body.

(2) The court * * * shall require as a condition of release on bond that a defendant charged with an offense involving domestic violence:

(a) Refrain from going to or near a residence, school, place of employment, or other location, as specifically described in the bond, frequented by an alleged victim of the offense;

(b) * * * Wear a global positioning monitoring system device and, except as provided by subsection (8), pay the costs associated with operating that system in relation to the defendant; or

(c) If the alleged victim of the offense consents after receiving the information described by subsection (4) and, except as provided by subsection (8), pay the costs associated with providing the victim with an electronic receptor device that:

(i) Is capable of receiving the global positioning monitoring system information from the device * * * worn by the defendant; and



(ii) Notifies the victim if the defendant is at or near a location that the defendant has been ordered to refrain from going to or near under paragraph (a).

(3) Before imposing a condition described by subsection (2)(a), the court must afford an alleged victim an opportunity to provide the court with a list of areas from which the victim would like the defendant excluded and shall consider the victim's request, if any, in determining the locations the defendant will be ordered to refrain from going to or near. * * * When the court imposes a condition described by subsection (2)(a), the court shall specifically describe the locations that the defendant has been ordered to refrain from going to or near and the minimum distances, if any, that the defendant must maintain from those locations.

(4) Before imposing a condition described by subsection (2)(c), the court must provide to an alleged victim information regarding:

(a) The victim's right to participate in a global positioning monitoring system or to refuse to participate in that system and the procedure for requesting that the court terminate the victim's participation;

(b) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements;



125 (c) Any locations that the defendant is ordered to
126 refrain from going to or near and the minimum distances, if any,
127 that the defendant must maintain from those locations;

128 (d) Any sanctions that the court may impose on the
129 defendant for violating a condition of bond imposed under this
130 section;

131 (e) The procedure that the victim is to follow, and
132 support services available to assist the victim, if the defendant
133 violates a condition of bond or if the global positioning
134 monitoring system equipment fails;

135 (f) Community services available to assist the victim
136 in obtaining shelter, counseling, education, child care, legal
137 representation, and other assistance available to address the
138 consequences of domestic violence; and

139 (g) The fact that the victim's communications with the
140 court concerning the global positioning monitoring system and any
141 restrictions to be imposed on the defendant's movements are not
142 confidential.

143 (5) In addition to the information described by subsection
144 (4), the court shall provide to an alleged victim who participates
145 in a global positioning monitoring system under this section the
146 name and telephone number of an appropriate person employed by a
147 local law enforcement agency who the victim may call to request
148 immediate assistance if the defendant violates a condition of bond
149 imposed under this section.



150 * * *

151 (* * *6) An alleged victim may request that the court
152 terminate the victim's participation in a global positioning
153 monitoring system at any time. The court may not impose sanctions
154 on the victim for requesting termination of the victim's
155 participation in or refusing to participate in a global
156 positioning monitoring system under this section.

157 (* * *7) The court may allow a defendant to perform
158 community service in lieu of paying the costs required by
159 subsection (2) (b) or (c) if the court determines that the
160 defendant is indigent.

161 (* * *8) The court * * * shall order the entity that
162 operates the global positioning monitoring system to:

163 (a) Notify the court and the appropriate local law
164 enforcement agency if a defendant violates a condition of bond
165 imposed under this section;

166 (b) Ensure that the device cannot be removed by the
167 defendant without court approval; and

168 (c) Ensure the installation of the device before the
169 defendant is released from incarceration on bond.

170 (* * *9) This section does not limit the authority of the
171 court to impose any other reasonable conditions of bond or enter
172 any orders of protection under other applicable statutes.

173 **SECTION 3.** Section 97-3-7, Mississippi Code of 1972, is
174 brought forward as follows:



175 97-3-7. (1) (a) A person is guilty of simple assault if he
176 or she (i) attempts to cause or purposely, knowingly or recklessly
177 causes bodily injury to another; (ii) negligently causes bodily
178 injury to another with a deadly weapon or other means likely to
179 produce death or serious bodily harm; or (iii) attempts by
180 physical menace to put another in fear of imminent serious bodily
181 harm; and, upon conviction, he or she shall be punished by a fine
182 of not more than Five Hundred Dollars (\$500.00) or by imprisonment
183 in the county jail for not more than six (6) months, or both.

184 (b) However, a person convicted of simple assault upon
185 any of the persons listed in subsection (14) of this section under
186 the circumstances enumerated in subsection (14) shall be punished
187 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
188 imprisonment for not more than five (5) years, or both.

189 (2) (a) A person is guilty of aggravated assault if he or
190 she (i) attempts to cause serious bodily injury to another, or
191 causes such injury purposely, knowingly or recklessly under
192 circumstances manifesting extreme indifference to the value of
193 human life; (ii) attempts to cause or purposely or knowingly
194 causes bodily injury to another with a deadly weapon or other
195 means likely to produce death or serious bodily harm; or (iii)
196 causes any injury to a child who is in the process of boarding or
197 exiting a school bus in the course of a violation of Section
198 63-3-615; and, upon conviction, he or she shall be punished by
199 imprisonment in the county jail for not more than one (1) year or



200 sentenced to the custody of the Department of Corrections for not
201 more than twenty (20) years.

