

By: Senator(s) Albritton, Harden, Powell,
Davis (36th), Dearing, Butler, Stone, Jones,
Montgomery

To: Judiciary, Division B

SENATE BILL NO. 2223
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE AN ENHANCED PENALTY FOR ASSAULT WHEN COMMITTED UPON AN
3 ELDERLY PERSON, TRAINING SCHOOL CARE WORKER OR VULNERABLE ADULT;
4 AND FOR 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 person is guilty of simple assault if he (a)
9 attempts to cause or purposely, knowingly or recklessly causes
10 bodily injury to another; or (b) negligently causes bodily injury
11 to another with a deadly weapon or other means likely to produce
12 death or serious bodily harm; or (c) 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. However, a person
17 convicted of simple assault (a) upon a statewide elected official,
18 law enforcement officer, fireman, emergency medical personnel,
19 public health personnel, social worker or family protection
20 specialist or family protection worker employed by the Department
21 of Human Services or another agency, youth detention center
22 personnel, training school juvenile care worker, any county or
23 municipal jail officer, superintendent, principal, teacher or
24 other instructional personnel, school attendance officer, school
25 bus driver, or a judge of a circuit, chancery, county, justice,
26 municipal or youth court or a judge of the Court of Appeals or a
27 justice of the Supreme Court, district attorney, legal assistant
28 to a district attorney, county prosecutor, municipal prosecutor,



29 court reporter employed by a court, court administrator, clerk or
30 deputy clerk of the court, or public defender, while such
31 statewide elected official, judge or justice, law enforcement
32 officer, fireman, emergency medical personnel, public health
33 personnel, social worker, family protection specialist, family
34 protection worker, youth detention center personnel, training
35 school juvenile care worker, any county or municipal jail officer,
36 superintendent, principal, teacher or other instructional
37 personnel, school attendance officer, school bus driver, district
38 attorney, legal assistant to a district attorney, county
39 prosecutor, municipal prosecutor, court reporter employed by a
40 court, court administrator, clerk or deputy clerk of the court, or
41 public defender is acting within the scope of his duty, office or
42 employment; (b) upon a legislator while the Legislature is in
43 regular or extraordinary session or while otherwise acting within
44 the scope of his duty, office or employment; or (c) upon a person
45 who is sixty-five (65) years of age or older or a person who is a
46 vulnerable adult as defined in Section 43-47-5 shall be punished
47 by a fine of not more than One Thousand Dollars (\$1,000.00) or by
48 imprisonment for not more than five (5) years, or both.

49 (2) A person is guilty of aggravated assault if he (a)
50 attempts to cause serious bodily injury to another, or causes such
51 injury purposely, knowingly or recklessly under circumstances
52 manifesting extreme indifference to the value of human life; or
53 (b) attempts to cause or purposely or knowingly causes bodily
54 injury to another with a deadly weapon or other means likely to
55 produce death or serious bodily harm; and, upon conviction, he
56 shall be punished by imprisonment in the county jail for not more
57 than one (1) year or in the Penitentiary for not more than twenty
58 (20) years. However, a person convicted of aggravated assault (a)
59 upon a statewide elected official, law enforcement officer,
60 fireman, emergency medical personnel, public health personnel,
61 social worker, family protection specialist, family protection



