

Protection from Domestic Abuse

(Current through 2012 Legislative Session)

Pg #

MUNICIPAL COURTS

§ 21-23-7.	Powers and duties of municipal judge; mayor serving as municipal judge.	3
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Article 1. PROTECTION FROM DOMESTIC ABUSE LAW.

§ 93-21-1.	Short title.	5
§ 93-21-3.	Definitions.	5
§ 93-21-5.	Jurisdiction.	6
§ 93-21-7.	Petition to seek domestic abuse protection order; proper forum for petition alleging domestic abuse; waiver of filing fees in domestic abuse cases.	6
§ 93-21-9.	Contents of petition.	7
§ 93-21-11.	Notice and hearing.	7
§ 93-21-13.	Emergency domestic abuse protection order; duration of order; extension; de novo hearing for parties aggrieved by issuance or denial of issuance of order.	7
§ 93-21-15.	Temporary domestic abuse protection orders; relief; duration; final domestic abuse protection order or consent agreements; provisions addressing custody, visitation or support of minor children; order to set forth findings of fact and provide details of acts restrained; order to be entered into National Criminal Information Center's Protection Order File; modification, amendment or dissolution of order.	8
§ 93-21-16.	Full faith and credit for certain protective orders issued in other jurisdictions.	10
§ 93-21-17.	Grant of relief not to affect property titles or availability of other remedies; court approval required to amend orders.	10
§ 93-21-19.	Testimony by spouses not to be restricted.	10
§ 93-21-21.	Knowing violation of protective orders or consent agreements issued by Mississippi or foreign courts is misdemeanor; penalties.	10
§ 93-21-23.	Participants in reports or proceedings presumed acting in good faith; immunity from liability.	11
§ 93-21-25.	Mississippi Protective Order Registry; certain orders to be maintained in registry; duties of clerk of issuing court; process for entry and removal of orders.	11
§ 93-21-27.	Immunity of law enforcement officers for arrests arising from incidents of domestic violence.	11
§ 93-21-28.	Emergency law enforcement response in domestic abuse cases.	11
§ 93-21-29.	Proceedings to be in addition to other civil or criminal remedies.	12
§ 93-21-31.	Domestic violence training fund.	12

Article 3. DOMESTIC VIOLENCE SHELTERS.

§ 93-21-101.	Definitions.	12
§ 93-21-103.	Domestic violence shelters.	12
§ 93-21-105.	Criteria to qualify for state funding.	13
§ 93-21-107.	Eligibility for funds; requirements.	13
§ 93-21-109.	Records withheld from public disclosure.	14
§ 93-21-111.	Annual report.	14
§ 93-21-113.	Reporting criminal acts or omissions to law enforcement personnel; filing charges against offender; plea bargaining.	14

§ 93-21-115.	Donations from municipalities to support local shelters.	14
§ 93-21-117.	Victims of Domestic Violence Fund.	15

Article 5. CHILDREN'S TRUST FUND ACT.

§ 93-21-301.	Short Title.	15
§ 93-21-303.	Declaration of policy.	15
§ 93-21-305.	Fund established; source of funds; interest; disbursements; purpose of fund.	15
§ 93-21-307.	Administration of fund; powers and duties of Division of Family and Children's Services.	16
§ 93-21-309.	Purposes for which grants or loans may be made from fund.	17
§ 93-21-311.	Criteria for making grant or loan.	17

**Uniform Interstate Enforcement of
Domestic Violence Protection Orders Act**

§ 93-22-1.	Short title.	18
§ 93-22-3.	Definitions.	18
§ 93-22-5.	Judicial enforcement of order.	18
§ 93-22-7.	Nonjudicial enforcement of order.	19
§ 93-22-9.	Registration of order.	19
§ 93-22-11.	Immunity.	20
§ 93-22-13.	Transitional provision.	20
§ 93-22-15.	Other remedies.	20
§ 93-22-17.	Severability clause.	20

CRIMES AGAINST THE PERSON (Selected Sections)

§ 97-3-7.	Simple assault; aggravated assault; simple domestic violence; aggravated domestic violence.	20
-----------	--	----

ARRESTS (Selected Sections)

§ 99-3-7.	When arrests may be made without a warrant.	22
-----------	--	----

BAIL (Selected Sections)

§ 99-5-11.	Justices of the peace may take recognizance or bond; certificate of default; alias warrant.	24
§ 99-5-37.	Domestic violence or knowing violation of domestic abuse protective order; required appearance before judge; considerations; conditions.	24

PRETRIAL PROCEEDINGS (Selected Sections)

§ 99-15-26.	Dismissal of action upon successful completion of certain court-imposed conditions.	25
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PROTECTION FROM DOMESTIC ABUSE

MUNICIPAL COURTS

§ 21-23-7. Powers and duties of municipal judge; mayor serving as municipal judge.

§ 21-23-7. Powers and duties of municipal judge; mayor serving as municipal judge.

- (1) The municipal judge shall hold court in a public building designated by the governing authorities of the municipality and may hold court every day except Sundays and legal holidays if the business of the municipality so requires; provided, however, the municipal judge may hold court outside the boundaries of the municipality but not more than within a sixty-mile radius of the municipality to handle preliminary matters and criminal matters such as initial appearances and felony preliminary hearings. The municipal judge shall have the jurisdiction to hear and determine, without a jury and without a record of the testimony, all cases charging violations of the municipal ordinances and state misdemeanor laws made offenses against the municipality and to punish offenders therefor as may be prescribed by law. Except as otherwise provided by law, criminal proceedings shall be brought by sworn complaint filed in the municipal court. Such complaint shall state the essential elements of the offense charged and the statute or ordinance relied upon. Such complaint shall not be required to conclude with a general averment that the offense is against the peace and dignity of the state or in violation of the ordinances of the municipality. He may sit as a committing court in all felonies committed within the municipality, and he shall have the power to bind over the accused to the grand jury or to appear before the proper court having jurisdiction to try the same, and to set the amount of bail or refuse bail and commit the accused to jail in cases not bailable. The municipal judge is a conservator of the peace within his municipality. He may conduct preliminary hearings in all violations of the criminal laws of this state occurring within the municipality, and any person arrested for a violation of law within the municipality may be brought before him for initial appearance. The municipal court shall have jurisdiction of any case remanded to it by a circuit court grand jury. The municipal court shall have civil jurisdiction over actions filed pursuant to and as provided in Title 93, Chapter 21, Mississippi Code of 1972, the Protection from Domestic Abuse Act.
- (2) In the discretion of the court, where the objects of justice would be more likely met, as an alternative to imposition or payment of fine and/or incarceration, the municipal judge shall have the power to sentence convicted offenders to work on a public service project where the court has established such a program of public service by written guidelines filed with the clerk for public record. Such programs shall provide for reasonable supervision of the offender and the work shall be commensurate with the fine and/or incarceration that would have ordinarily been imposed. Such program of public service may be utilized in the implementation of the provisions of Section 99-19-20, and public service work thereunder may be supervised by persons other than the sheriff.
- (3) The municipal judge may solemnize marriages, take oaths, affidavits and acknowledgments, and issue orders, subpoenas, summonses, citations, warrants for search and arrest upon a finding of probable cause, and other such process under seal of the court to any county or municipality, in a criminal case, to be executed by the lawful authority of the county or the municipality of the respondent, and enforce obedience thereto. The absence of a seal shall not invalidate the process.
- (4) When a person shall be charged with an offense in municipal court punishable by confinement, the municipal judge, being satisfied that such person is an indigent person and is unable to employ counsel, may, in the discretion of the court, appoint counsel from the membership of The Mississippi Bar residing in his county who shall represent him. Compensation for appointed counsel in criminal cases shall be approved and allowed by the municipal judge and shall be paid by the municipality. The maximum compensation shall not exceed Two Hundred Dollars (\$200.00) for any one (1) case. The governing authorities of a municipality may, in their discretion, appoint a public defender(s) who must be a licensed attorney and who shall receive a salary to be fixed by the governing authorities.
- (5) The municipal judge of any municipality is hereby authorized to suspend the sentence and to suspend the execution of the sentence, or any part thereof, on such terms as may be imposed by the municipal judge. However, the suspension of imposition or execution of a sentence hereunder may not be revoked after a period of two (2) years. The municipal judge shall have the power to establish and operate a probation program, dispute

resolution program and other practices or procedures appropriate to the judiciary and designed to aid in the administration of justice. Any such program shall be established by the court with written policies and procedures filed with the clerk of the court for public record. Subsequent to original sentencing, the municipal judge, in misdemeanor cases, is hereby authorized to suspend sentence and to suspend the execution of a sentence, or any part thereof, on such terms as may be imposed by the municipal judge, if (a) the judge or his or her predecessor was authorized to order such suspension when the sentence was originally imposed; and (b) such conviction (i) has not been appealed; or (ii) has been appealed and the appeal has been voluntarily dismissed.