202 (b) However, a person convicted of aggravated assault
203 upon any of the persons listed in subsection (14) of this section
204 under the circumstances enumerated in subsection (14) shall be
205 punished by a fine of not more than Five Thousand Dollars
206 (\$5,000.00) or by imprisonment for not more than thirty (30)
207 years, or both.

208 (3) (a) When the offense is committed against a current or
209 former spouse of the defendant or a child of that person, a person
210 living as a spouse or who formerly lived as a spouse with the
211 defendant or a child of that person, a parent, grandparent, child,
212 grandchild or someone similarly situated to the defendant, a
213 person who has a current or former dating relationship with the
214 defendant, or a person with whom the defendant has had a
215 biological or legally adopted child, a person is guilty of simple
216 domestic violence who:

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

219 (ii) Negligently causes bodily injury to another
220 with a deadly weapon or other means likely to produce death or
221 serious bodily harm; or

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



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

227 (b) **Simple domestic violence: third.** A person is
228 guilty of the felony of simple domestic violence third who commits
229 simple domestic violence as defined in this subsection (3) and
230 who, at the time of the commission of the offense in question, has
231 two (2) prior convictions, whether against the same or another
232 victim, within seven (7) years, for any combination of simple
233 domestic violence under this subsection (3) or aggravated domestic
234 violence as defined in subsection (4) of this section or
235 substantially similar offenses under the law of another state, of
236 the United States, or of a federally recognized Native American
237 tribe. Upon conviction, the defendant shall be sentenced to a
238 term of imprisonment not less than five (5) nor more than ten (10)
239 years.

240 (4) (a) When the offense is committed against a current or
241 former spouse of the defendant or a child of that person, a person
242 living as a spouse or who formerly lived as a spouse with the
243 defendant or a child of that person, a parent, grandparent, child,
244 grandchild or someone similarly situated to the defendant, a
245 person who has a current or former dating relationship with the
246 defendant, or a person with whom the defendant has had a
247 biological or legally adopted child, a person is guilty of
248 aggravated domestic violence who:



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

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

(iii) Strangles, or attempts to strangle another.

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

(b) **Aggravated domestic violence; third.** A 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 two (2) prior convictions within the past seven (7) years, whether against the same or another victim, for any combination of aggravated domestic violence under this subsection (4) or simple domestic violence third as defined in subsection (3) of this section, or substantially similar offenses under the laws of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction for aggravated domestic violence third, the defendant shall be sentenced to a term of imprisonment of not less than ten (10) nor more than twenty (20) years.



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

283 (6) In sentencing under subsections (3), (4) and (5) of this
284 section, the court shall consider as an aggravating factor whether
285 the crime was committed in the physical presence or hearing of a
286 child under sixteen (16) years of age who was, at the time of the
287 offense, living within either the residence of the victim, the
288 residence of the perpetrator, or the residence where the offense
289 occurred.

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

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

296 (9) For the purposes of this section:



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

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

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

309 (11) (a) Upon conviction under subsection (3), (4) or (5)
310 of this section, the court shall be empowered to issue a criminal
311 protection order prohibiting the defendant from any contact with
312 the victim. The court may include in a criminal protection order
313 any other condition available under Section 93-21-15. The
314 duration of a criminal protection order shall be based upon the
315 seriousness of the facts before the court, the probability of
316 future violations, and the continued safety of the victim or
317 another person. However, municipal and justice courts may issue
318 criminal protection orders for a maximum period of time not to
319 exceed one (1) year. Circuit and county courts may issue a
320 criminal protection order for any period of time deemed necessary.
321 Upon issuance of a criminal protection order, the clerk of the



issuing court shall enter the order in the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays, pursuant to Section 93-21-25.

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

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

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

(12) When investigating allegations of a violation of subsection (3), (4), (5) or (11) of this section, whether or not an arrest results, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged



under this section. The uniform offense report shall not be required if, upon investigation, the offense does not involve persons in the relationships specified in subsections (3) and (4) of this section.

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

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

(a) When acting within the scope of his or her duty, office or employment at the time of the assault: a statewide elected official; law enforcement officer; fireman; emergency medical personnel; health care provider; employees of a health care provider or health care facility; social worker, family protection specialist or family protection worker employed by the Department of Human Services or another agency; Division of Youth Services personnel; any county or municipal jail officer; superintendent, principal, teacher or other instructional personnel, school attendance officer or school bus driver; any member of the Mississippi National Guard or United States Armed Forces; a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of



372 the Supreme Court; district attorney or legal assistant to a
373 district attorney; county prosecutor or municipal prosecutor;
374 court reporter employed by a court, court administrator, clerk or
375 deputy clerk of the court; public defender; or utility worker;

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

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

382 **SECTION 4.** This act shall take effect and be in force from
383 and after July 1, 2025.