62 worker employed by the Department of Human Services or another
63 agency, youth detention center personnel, training school juvenile
64 care worker, any county or municipal jail officer, superintendent,
65 principal, teacher or other instructional personnel, school
66 attendance officer, school bus driver, or a judge of a circuit,
67 chancery, county, justice, municipal or youth court or a judge of
68 the Court of Appeals or a justice of the Supreme Court, district
69 attorney, legal assistant to a district attorney, county
70 prosecutor, municipal prosecutor, court reporter employed by a
71 court, court administrator, clerk or deputy clerk of the court, or
72 public defender, while such statewide elected official, judge or
73 justice, law enforcement officer, fireman, emergency medical
74 personnel, public health personnel, social worker, family
75 protection specialist, family protection worker, youth detention
76 center personnel, training school juvenile care worker, any county
77 or municipal jail officer, superintendent, principal, teacher or
78 other instructional personnel, school attendance officer, school
79 bus driver, district attorney, legal assistant to a district
80 attorney, county prosecutor, municipal prosecutor, court reporter
81 employed by a court, court administrator, clerk or deputy clerk of
82 the court, or public defender is acting within the scope of his
83 duty, office or employment; (b) upon a legislator while the
84 Legislature is in regular or extraordinary session or while
85 otherwise acting within the scope of his duty, office or
86 employment; or (c) upon a person who is sixty-five (65) years of
87 age or older or a person who is a vulnerable adult as defined in
88 Section 43-47-5 shall be punished by a fine of not more than Five
89 Thousand Dollars (\$5,000.00) or by imprisonment for not more than
90 thirty (30) years, or both.

91 (3) A person is guilty of simple domestic violence who
92 commits simple assault as described in subsection (1) of this
93 section against a family or household member who resides with the
94 defendant or who formerly resided with the defendant, a current or



95 former spouse, a person who has a current dating relationship with
96 the defendant, or a person with whom the defendant has had a
97 biological or legally adopted child and upon conviction, the
98 defendant shall be punished as provided under subsection (1) of
99 this section; however, upon a third or subsequent conviction of
100 simple domestic violence, whether against the same or another
101 victim and within five (5) years, the defendant shall be guilty of
102 a felony and sentenced to a term of imprisonment not less than
103 five (5) nor more than ten (10) years. In sentencing, the court
104 shall consider as an aggravating factor whether the crime was
105 committed in the physical presence or hearing of a child under
106 sixteen (16) years of age who was, at the time of the offense,
107 living within either the residence of the victim, the residence of
108 the perpetrator, or the residence where the offense occurred.

109 (4) A person is guilty of aggravated domestic violence who
110 commits aggravated assault as described in subsection (2) of this
111 section against a family or household member who resides with the
112 defendant or who formerly resided with the defendant, or a current
113 or former spouse, a person who has a current dating relationship
114 with the defendant, or a person with whom the defendant has had a
115 biological or legally adopted child and upon conviction, the
116 defendant shall be punished as provided under subsection (2) of
117 this section; however, upon a third or subsequent offense of
118 aggravated domestic violence, whether against the same or another
119 victim and within five (5) years, the defendant shall be guilty of
120 a felony and sentenced to a term of imprisonment of not less than
121 five (5) nor more than twenty (20) years. In sentencing, the
122 court shall consider as an aggravating factor whether the crime
123 was committed in the physical presence or hearing of a child under
124 sixteen (16) years of age who was, at the time of the offense,
125 living within either the residence of the victim, the residence of
126 the perpetrator, or the residence where the offense occurred.



127 Reasonable discipline of a child, such as spanking, is not an
128 offense under this subsection (4).

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

131 (6) Every conviction of domestic violence may require as a
132 condition of any suspended sentence that the defendant participate
133 in counseling or treatment to bring about the cessation of
134 domestic abuse. The defendant may be required to pay all or part
135 of the cost of the counseling or treatment, in the discretion of
136 the court.

137 (7) When investigating allegations of a violation of
138 subsection (3) or (4) of this section, law enforcement officers
139 shall utilize the form prescribed for such purposes by the Office
140 of the Attorney General in consultation with the sheriff's and
141 police chief's associations. In cases in which the investigation
142 results in an arrest, a copy of the offense report shall be
143 provided to the Office of the Attorney General.

144 (8) In any conviction of assault as described in any
145 subsection of this section which arises from an incident of
146 domestic violence, the sentencing order shall include the
147 designation "domestic violence." The court shall forward a copy
148 of each sentencing order bearing the designation "domestic
149 violence" to the Office of the Attorney General.

150 **SECTION 2.** This act shall take effect and be in force from
151 and after July 1, 2008.