- (6) Upon prior notice to the municipal prosecuting attorney and upon a showing in open court of rehabilitation, good conduct for a period of two (2) years since the last conviction in any court and that the best interest of society would be served, the court may, in its discretion, order the record of conviction of a person of any or all misdemeanors in that court expunged, and upon so doing the said person thereafter legally stands as though he had never been convicted of the said misdemeanor(s) and may lawfully so respond to any query of prior convictions. This order of expunction does not apply to the confidential records of law enforcement agencies and has no effect on the driving record of a person maintained under Title 63, Mississippi Code of 1972, or any other provision of said Title 63.
- (7) Notwithstanding the provisions of subsection (6) of this section, a person who was convicted in municipal court of a misdemeanor before reaching his twenty-third birthday, excluding conviction for a traffic violation, and who is a first offender, may utilize the provisions of Section 99-19-71, to expunge such misdemeanor conviction.
- (8) In the discretion of the court, a plea of nolo contendere may be entered to any charge in municipal court. Upon the entry of a plea of nolo contendere the court shall convict the defendant of the offense charged and shall proceed to sentence the defendant according to law. The judgment of the court shall reflect that the conviction was on a plea of nolo contendere. An appeal may be made from a conviction on a plea of nolo contendere as in other cases.
- (9) Upon execution of a sworn complaint charging a misdemeanor, the municipal court may, in its discretion and in lieu of an arrest warrant, issue a citation requiring the appearance of the defendant to answer the charge made against him. On default of appearance, an arrest warrant may be issued for the defendant. The clerk of the court or deputy clerk may issue such citations.
- (10) The municipal court shall have the power to make rules for the administration of the court's business, which rules, if any, shall be in writing filed with the clerk of the court and shall include the enactment of rules related to the court's authority to issue domestic abuse protection orders pursuant to Section 93-21-1 et seq.
- (11) The municipal court shall have the power to impose punishment of a fine of not more than One Thousand Dollars (\$1,000.00) or six (6) months' imprisonment, or both, for contempt of court. The municipal court may have the power to impose reasonable costs of court, not in excess of the following:

Dismissal of any affidavit, complaint or charge in municipal court	\$ 50.00
Suspension of a minor's driver's license in lieu of conviction	\$ 50.00
Service of scire facias or return "not found"	\$ 20.00
Causing search warrant to issue or causing prosecution without reasonable cause or refusing to cooperate after initiating action	\$ 100.00
Certified copy of the court record	\$ 5.00
Service of arrest warrant for failure to answer citation or traffic summons	\$ 25.00
Jail cost per day	\$ 10.00
Service of court documents related to the filing of a petition or issuance of a protection from domestic abuse order under Title 93, Chapter 21, Mississippi Code of 1972	\$ 25.00
Any other item of court cost	\$ 50.00

No filing fee or such cost shall be imposed for the bringing of an action in municipal court.

- (12) A municipal court judge shall not dismiss a criminal case but may transfer the case to the justice court of the county if the municipal court judge is prohibited from presiding over the case by the Canons of Judicial Conduct and provided that venue and jurisdiction are proper in the justice court. Upon transfer of any such case, the municipal court judge shall give the municipal court clerk a written order to transmit the affidavit or complaint and all other records and evidence in the court's possession to the justice court by certified mail or to instruct the arresting officer to deliver such documents and records to the justice court. There shall be no court costs charged for the transfer of the case to the justice court.
- (13) A municipal court judge shall expunge the record of any case in which an arrest was made, the person arrested

was released and the case was dismissed or the charges were dropped or there was no disposition of such case.

Sources: Codes, 1892, § 3001; 1906, §§ 3398, 3399; Hemingway's 1917, §§ 5926-5929; 1930, §§ 2535-2537; 1942, §§ 3374-103, 3374-104; Laws, 1910, ch. 169; Laws, 1936, ch. 276; Laws, 1950, ch. 491, §§ 103, 104; Laws, 1958, ch. 517, §§ 1, 2; Laws, 1960, ch. 424; Laws, 1976, ch. 312; Laws, 1979, ch. 401, § 4; Laws, 1987, ch. 380, § 1; Laws, 1988, ch. 564, § 1; Laws, 1991, ch. 322, § 1; Laws, 1996, ch. 454, § 1; Laws, 1997, ch. 417, § 1; Laws, 2000, ch. 619, § 1; Laws, 2007, ch. 495, § 3; Laws, 2009, ch. 374, § 2; Laws, 2009, ch. 545, § 8, eff from and after July 1, 2009.

PROTECTION FROM DOMESTIC ABUSE LAW

- § 93-21-1. Short title.**
- § 93-21-3. Definitions.**
- § 93-21-7. Petition to seek domestic abuse protection order; proper forum for petition alleging domestic abuse; waiver of filing fees in domestic abuse cases.**
- § 93-21-9. Contents of petition.**
- § 93-21-11. Notice and hearing.**
- § 93-21-13. Emergency domestic abuse protection order; duration of order; extension; de novo hearing for parties aggrieved by issuance or denial of issuance of order.**
- § 93-21-15. Temporary domestic abuse protection orders; relief; duration; final domestic abuse protection order or consent agreements; provisions addressing custody, visitation or support of minor children; order to set forth findings of fact and provide details of acts restrained; order to be entered into National Criminal Information Center's Protection Order File; modification, amendment or dissolution of order.**
- § 93-21-16. Full faith and credit for certain protective orders issued in other jurisdictions.**
- § 93-21-17. Grant of relief not to affect property titles or availability of other remedies; court approval required to amend orders.**
- § 93-21-19. Testimony by spouses not to be restricted.**
- § 93-21-21. Knowing violation of protective orders or consent agreements issued by Mississippi or foreign courts is misdemeanor; penalties.**
- § 93-21-23. Participants in reports or proceedings presumed acting in good faith; immunity from liability.**
- § 93-21-25. Mississippi Protective Order Registry; certain orders to be maintained in registry; duties of clerk of issuing court; process for entry and removal of orders.**
- § 93-21-27. Immunity of law enforcement officers for arrests arising from incidents of domestic violence.**
- § 93-21-28. Emergency law enforcement response in domestic abuse cases.**
- § 93-21-29. Proceedings to be in addition to other civil or criminal remedies.**
- § 93-21-31. Domestic violence training fund.**

§ 93-21-1. Short title.

This chapter shall be known and may be cited as the "Protection from Domestic Abuse Law."

Sources: Laws, 1981, ch 429, § 1, eff from and after July 1, 1981.

§ 93-21-3. Definitions.

As used in this chapter, unless the context otherwise requires:

- (a) "Abuse" means the occurrence of one or more of the following acts between spouses, former spouses, persons living as spouses or who formerly lived as spouses, persons having a child or children in common, other individuals related by consanguinity or affinity who reside together or who formerly resided together or between individuals who have a current or former dating relationship:
 - (i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon;
 - (ii) Placing, by physical menace or threat, another in fear of imminent serious bodily injury;
 - (iii) Criminal sexual conduct committed against a minor within the meaning of Section 97-5-23;
 - (iv) Stalking within the meaning of Section 97-3-107;

- (v) Cyberstalking within the meaning of Section 97-45-15; or
 - (vi) Sexual offenses within the meaning of Section 97-3-65 or 97-3-95.
- "Abuse" does not include any act of self-defense.
- (b) "Adult" means any person eighteen (18) years of age or older, or any person under eighteen (18) years of age who has been emancipated by marriage.
 - (c) "Court" means the chancery court, justice court, municipal court or county court.
 - (d) "Dating relationship" means a social relationship of a romantic or intimate nature between two (2) individuals; it does not include a casual relationship or ordinary fraternization between two (2) individuals in a business or social context. Whether a relationship is a "dating relationship" shall be determined by examining the following factors:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and
 - (iii) The frequency of interaction between the two (2) individuals involved in the relationship.
 - (e) "Mutual protection order" means a protection order that includes provisions in favor of both the individual seeking relief and the respondent.

Sources: Laws, 1981, ch 429, § 2; Laws, 1998, ch. 471, § 1; Laws, 2001, ch. 467, § 1; Laws, 2007, ch. 589, § 1; Laws, 2008, ch. 391, § 1; Laws, 2009, ch. 545, § 1, eff from and after July 1, 2009.

§ 93-21-5. Jurisdiction.

- (1) The municipal justice, county or chancery court shall have jurisdiction over proceedings under this chapter as provided in this chapter. The petitioner's right to relief under this chapter shall not be affected by his leaving the residence or household to avoid further abuse.
- (2) Venue shall be proper in any county or municipality where the respondent resides or in any county or municipality where the alleged abusive act or acts occurred.
- (3) If a petition for an order for protection from domestic abuse is filed in a court lacking proper venue, the court, upon objection of the respondent, shall transfer the action to the appropriate venue pursuant to other applicable law.
- (4) A record shall be made of any proceeding in justice or municipal court that involves domestic abuse.

*Sources: Laws, 1981, ch. 429, § 3; Laws, 2009, ch. 545, § 2, eff from and after July 1, 2009. **HB 780 (2012).***

§ 93-21-7. Petition to seek domestic abuse protection order; proper forum for petition alleging domestic abuse; waiver of filing fees in domestic abuse cases.

- (1) Any person may seek a domestic abuse protection order for himself by filing a petition alleging abuse by the respondent. Any parent, adult household member, or next friend of the abused person may seek a domestic abuse protection order on behalf of any minor children or any person alleged to be incompetent by filing a petition with the court alleging abuse by the respondent. Cases seeking relief under this chapter shall be priority cases on the court's docket and the judge shall be immediately notified when a case is filed in order to provide for expedited proceedings.
- (2) A petition seeking a domestic abuse protection order may be filed in any of the following courts: municipal, justice, county or chancery. A chancery court shall not prohibit the filing of a petition which does not seek emergency relief on the basis that the petitioner did not first seek or obtain temporary relief in another court. A petition requesting emergency relief pending a hearing shall not be filed in chancery court unless specifically permitted by the chancellor under the circumstances or as a separate pleading in an ongoing chancery action between the parties. Nothing in this section shall:
 - (a) Be construed to require consideration of emergency relief by a chancery court; or
 - (b) Preclude a chancery court from entering an order of emergency relief.
- (3) The petitioner in any action brought pursuant to this chapter shall not bear the costs associated with its filing or the costs associated with the issuance or service of any notice of a hearing to the respondent, issuance or service of an order of protection on the respondent, or issuance or service of a warrant or witness subpoena. If the court finds that the petitioner is entitled to an order protecting the petitioner from abuse, the court shall be authorized to assess all costs including attorney's fees of the proceedings to the respondent. The court may assess costs including attorney's fees to the petitioner only if the allegations of abuse are determined to be without merit and the court finds that the petitioner is not a victim of abuse as defined by Section 93-21-3.

Sources: Laws, 1981, ch. 429, § 4; Laws, 2001, ch. 382, § 1; Laws, 2007, ch. 589, § 2; Laws, 2009, ch. 433, § 1; Laws, 2009, ch. 545, § 3, eff from and after July

§ 93-21-9. Contents of petition.

- (1) A petition filed under the provisions of this chapter shall state:
 - (a) Except as otherwise provided in this section, the name, address and county of residence of each petitioner and of each individual alleged to have committed abuse;
 - (b) The facts and circumstances concerning the alleged abuse;
 - (c) The relationships between the petitioners and the individuals alleged to have committed abuse; and
 - (d) A request for one or more domestic abuse protection orders.
- (2) If a petition requests a domestic abuse protection order for a spouse and alleges that the other spouse has committed abuse, the petition shall state whether or not a suit for divorce of the spouses is pending and, if so, in what jurisdiction.
- (3) Any temporary or permanent decree issued in a divorce proceeding subsequent to an order issued pursuant to this chapter may, in the discretion of the chancellor hearing the divorce proceeding, supersede in whole or in part the order issued pursuant to this chapter.
- (4) If a petitioner is a former spouse of an individual alleged to have committed abuse:
 - (a) A copy of the decree of divorce shall be attached to the petition; or
 - (b) The petition shall state the decree is currently unavailable to the petitioner and that a copy of the decree will be filed with the court before the time for the hearing on the petition.
- (5) If a petition requests a domestic abuse protection order for a child who is subject to the continuing jurisdiction of a youth court, family court or a chancery court, or alleges that a child who is subject to the continuing jurisdiction of a youth court, family court or chancery court has committed abuse:
 - (a) A copy of the court orders affecting the custody or guardianship, possession and support of or access to the child shall be filed with the petition; or
 - (b) The petition shall state that the orders affecting the child are currently unavailable to the petitioner and that a copy of the orders will be filed with the court before the hearing on the petition.
- (6) If the petition includes a request for emergency relief pending a hearing, the petition shall contain a general description of the facts and circumstances concerning the abuse and the need for immediate protection.
- (7) If the petition states that the disclosure of the petitioner's address would risk abuse of the petitioner or any member of the petitioner's family or household, or would reveal the confidential address of a shelter for domestic violence victims, the petitioner's address may be omitted from the petition. If a petitioner's address has been omitted from the petition pursuant to this subsection and the address of the petitioner is necessary to determine jurisdiction or venue, the disclosure of such address shall be made orally and in camera. A nonpublic record containing the address and contact information of a petitioner shall be maintained by the court to be utilized for court purposes only.
- (8) Every petition shall be signed by the petitioner under oath that the facts and circumstances contained in the petition are true to the best knowledge and belief of the petitioner.
- (9) The Attorney General, in cooperation with the Mississippi Supreme Court and the Mississippi Judicial College, shall develop a standardized form petition to be used when requesting a domestic abuse protection order.

Sources: Laws, 1981, ch. 429, § 5; Laws, 1989, ch. 353, § 1; Laws, 2009, ch. 545, § 4, eff from and after July 1, 2009.

§ 93-21-11. Notice and hearing.

- (1) Within ten (10) days of the filing of a petition under the provisions of this chapter, the court shall hold a hearing, at which time the petitioner must prove the allegation of abuse by a preponderance of the evidence.
- (2) The respondent shall be given notice of the filing of any petition and of the date, time and place set for the hearing by personal service of process. A court may conduct a hearing in the absence of the respondent after first ascertaining that the respondent was properly noticed of the hearing date, time and place.

Sources: Laws, 1981, ch. 429, § 6; Laws, 2007, ch. 589, § 3; Laws, 2009, ch. 545, § 5, eff from and after July 1, 2009.

§ 93-21-13. Emergency domestic abuse protection order; duration of order; extension; de novo hearing for parties aggrieved by issuance or denial of issuance of order.

- (1) (a) The time in which a petition seeking emergency relief pending a hearing is filed must consider all such requests in an expedited manner. The court may issue an emergency domestic abuse protection order without prior notice to the respondent upon good cause shown by the petitioner. Immediate and present

danger of abuse to the petitioner, any minor children or any person alleged to be incompetent shall constitute good cause for issuance of an emergency domestic abuse protection order. The respondent shall be provided with notice of the entry of any emergency domestic abuse protection order issued by the court by personal service of process.

- (b) A court granting an emergency domestic abuse protection order may grant relief as provided in Section 93-21-15(1)(a).
 - (c) An emergency domestic abuse protection order shall be effective for ten (10) days, or until a hearing may be held, whichever occurs first. If a hearing under this subsection (1) is continued, the court may grant or extend the emergency order as it deems necessary for the protection of the abused person. A continuance under this subsection (1)(c) shall be valid for no longer than twenty (20) days.
- (2) The Attorney General, in cooperation with the Mississippi Supreme Court and the Mississippi Judicial College, shall develop standardized forms for emergency domestic abuse protection orders. Use of the standardized forms in protection order proceedings pursuant to this chapter shall be fully implemented by all courts no later than July 1, 2015. However, in any criminal prosecution or contempt proceeding for a violation of a domestic abuse protection order, it shall not be a defense that the order was not issued on the standardized form.
 - (3) Upon issuance of any protection order by the court, the order shall be entered into the Mississippi Protection Order Registry by the clerk of the court pursuant to Section 93-21-25, and a copy provided to the sheriff's department in the county of the court of issuance.
 - (4) Any person aggrieved by the decision of a municipal or justice court judge to issue an emergency domestic abuse protection order or to deny issuance of an emergency domestic protection order shall be entitled to request a de novo review by the chancery or county court. All parties shall be advised of the procedure for seeking a de novo hearing.

*Sources: Laws, 1981, ch. 429, § 7; Laws, 1989, ch. 353, § 2; Laws, 1995, ch. 320, § 1; Laws, 1995, ch. 569, § 2; Laws, 1998, ch. 471, § 2; Laws, 2002, ch. 337, § 1; Laws, 2004, ch. 566, § 10; Laws, 2007, ch. 589, § 4; Laws, 2009, ch. 545, § 6, eff from and after July 1, 2009. **HB 780 (2012).***

§ 93-21-15. Temporary domestic abuse protection orders; relief; duration; final domestic abuse protection order or consent agreements; provisions addressing custody, visitation or support of minor children; order to set forth findings of fact and provide details of acts restrained; order to be entered into National Criminal Information Center's Protection Order File; modification, amendment or dissolution of order.

- (1) (a) After a hearing is held as provided in Section 93-21-11 for which notice and opportunity to be heard has been granted to the respondent, and upon a finding that the petitioner has proved the existence of abuse by a preponderance of the evidence, the municipal and justice courts shall be empowered to grant a temporary domestic abuse protection order to bring about a cessation of abuse of the petitioner, any minor children, or any person alleged to be incompetent. The relief the court may provide includes, but is not limited to, the following:
 - (i) Directing the respondent to refrain from abusing the petitioner, any minor children, or any person alleged to be incompetent;
 - (ii) Prohibiting or limiting respondent's physical proximity to the abused or other household members as designated by the court, including residence and place of work;
 - (iii) Prohibiting or limiting contact by the respondent with the abused or other household members designated by the court, whether in person, by telephone or by other electronic communication;
 - (iv) Granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both; or
 - (v) Prohibiting the transferring, encumbering or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business.
 - (b) The duration of any temporary domestic abuse protection order issued by a municipal or justice court shall not exceed thirty (30) days.
 - (c) Any person aggrieved by the decision of a municipal or justice court judge to issue a temporary domestic abuse protection order or to deny such an order shall be entitled to request a de novo review by the chancery or county court. All parties shall be advised of the procedure for seeking a de novo hearing.
- (2) (a) After a hearing is held as provided in Section 93-21-11 for which notice and opportunity to be heard has been granted to the respondent, and upon a finding that the petitioner has proved the existence of abuse by a preponderance of the evidence, the chancery or county court shall be empowered to grant a final domestic

abuse protection order or approve any consent agreement to bring about a cessation of abuse of the petitioner, any minor children, or any person alleged to be incompetent. In granting a final domestic abuse protection order, the chancery or county court may provide for relief that includes, but is not limited to, the following:

- (i) Directing the respondent to refrain from abusing the petitioner, any minor children, or any person alleged to be incompetent;
 - (ii) Granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both;
 - (iii) When the respondent has a duty to support the petitioner, any minor children, or any person alleged to be incompetent living in the residence or household and the respondent is the sole owner or lessee, granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or both, or by consent agreement allowing the respondent to provide suitable, alternate housing;
 - (iv) Awarding temporary custody of or establishing temporary visitation rights with regard to any minor children or any person alleged to be incompetent, or both;
 - (v) If the respondent is legally obligated to support the petitioner, any minor children, or any person alleged to be incompetent, ordering the respondent to pay temporary support for the petitioner, any minor children, or any person alleged to be incompetent;
 - (vi) Ordering the respondent to pay to the abused person monetary compensation for losses suffered as a direct result of the abuse, including, but not limited to, medical expenses resulting from such abuse, loss of earnings or support, out-of-pocket losses for injuries sustained, moving expenses, a reasonable attorney's fee, or any combination of the above;
 - (vii) Prohibiting the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;
 - (viii) Prohibiting or limiting respondent's physical proximity to the abused or other household members designated by the court, including residence, school and place of work;
 - (ix) Prohibiting or limiting contact by the respondent with the abused or other household members designated by the court whether in person, by telephone or by electronic communication; and
 - (x) Ordering counseling or professional medical treatment for the respondent, including counseling or treatment designed to bring about the cessation of domestic abuse.
- (b) Except as provided below, a final domestic abuse protection order issued by a chancery or county court under the provisions of this chapter shall be effective for such time period as the court deems appropriate. The expiration date of the order shall be clearly stated in the order.
- (c) Temporary provisions addressing temporary custody, visitation or support of minor children contained in a final domestic abuse protection order issued by a chancery or county court shall be effective for one hundred eighty (180) days. A party seeking relief beyond that period must initiate appropriate proceedings in the chancery court of appropriate jurisdiction. If at the end of the one-hundred-eighty-day period, neither party has initiated such proceedings, the custody, visitation or support of minor children will revert to the chancery court order addressing such terms that was in effect at the time the domestic abuse protection order was granted. The chancery court in which custody, visitation or support proceedings have been initiated may provide for any temporary provisions addressing custody, visitation or support as the court deems appropriate.
- (3) Every domestic abuse protection order issued pursuant to this section shall set forth the reasons for its issuance, shall contain specific findings of fact regarding the existence of abuse, shall be specific in its terms and shall describe in reasonable detail the act or acts to be prohibited. No mutual protection order shall be issued unless that order is supported by an independent petition by each party requesting relief pursuant to this chapter, and the order contains specific findings of fact regarding the existence of abuse by each party as principal aggressor, and a finding that neither party acted in self-defense.
- (4) The Attorney General, in cooperation with the Mississippi Supreme Court and the Mississippi Judicial College, shall develop standardized forms for temporary and final domestic abuse protection orders. The use of standardized forms in protection order proceedings pursuant to this chapter shall be fully implemented by all courts no later than July 1, 2015. However, in any criminal prosecution or contempt proceeding for a violation of a domestic abuse protection order, it shall not be a defense that the order was not issued on the standardized form.

- (5) Upon issuance of any protection order by the court, the order shall be entered in the Mississippi Protection Order Registry by the clerk of the court pursuant to Section 93-21-25, and a copy shall be provided to the sheriff's department in the county of the court of issuance.
- (6) Upon subsequent petition by either party and following a hearing of which both parties have received notice and an opportunity to be heard, the court may modify, amend, or dissolve a domestic abuse protection order previously issued by that court.

Sources: *Laws, 1981, ch. 429, § 8; Laws, 2002, ch. 337, § 2; Laws, 2007, ch. 589, § 5; Laws, 2009, ch. 545, § 7, eff from and after July 1, 2009. **HB 780 (2012).***

§ 93-21-16. Full faith and credit for certain protective orders issued in other jurisdictions.

- (1) A protective order from another jurisdiction issued to protect the applicant from abuse as defined in Section 93-21-3, or a protection order as defined in Section 93-22-3, issued by a tribunal of another state shall be accorded full faith and credit by the courts of this state and enforced in this state as provided for in the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.
- (2) For purposes of enforcement by Mississippi law enforcement officers, a protective order from another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, is presumed to be valid if it meets the requirements of Section 93-22-7.
- (3) For purposes of judicial enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, an order is presumed valid if it meets the requirements of Section 93-22-5(4). It is an affirmative defense in any action seeking enforcement of a protective order issued in another jurisdiction, or a protection order as defined in Section 93-22-3 and issued by a tribunal of another state, that any criteria for the validity of the order is absent.

Sources: *Laws, 1999, ch. 434, § 1; Laws, 1999, ch. 552, § 1; Laws, 2004, ch. 566, § 11; Laws, 2007, ch. 589, § 6, eff from and after July 1, 2007.*

§ 93-21-17. Grant of relief not to affect property titles or availability of other remedies; court approval required to amend orders.

- (1) The granting of any relief authorized under this chapter shall not preclude any other relief provided by law.
- (2) The court may amend its order or agreement at any time upon subsequent petition filed by either party. Protective orders issued under the provisions of this chapter may only be amended by approval of the court.
- (3) No order or agreement under this chapter shall in any manner affect title to any real property.

Sources: *Laws, 1981, ch. 429, § 9; Laws, 2001, ch. 383, § 1; Laws, 2007, ch. 589, § 7, eff from and after July 1, 2007.*

§ 93-21-19. Testimony by spouses not to be restricted.

There shall be no restrictions concerning a spouse testifying against his spouse in any hearing under the provisions of this chapter.

Sources: *Laws, 1981, ch. 429, § 10, eff from and after July 1, 1981.*

§ 93-21-21. Knowing violation of protective orders or consent agreements issued by Mississippi or foreign courts is misdemeanor; penalties.

- (1) Upon a knowing violation of
 - (a) a protection order or court-approved consent agreement issued pursuant to this chapter,
 - (b) a similar order issued by a foreign court of competent jurisdiction for the purpose of protecting a person from domestic abuse, or
 - (c) a bond condition imposed pursuant to Section 99-5-37,the person violating the order or condition commits a misdemeanor punishable by imprisonment in the county jail for not more than six (6) months or a fine of not more than One Thousand Dollars (\$1,000.00), or both.
- (2) Alternatively, upon a knowing violation of a protection order or court-approved consent agreement issued pursuant to this chapter or a bond condition issued pursuant to Section 99-5-37, the issuing court may hold the person violating the order or bond condition in contempt, the contempt to be punishable as otherwise provided by applicable law. A person shall not be both convicted of a misdemeanor and held in contempt for the same violation of an order or bond condition.
- (3) When investigating allegations of a violation under subsection (1) of this section, law enforcement officers shall utilize the uniform offense report prescribed for this purpose 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 subsection (1) of this section.

- (4) In any conviction for a violation of a domestic abuse protection order as described in subsection (1) of this section, the court shall enter the disposition of the matter into the corresponding uniform offense report.
- (5) Nothing in this section shall be construed to interfere with the court's authority, if any, to address bond condition violations in a more restrictive manner.

Sources: *Laws, 1981, ch. 429, § 11; Laws, 2003, ch. 430, § 1, eff from and after July 1, 2003. HB 780 (2012).*

§ 93-21-23. Participants in reports or proceedings presumed acting in good faith; immunity from liability.

Any licensed doctor of medicine, licensed doctor of dentistry, intern, resident or registered nurse, psychologist, social worker, family protection worker, family protection specialist, preacher, teacher, attorney, law enforcement officer, or any other person or institution participating in the making of a report pursuant to this chapter or participating in judicial proceedings resulting therefrom shall be presumed to be acting in good faith, and if found to have acted in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. The reporting of an abused person shall not constitute a breach of confidentiality.

Sources: *Laws, 1981, ch. 429, § 12; Laws, 2004, ch. 489, § 8; Laws, 2006, ch. 600, § 10, eff from and after July 1, 2006.*

§ 93-21-25. Mississippi Protective Order Registry; certain orders to be maintained in registry; duties of clerk of issuing court; process for entry and removal of orders.

- (1) In order to provide a statewide registry for protection orders and to aid law enforcement, prosecutors and courts in handling such matters, the Attorney General is authorized to create and administer a Mississippi Protection Order Registry. The Attorney General's office shall implement policies and procedures governing access to the registry by authorized users, which shall include provisions addressing the confidentiality of any information which may tend to reveal the location or identity of a victim of domestic abuse.
- (2) All orders issued pursuant to this chapter will be maintained in the Mississippi Protection Order Registry. It shall be the duty of the clerk of the issuing court to enter all domestic abuse protection orders, including any modifications, amendments or dismissals of such orders, into the Mississippi Protection Order Registry within twenty-four (24) hours of issuance with no exceptions for weekends or holidays. A separate copy of any order shall be provided to the sheriff's department of the county of the issuing court. The copy may be provided in electronic format. Each qualifying protection order submitted to the Mississippi Protection Order Registry shall be automatically transmitted to the National Criminal Information Center Protection Order File. Failure of the clerk to enter the order into the registry or to provide a copy of the order to law enforcement shall have no effect on the validity or enforcement of an otherwise valid protection order.

Any information regarding the registration of a domestic violence protection order, the filing of a petition for a domestic violence protection order, or the issuance of a domestic violence protection order which is maintained in the Mississippi Protection Order Registry which would tend to reveal the identity or location of the protected person(s) shall not constitute a public record and shall be exempt from disclosure pursuant to the Mississippi Public Records Act of 1983. This information may be disclosed to appropriate law enforcement, prosecutors or courts for protection order enforcement purposes.

Sources: *Laws, 1981, ch. 429, § 13; Laws, 2007, ch. 589, § 8; Laws, 2009, ch. 433, § 5, eff from and after July 1, 2009. HB 780 (2012).*

§ 93-21-27. Immunity of law enforcement officers for arrests arising from incidents of domestic violence.

A law enforcement officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith under this chapter arising from an alleged domestic violence incident brought by any authorized party, or an arrest made in good faith pursuant to Section 99-3-7(3), or failure, in good faith, to make an arrest pursuant to Section 99-3-7(3).

Sources: *Laws, 1981, ch. 429, § 14; Laws, 1988, ch. 571, § 2, eff from and after passage (approved May 21, 1988).*

§ 93-21-28. Emergency law enforcement response in domestic abuse cases.

- (1) A person who alleges that he or she or a minor child has been the victim of domestic violence may request the assistance of a local law enforcement agency. The local law enforcement agency shall respond to the request for assistance. The local law enforcement officer responding to the request for assistance shall take whatever steps are reasonably necessary to protect the complainant from harm and shall advise the complainant of sources of shelter, medical care, counseling and other services. Upon request by the complainant and where feasible, the law enforcement officer shall transport the complainant to appropriate facilities such as hospitals or public or private facilities for shelter and accompany the complainant to his or her residence, within the jurisdiction in which the

request for assistance was made, so that the complainant may remove food, clothing, medication and such other personal property as is reasonably necessary to enable the complainant and any minor children who are presently in the care of the complainant to remain elsewhere pending further proceedings.

- (2) In providing the assistance authorized by subsection (1), no officer may be held criminally or civilly liable on account of reasonable measures taken under authority of subsection (1).

Sources: Laws, 1995, ch. 569, § 1, eff from and after July 1, 1995.

§ 93-21-29. Proceedings to be in addition to other civil or criminal remedies.

Any proceeding under this chapter shall be in addition to other available civil or criminal remedies.

Sources: Laws, 1981, ch. 429, § 15, eff from and after July 1, 1981.

§ 93-21-31. Domestic violence training fund.

- (1) There is hereby created in the State Treasury a special fund designated as the Domestic Violence Training Fund. The fund shall be administered by the Attorney General. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund. Monies appropriated to the fund shall be used by the Attorney General for the general administration and expenses of the Domestic Violence Division which provides training to law enforcement, prosecutors, judges, court clerks and other professionals in the field of domestic violence awareness, prevention and enforcement.
- (2) The clerks of the various courts shall remit the proceeds generated by Chapter 434, Laws of 2009 to the Department of Finance and Administration as is done generally for other fees collected by the clerks.

Sources: Laws, 2009, ch. 433, § 7, eff from and after July 1, 2009.

DOMESTIC VIOLENCE SHELTERS

§ 93-21-101. Definitions.

§ 93-21-103. Domestic violence shelters.

§ 93-21-105. Criteria to qualify for state funding.

§ 93-21-107. Eligibility for funds; requirements.

§ 93-21-109. Records withheld from public disclosure.

§ 93-21-111. Annual report.

§ 93-21-113. Reporting criminal acts or omissions to law enforcement personnel; filing charges against offender; plea bargaining.

§ 93-21-115. Donations from municipalities to support local shelters.

§ 93-21-117. Victims of Domestic Violence Fund.

§ 93-21-101. Definitions.

As used in Sections 93-21-101 through 93-21-113, unless the context otherwise requires:

- (a) "Abuse" means the occurrence of one or more of the following acts between family or household members who reside together or who formerly resided together:
- (i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon;
 - (ii) Placing, by physical menace or threat, another in fear of imminent serious bodily injury; or
 - (iii) Criminal sexual conduct committed against a minor within the meaning of Section 97-5-23.
- (b) "Domestic violence shelter" means a place established to provide temporary food and shelter, counseling, and related services to victims of domestic violence.

Sources: Laws, 1983, ch. 502, § 1, eff from the after passage (approved April 12, 1983).

§ 93-21-103. Domestic violence shelters.

There is hereby established a program for victims of domestic violence through domestic violence shelters.

Sources: Laws, 1983, ch. 502, § 2, eff from and after passage (approved April 12, 1983).

§ 93-21-105. Criteria to qualify for state funding.

The criteria which must be met by domestic violence shelters to qualify for state funding shall include all of the following:

- (a) Geographic distribution throughout the entire state of Mississippi requiring that there be at least one (1) shelter in each of the nine (9) districts of the Mississippi Highway Safety Patrol as such districts existed on July 1, 1982, prior to funding more than one (1) shelter in a highway safety patrol district. More than one (1) shelter may be funded in a highway safety patrol district upon a showing of documented need.
- (b) The shelter's ability to provide services.
- (c) The shelter's ability to secure community support, including written endorsements of local officials and organizations.
- (d) The shelter's administrative design and efficiency. However, domestic violence shelters in existence on the effective date of Sections 93-21-101 through 93-21-113 which have met the requirements of Section 93-21-107 shall be given priority in funding.

Sources: Laws, 1983, ch. 502, § 3, eff from and after passage (approved April 12, 1983).

§ 93-21-107. Eligibility for funds; requirements.

- (1) To qualify for funds under the provisions of Sections 93-21-101 through 93-21-113, a domestic violence shelter shall meet all the following requirements:
 - (a) Be incorporated in the state or recognized by the Secretary of State as a private or public nonprofit corporation. Such corporation shall have a board of directors and/or an advisory committee who represents the racial, ethnic and social economic diversity of the area to be served, including, if possible, at least one (1) person who is or has been a victim of domestic violence.
 - (b) Have designed and developed a program to provide the following basic services to victims of domestic violence and their children:
 - (i) Shelter on a twenty-four (24) hour a day, seven (7) days a week basis.
 - (ii) A twenty-four (24) hour, seven (7) days a week switchboard for crisis calls.
 - (iii) Temporary housing and food facilities.
 - (iv) Group support and peer counseling.
 - (v) Referrals to existing services in the community and follow-up on the outcome of the referrals.
 - (vi) A method of referral for medical care, legal assistance and group support and counseling of victims of domestic violence.
 - (vii) Information regarding reeducation, marriage and family counseling, job counseling, and training programs, housing referrals, and other available social services.
 - (viii) A referral program of counseling for the victim and the offender.
- (2) Domestic violence shelters shall establish procedures for admission of victims of domestic violence who may seek admission to these shelters on a voluntary basis.
- (3) A domestic violence shelter shall not qualify for funds if it discriminates in its admissions or provision of services on the basis of race, religion, color, age, marital status, national origin or ancestry.
- (4) Not less than twenty-five percent (25%) of the operational cost of a domestic violence shelter shall be derived from local revenue sources of the local community served by the program. The local contribution may not include in-kind contributions.
- (5) A domestic violence shelter receiving state funding under the provisions of Sections 93-21-101 through 93-21-113 shall not be prohibited from accepting gifts, trusts, bequests, grants, endowments, federal funds, other special source funds or transfers of property of any kind for the support of that shelter program.
- (6) No domestic violence shelter may receive more than Fifty Thousand Dollars (\$50,000.00) annually from state funding under the provisions of Sections 93-21-101 through 93-21-113.
- (7) A domestic violence shelter shall require persons employed by or volunteering services to the shelter to maintain the confidentiality of any information that would identify individuals served by the shelter.
- (8) A domestic violence shelter shall provide educational programs relating to battered spouses and domestic violence designed for both the community at large and/or specialized groups such as hospital personnel and law enforcement officials.

- (9) No child shall be placed in any domestic violence shelter that receives state funding under these provisions of Sections 93-21-101 through 93-21-113, and no domestic violence shelter that receives state funding under these provisions may admit or accept any child, unless the child is accompanied by his parent or guardian and such parent or guardian will remain with the child in the shelter until the child leaves or is released from the shelter. However, this subsection shall not prevent any rape crisis center from providing care, counseling and related services to any child who is a victim of rape, attempted rape, sexual battery or attempted sexual battery and who is not accompanied by his parent or guardian.

Sources: Laws, 1983, ch. 502, § 4; Laws, 1990, ch. 539, § 3, eff from and after October 1, 1990.

§ 93-21-109. Records withheld from public disclosure.

Records maintained by domestic violence shelters, except the official minutes of the board of directors of the shelter, and financial reports filed as required by statute with the board of supervisors or municipal authorities or any other agency of government, shall be withheld from public disclosure under the provisions of the Mississippi Public Records Act of 1983.

A resident or staff member of a domestic violence shelter shall not be required to disclose the street address or physical location of that shelter to any public or private agency. In all cases where the provision of a physical address is required, a post office box address for the domestic violence shelter shall be deemed sufficient.

Sources: Laws, 1983, ch. 502, § 5; Laws, 2002, ch. 337, § 3, eff from and after July 1, 2002.

§ 93-21-111. Annual report.

A domestic violence shelter that receives funds pursuant to the provisions of Sections 93-21-101 through 93-21-113 shall file at a minimum an annual report with the commission of budget and accounting and other data reports as requested. A copy of the annual report shall also be furnished to the chairmen of the pensions, social welfare and public health committee of the Mississippi House of Representatives and the public health and welfare committee of the Mississippi Senate. The annual report shall include statistics on the number of persons served by the shelter, the relationship of the victim of domestic violence to the offender, the number of referrals made for medical, psychological, financial, educational, vocational, child care, or legal services, and shall include the results of an independent audit. No information contained in the report shall identify any person served by the shelter, or enable any person to determine the identity of any such person.

Sources: Laws, 1983, ch. 502, § 6, eff from and after passage (approved April 12, 1983).

§ 93-21-113. Reporting criminal acts or omissions to law enforcement personnel; filing charges against offender; plea bargaining.

Domestic violence shelters through their employees and officials shall, on every occasion other than the initial request for assistance, report to the district attorney, the county attorney, or the appropriate law enforcement official or other state agencies any occurrence or instance coming to their attention which would involve the commission of a crime or the failure to perform or render a service or assistance to a victim of domestic violence when required by law to do so.

Every municipal prosecutor, county attorney, district attorney or other appropriate law enforcement official who, having had reported to him a case of domestic violence, if the facts submitted be sufficient, shall immediately file charges against the offender on the behalf of the victim. Such prosecutor may in plea bargaining with the offender enter into an agreement whereby the offender shall receive counseling in lieu of further prosecution, and if the offender shall successfully attend counseling as agreed upon for the period of time agreed upon, the municipal prosecutor, county attorney or district attorney, as the case may be, shall pass such case to the file.

No municipal prosecutor, county attorney or district attorney shall grant such right in plea bargaining to the same offender more than once.

Sources: Laws, 1983, ch. 502, § 7; Laws, 2007, ch. 589, § 9, eff from and after July 1, 2007.

§ 93-21-115. Donations from municipalities to support local shelters.

The governing authorities of any municipality in the state are hereby authorized and empowered, in their discretion, to donate annually out of any money in the municipal treasury such sums as the governing authorities deem advisable to support any domestic violence shelter or rape crisis center operating within or serving its area. For the purposes of this section, "rape crisis center" means a place established to provide care, counseling and related services to victims of rape, attempted rape, sexual battery or attempted sexual battery.

§ 93-21-117. Victims of Domestic Violence Fund.

- (1) There is hereby created in the State Treasury a special fund to be known as the "Victims of Domestic Violence Fund." The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:
 - (a) Monies appropriated by the Legislature;
 - (b) The interest accruing to the fund;
 - (c) Monies received under the provisions of Section 99-19-73;
 - (d) Monies received from the federal government;
 - (e) Donations; and
 - (f) Monies received from such other sources as may be provided by law.
- (2) The circuit clerks of the state shall deposit in the fund on a monthly basis the additional fee charged and collected for marriage licenses under the provisions of Section 25-7-13, Mississippi Code of 1972.
- (3) All other monies received from every source for the support of the program for victims of domestic violence, established by Sections 93-21-101 through 93-21-113, shall be deposited in the "Victims of Domestic Violence Fund." The monies in the fund shall be used by the State Department of Health solely for funding and administering domestic violence shelters under the provisions of Sections 93-21-101 through 93-21-113, in such amounts as the Legislature may appropriate to the department for the program for victims of domestic violence established by Sections 93-21-101 through 93-21-113. Not more than ten percent (10%) of the monies in the "Victims of Domestic Violence Fund" shall be appropriated to the State Department of Health for the administration of domestic violence shelters.

Sources: Laws, 1985, ch. 461, § 1; Laws, 2005, ch. 413, § 4, eff from and after July 1, 2005.

CHILDREN'S TRUST FUND ACT.

§ 93-21-301. Short Title.

§ 93-21-303. Declaration of policy.

§ 93-21-305. Fund established; source of funds; interest; disbursements; purpose of fund.

§ 93-21-307. Administration of fund; powers and duties of Division of Family and Children's Services.

§ 93-21-309. Purposes for which grants or loans may be made from fund.

§ 93-21-311. Criteria for making grant or loan.

§ 93-21-301. Short Title.

Sections 93-21-301 through 93-21-311 shall be known as the "Children's Trust Fund Act of 1989."

Sources: Laws, 1989, ch. 509, § 1, eff from and after July 1, 1989.

§ 93-21-303. Declaration of policy.

The Legislature of the State of Mississippi finds and declares the policy of this state as follows:

- (a) The children of Mississippi are its single greatest resource and our children require the utmost protection to guard their future and the future of this state;
- (b) Child abuse and neglect are a threat to the family unit and impose major expenses on society in addition to the individual and collective damage on the children of this state;
- (c) There is a need to assist private and public agencies in identifying and establishing community-based educational and service programs for the prevention of child abuse and neglect;
- (d) An increase in educational, service and prevention programs will assist in breaking the cycle of child abuse and neglect and will assist in reducing the breakdown of families and thus reduce the need for state assistance and intervention and state expenses; and
- (e) Programs to prevent child abuse and neglect should be partnerships between citizens, local communities and the State of Mississippi.

Sources: Laws, 1989, ch. 509, § 2, eff from and after July 1, 1989.

§ 93-21-305. Fund established; source of funds; interest; disbursements; purpose of fund.

- (1) There is hereby established in the State Treasury a special fund to be known as the "Mississippi Children's Trust

Fund."

- (2) The fund shall consist of any monies appropriated to the fund by the Legislature, any donations, gifts and grants from any source, receipts from the birth certificate fees as provided by subsection (2) of Section 41-57-11, and any other monies which may be received from any other source or which may be hereafter provided by law.
- (3) Monies in the fund shall be used only for the purposes set forth in Sections 93-21-301 through 93-21-311. Interest earned on the investment of monies in the fund shall be returned and deposited to the credit of the fund.
- (4) Disbursements of money from the fund shall be on the authorization of the Division of Family and Children's Services of the State Department of Public Welfare.
- (5) The primary purpose of the fund is to encourage and provide financial assistance in the provision of direct services to prevent child abuse and neglect.

Sources: Laws, 1989, ch. 509, § 3, eff from and after July 1, 1989.

§ 93-21-307. Administration of fund; powers and duties of Division of Family and Children's Services.

The administration of the Mississippi Children's Trust Fund shall be vested in the Division of Family and Children's Services of the State Department of Public Welfare. In carrying out the provisions of Sections 93-21-301 through 93-21-311, the Division of Family and Children's Services shall have the following powers and duties:

- (a) To assist in developing programs aimed at discovering and preventing the many factors causing child abuse and neglect;
- (b) To prepare and disseminate, including the presentation of, educational programs and materials on child abuse and neglect;
- (c) To provide educational programs for professionals required by law to make reports of child abuse and neglect;
- (d) To help coordinate child protective services at the state, regional and local levels with the efforts of other state and voluntary social, medical and legal agencies;
- (e) To provide advocacy for children in public and private state and local agencies affecting children;
- (f) To encourage citizen and community awareness as to the needs and problems of children;
- (g) To facilitate the exchange of information between groups concerned with families and children;
- (h) To consult with state departments, agencies, commissions and boards to help determine the probable effectiveness, fiscal soundness and need for proposed educational and service programs for the prevention of child abuse and neglect;
- (i) To adopt rules and regulations, subject to approval of the State Board of Public Welfare, in accordance with the Administrative Procedures Law to discharge its responsibilities;
- (j) To report annually, through the annual report of the State Department of Public Welfare, to the Governor and the Legislature concerning the division's activities under Sections 93-21-301 through 93-21-311 and the effectiveness of those activities in fostering the prevention of child abuse and neglect;
- (k) To recommend to the Governor and the Legislature changes in state programs, statutes, policies and standards which will reduce child abuse and neglect, improve coordination among state agencies which provide services to prevent abuse and neglect, improve the condition of children and assist parents and guardians;
- (l) To evaluate and strengthen all local, regional and state programs dealing with child abuse and neglect;
- (m) To prepare and submit annually to the Governor and the Legislature reports evaluating the level and quality of all programs, services and facilities provided to children by state agencies;
- (n) To contract with public or private nonprofit institutions, organizations, agencies or schools or with qualified individuals for the establishment of community-based educational and service programs designed to reduce the occurrence of child abuse and neglect;
- (o) To determine the eligibility of programs applying for financial assistance and to make grants and loans from the fund for the purposes set forth in Sections 93-21-301 through 93-21-311;
- (p) To develop, within one (1) year after July 1, 1989, a state plan for the distribution of funds from the trust fund which shall assure that an equal opportunity exists for establishment of prevention programs and for receipt of trust fund money among all geographic areas in this state, and to submit the plan to the Governor and the Legislature and annually thereafter submit revisions thereto as needed;
- (q) To provide for the coordination and exchange of information on the establishment and maintenance of

- local prevention programs;
- (r) To develop and publicize criteria for the receipt of trust fund money by eligible local prevention programs;
- (s) To enter into contracts with public or private agencies to fulfill the requirements of Sections 93-21-301 through 93-21-311; and
- (t) Review, monitor and approve the expenditure of trust fund money by eligible local programs.

Sources: Laws, 1989, ch. 509, § 4, eff from and after July 1, 1989.

§ 93-21-309. Purposes for which grants or loans may be made from fund.

- (1) The division may authorize the disbursement of money in the trust fund in the form of grants or loans for the following purposes, which are listed in order of preference for expenditure:
 - (a) To assist a community private, nonprofit organization or a local public organization or agency in the establishment and operation of a program or service for the prevention of child abuse and neglect;
 - (b) To assist in the expansion of an existing community program or service for the prevention of child abuse and neglect;
 - (c) To assist a community private, nonprofit organization or a local public organization or agency in the establishment and operation of an educational program regarding the problems of child abuse and neglect and the problems of families and children;
 - (d) To assist in the expansion of an existing community educational program regarding the problems of child abuse and neglect and the problems of families and children;
 - (e) To study and evaluate community-based prevention programs, projects or services and educational programs for the problems of families and children; and
 - (f) Any other similar and related programs, projects, services and educational programs that the division declares will implement the purposes and provisions of Sections 93-21-301 through 93-21-311.
- (2) For the purposes of this section, the term "educational programs" includes instructional and demonstration projects the main purpose of which is to disseminate information and techniques for the prevention of child abuse and neglect and the prevention of problems of families and children.
- (3) No money in the trust fund shall be expended to provide services, counseling or direct assistance for the voluntary termination of any pregnancy.

Sources: Laws, 1989, ch. 509, § 5, eff from and after July 1, 1989.

§ 93-21-311. Criteria for making grant or loan.

In making grants or loans from the trust fund, the division shall consider the degree to which the applicant's proposal meets the following criteria:

- (a) Has as its primary purpose the development and facilitation of a community-based prevention program in a specific geographical area, which program shall utilize trained volunteers and existing community resources where practicable;
- (b) Is administered by an organization or group which is composed of or has participation by the county department of public welfare, the county health department, the youth court or chancery court, the office of the district attorney, county or municipal law enforcement personnel, county or municipal school officials, local public or private organizations or agencies which provide programs or services for the prevention of child abuse and neglect and educational programs for the prevention of problems of families and children; and
- (c) Demonstrates a willingness and ability and has a plan to provide prevention program models and consultations to appropriate organizations within the community regarding prevention program development and maintenance.

Sources: Laws, 1989, ch. 509, § 6, eff from and after July 1, 1989.

Uniform Interstate Enforcement of Domestic Violence Protection Orders Act

- § 93-22-1. Short title.**
- § 93-22-3. Definitions.**
- § 93-22-5. Judicial enforcement of order.**
- § 93-22-7. Nonjudicial enforcement of order.**
- § 93-22-9. Registration of order.**
- § 93-22-11. Immunity.**
- § 93-22-13. Transitional provision.**
- § 93-22-15. Other remedies.**
- § 93-22-17. Severability clause.**

§ 93-22-1. Short title.

The provisions of this chapter may be cited as the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sources: Laws, 2004, ch. 566, § 1, eff from and after July 1, 2004.

§ 93-22-3. Definitions.

The following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

- (a) "Foreign protection order" means a protection order issued by a tribunal of another state.
- (b) "Issuing state" means the state whose tribunal issues a protection order.
- (c) "Mutual foreign protection order" means a foreign protection order that includes provisions issued in favor of both the protected individual seeking enforcement of the order and the respondent.
- (d) "Protected individual" means an individual protected by a protection order.
- (e) "Protection order" means an injunction or other order, issued by a tribunal under the domestic violence laws, family violence laws or anti-stalking laws of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to another individual.
- (f) "Respondent" means the individual against whom enforcement of a protection order is sought.
- (g) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an American Indian tribe or band that has jurisdiction to issue protection orders.
- (h) "Tribunal" means a court, agency, or other entity authorized by law to issue or modify a protection order.

Sources: Laws, 2004, ch. 566, § 2, eff from and after July 1, 2004.

§ 93-22-5. Judicial enforcement of order.

- (1) A tribunal of this state shall enforce the terms of a valid foreign protection order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. A tribunal of this state shall enforce a valid foreign protection order issued by a tribunal, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. A tribunal of this state may not enforce an order issued by a tribunal that does not recognize the standing of a protected individual to seek enforcement of the order. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.
- (2) A tribunal of this state shall enforce the provisions of a valid foreign protection order which governs custody and visitation. The custody and visitation provisions of the order must have been issued in accordance with the jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.
- (3) A tribunal of this state may not enforce under this chapter an order or provision of an order with respect to

support.

- (4) A protection order is valid if it:
 - (a) Identifies the protected individual and the respondent;
 - (b) Is in effect at the time enforcement is being sought;
 - (c) Was issued by a tribunal that had jurisdiction over the parties and matter under the law of the issuing state; and
 - (d) Was issued after the respondent was provided with reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and afforded an opportunity to be heard within a reasonable time after the issuing of the order, consistent with the rights of the respondent to due process.
- (5) A person authorized under the law of this state to seek enforcement of a foreign protection order establishes a prima facie case for its validity by presenting an order valid on its face.
- (6) Absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order.
- (7) A tribunal of this state may enforce the provisions of a mutual foreign protection order which favor a respondent only if:
 - (a) The respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and
 - (b) The tribunal of the issuing state made specific findings in favor of the respondent.

Sources: Laws, 2004, ch. 566, § 3, eff from and after July 1, 2004.

§ 93-22-7. Nonjudicial enforcement of order.

- (1) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent, and on its face is in effect at the time enforcement is being sought, constitutes probable cause to believe that a valid foreign protection order exists. For the purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.
- (2) If the protection order is not presented, the officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.
- (3) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order and make a reasonable effort to serve the order upon the respondent. After informing the respondent and serving the order, the officer shall allow the respondent a reasonable opportunity to comply with the order before enforcing the order.
- (4) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order under the provisions of this chapter.

Sources: Laws, 2004, ch. 566, § 4, eff from and after July 1, 2004.

§ 93-22-9. Registration of order.

- (1) It is not required that any foreign protection order be registered in Mississippi; however, any individual may register a foreign protection order in this state on behalf of the individual or any protected person. To register a foreign protection order, an individual shall present a certified copy of the order to the chancery clerk's office of any county in this state.
- (2) Upon presentation of a protection order, the chancery clerk shall enter the order into the Mississippi Domestic Abuse Protection Order Registry as provided in Section 93-21-25.
- (3) At the time of registration, an individual registering a foreign protection order shall file an affidavit by the protected individual that, to the best of the individual's knowledge, the order is in effect at the time of the registration.
- (4) The failure to register a foreign protection order pursuant to the provisions of this section shall have no effect on the validity or enforceability of the order by Mississippi law enforcement or courts.

*Sources: Laws, 2004, ch. 566, § 5, eff from and after July 1, 2004. **HB 780 (2012).***

§ 93-22-11. Immunity.

This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for an act or omission arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the act or omission is done in good faith in an effort to comply with this chapter.

Sources: Laws, 2004, ch. 566, § 6, eff from and after July 1, 2004.

§ 93-22-13. Transitional provision.

This chapter applies to any protection order issued before July 1, 2004, including any continuing action for enforcement of a foreign protection order commenced before July 1, 2004. A request for enforcement of a foreign protection order brought on or after July 1, 2004 for violations of a foreign protection order occurring before July 1, 2004, is governed by the provisions of this chapter.

Sources: Laws, 2004, ch. 566, § 7, eff from and after July 1, 2004.

§ 93-22-15. Other remedies.

Pursuit of remedies under this chapter does not preclude a protected individual from pursuing other legal or equitable remedies against the respondent.

Sources: Laws, 2004, ch. 566, § 8, eff from and after July 1, 2004.

§ 93-22-17. Severability clause.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sources: Laws, 2004, ch. 566, § 9, eff from and after July 1, 2004.

CRIMES AGAINST THE PERSON (Selected)

§ 97-3-7. Simple assault; aggravated assault; simple domestic violence; aggravated domestic violence.

§ 97-3-7. Simple assault; aggravated assault; simple domestic violence; aggravated domestic violence.

- (1) (a) A person is guilty of simple assault if he
- (i) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another;
 - (ii) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or
 - (iii) attempts by physical menace to put another in fear of imminent serious bodily harm;
- and, upon conviction, he 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.
- (b) However, a person convicted of simple assault
- (i) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker or family protection specialist or family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney,

county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment;

- (ii) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or
- (iii) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult, as defined in Section 43-47-5,

shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than five (5) years, or both.

- (2) (a) A person is guilty of aggravated assault if he
 - (i) attempts to cause serious bodily injury to another, or causes such 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) causes any injury to a child who is in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615;

and, upon conviction, he shall be punished by imprisonment in the county jail for not more than one (1) year or in the Penitentiary for not more than twenty (20) years.

- (b) However, a person convicted of aggravated assault
 - (i) upon a statewide elected official, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker employed by the Department of Human Services or another agency, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, or a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender, while such statewide elected official, judge or justice, law enforcement officer, fireman, emergency medical personnel, public health personnel, social worker, family protection specialist, family protection worker, youth detention center personnel, training school juvenile care worker, any county or municipal jail officer, superintendent, principal, teacher or other instructional personnel, school attendance officer, school bus driver, district attorney, legal assistant to a district attorney, county prosecutor, municipal prosecutor, court reporter employed by a court, court administrator, clerk or deputy clerk of the court, or public defender is acting within the scope of his duty, office or employment;
 - (ii) upon a legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or
 - (iii) upon a person who is sixty-five (65) years of age or older or a person who is a vulnerable adult, as defined in Section 43-47-5,

shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00) or by imprisonment for not more than thirty (30) years, or both.

- (3) A person is guilty of simple domestic violence who commits simple assault as described in subsection (1) of this section against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former 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 (1) of this section; however, upon a third or subsequent conviction of simple 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 not less than 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, or who strangles, or attempts to strangle, a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child. Upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not less than two (2) years nor more than twenty (20) years; however, upon a third or subsequent conviction 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 ten (10) 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). A person convicted of aggravated domestic violence shall not be eligible for parole under the provisions of Section 47-7-3(1)(c) until he shall have served one (1) year of his sentence.

For the purposes of this section, "strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck or throat of another person by any means or to intentionally block the nose or mouth of another person by any means.

- (5) "Dating relationship" means a social relationship as defined in Section 93-21-3.
- (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) When investigating allegations of a violation of subsection (3) or (4) of this section, 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 subsection (3) or (4) of this section.
- (8) 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." The court clerk shall enter the disposition of the matter into the corresponding uniform offense report.

*SOURCES: Codes, 1857, ch. 64, art. 18; 1871, § 2497; 1880, § 2711; 1892, § 967; 1906, § 1043; Hemingway's 1917, § 771; 1930, § 787; 1942, § 2011; Laws, 1974, ch. 458, § 1; Laws, 1992, ch. 431, § 2; Laws, 1993, ch. 580, § 1; Laws, 1998, ch. 425, § 1; Laws, 1998, ch. 525, § 1; Laws, 1999, ch. 552, § 2; Laws, 2000, ch. 552, § 1; Laws, 2001, ch. 566, § 1; Laws, 2002, ch. 353, § 1; Laws, 2004, ch. 489, § 9; Laws, 2006, ch. 589, § 1; Laws, 2006, ch. 600, § 11; Laws, 2007, ch. 589, § 10; Laws, 2008, ch. 391, § 2; Laws, 2008, ch. 553, § 1; Laws, 2009, ch. 433, § 3; Laws, 2010, ch. 536, § 1; Laws, 2011, ch. 481, § 3, eff from and after July 1, 2011. **HB 780 (2012).***

ARRESTS (Selected Sections)

§ 99-3-7. When arrests may be made without a warrant.

§ 99-3-7. When arrests may be made without a warrant.

- (1) An officer or private person may arrest any person without warrant, for an indictable offense committed, or a breach of the peace threatened or attempted in his presence; or when a person has committed a felony, though not in his presence; or when a felony has been committed, and he has reasonable ground to suspect and believe the person proposed to be arrested to have committed it; or on a charge, made upon reasonable cause, of the commission of a felony by the party proposed to be arrested. And in all cases of arrests without warrant, the person making such arrest must inform the accused of the object and cause of the arrest, except when he is in the actual commission of the offense, or is arrested on pursuit.
- (2) Any law enforcement officer may arrest any person on a misdemeanor charge without having a warrant in his possession when a warrant is in fact outstanding for that person's arrest and the officer has knowledge through official channels that the warrant is outstanding for that person's arrest. In all such cases, the officer making the arrest must inform such person at the time of the arrest the object and cause therefor. If the person arrested so requests, the warrant shall be shown to him as soon as practicable.

- (3) (a) Any law enforcement officer shall arrest a person with or without a warrant when he has probable cause to believe that the person has, within twenty-four (24) hours of such arrest, knowingly committed a misdemeanor which is an act of domestic violence or knowingly violated provisions of an ex parte protective order, protective order after hearing or court-approved consent agreement entered by a chancery, circuit, county, justice or municipal court pursuant to the Protection from Domestic Abuse Law, Sections 93-21-1 through 93-21-29, Mississippi Code of 1972, or a restraining order entered by a foreign court of competent jurisdiction to protect an applicant from domestic violence.
- (b) If a law enforcement officer has probable cause to believe that two (2) or more persons committed a misdemeanor which is an act of domestic violence as defined herein, or if two (2) or more persons make complaints to the officer, the officer shall attempt to determine who was the principal aggressor. The term principal aggressor is defined as the party who poses the most serious ongoing threat, or who is the most significant, rather than the first, aggressor. The officer shall presume that arrest is not the appropriate response for the person or persons who were not the principal aggressor. If the officer affirmatively finds more than one (1) principal aggressor was involved, the officer shall document those findings.
- (c) To determine who is the principal aggressor, the officer shall consider the following factors, although such consideration is not limited to these factors:
- (i) Evidence from the persons involved in the domestic abuse;
 - (ii) The history of domestic abuse between the parties, the likelihood of future injury to each person, and the intent of the law to protect victims of domestic violence from continuing abuse;
 - (iii) Whether one (1) of the persons acted in self-defense; and
 - (iv) Evidence from witnesses of the domestic violence.
- (d) A law enforcement officer shall not base the decision of whether to arrest on the consent or request of the victim.
- (e) A law enforcement officer's determination regarding the existence of probable cause or the lack of probable cause shall not adversely affect the right of any party to independently seek appropriate remedies.
- (4) (a) Any person authorized by a court of law to supervise or monitor a convicted offender who is under an intensive supervision program may arrest the offender when the offender is in violation of the terms or conditions of the intensive supervision program, without having a warrant, provided that the person making the arrest has been trained at the Law Enforcement Officers Training Academy established under Section 45-5-1 et seq., or at a course approved by the Board on Law Enforcement Officer Standards and Training.
- (b) For the purposes of this subsection, the term "intensive supervision program" means an intensive supervision program of the Department of Corrections as described in Section 47-5-1001 et seq., or any similar program authorized by a court for offenders who are not under jurisdiction of the Department of Corrections.
- (5) As used in subsection (3) of this section, the phrase "misdemeanor which is an act of domestic violence" shall mean one or more of the following acts between current or former spouses or a child of current or former spouses, persons living as spouses or who formerly lived as spouses or a child of persons living as spouses or who formerly lived as spouses, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, persons who have a current or former dating relationship, or persons who have a biological or legally adopted child together:
- (a) Simple domestic violence within the meaning of Section 97-3-7;
 - (b) Disturbing the family or public peace within the meaning of Section 97-35-9, 97-35-11, 97-35-13 or 97-35-15; or
 - (c) Stalking within the meaning of Section 97-3-107.
- (6) Any arrest made pursuant to subsection (3) of this section shall be designated as domestic assault or domestic violence on both the arrest docket and the incident report. Any officer investigating a complaint of a misdemeanor crime of domestic violence who finds probable cause that such an offense has occurred within the past twenty-four (24) hours shall file an affidavit on behalf of the victim(s) of the crime, regardless of whether an arrest is made within that time period. If the crime is reported or investigated outside of that twenty-four-hour period, the officer may file the affidavit on behalf of the victim. In the event the officer does not file an affidavit on behalf of the victim, the officer shall instruct the victim of the procedure for filing on his or her own behalf.
- (7) A law enforcement officer shall not be held liable in any civil action for an arrest based on probable cause and in good faith pursuant to subsection (3) of this section, or failure, in good faith, to make an arrest pursuant to

subsection (3) of this section.

*SOURCES: Codes, 1857, ch. 64, art. 276; 1871, § 2776; 1880, § 3026; 1892, § 1375; 1906, § 1447; Hemingway's 1917, § 1204; 1930, § 1227; 1942, § 2470; Laws, 1968, ch. 355, § 1; Laws, 1988, ch. 571, § 1; Laws, 1989, ch. 330, § 1; Laws, 1989, ch. 364, § 1; Laws, 1995, ch. 328, § 1; Laws, 1996, ch. 483, § 1; Laws, 1999, ch. 504, § 1; Laws, 2000, ch. 554, § 1; Laws, 2000, ch. 555, § 2; Laws, 2002, ch. 510, § 1; Laws, 2008, ch. 391, § 3; Laws, 2009, ch. 433, § 4; Laws, 2010, ch. 536, § 2, eff from and after July 1, 2010. **HB 780 (2012).***

BAIL (Selected Sections)

§ 99-5-11. Justices of the peace may take recognizance or bond; certificate of default; alias warrant

§ 99-5-37. Domestic violence or knowing violation of domestic abuse protective order; required appearance before judge; considerations; conditions.

§ 99-5-11. Justices of the peace may take recognizance or bond; certificate of default; alias warrant

(1) All justice court judges and all other conservators of the peace are authorized, whenever a person is brought before them charged with any offense not capital for which bail is allowed by law, to take the recognizance or bond of the person, with sufficient sureties, in such penalty as the justice court judge or conservator of the peace may require, for his appearance before the justice court judge or conservator of the peace for an examination of his case at some future day. And if the person thus recognized or thus giving bond fails to appear at the appointed time, it shall be the duty of the justice court judge or conservator of the peace to return the recognizance or bond, with his certificate of default, to the court having jurisdiction of the case, and a recovery may be had therein by scire facias, as in other cases of forfeiture. The justice court judge or other conservator of the peace shall also issue an alias warrant for the defaulter.

(2) In circumstances involving an offense against any of the following:

- (a) a current or former spouse of the accused or child of that person;
- (b) a person living as a spouse or who formerly lived as a spouse with the accused or a child of that person;
- (c) a parent, grandparent, child, grandchild or someone similarly situated to the accused;
- (d) a person who has a current or former dating relationship with the accused; or
- (e) a person with whom the accused has had a biological or legally adopted child,

the justice court judge or other conservator of the peace shall check, or cause to be made a check, of the status of the person for whom recognizance or bond is taken before ordering bail in the Mississippi Protective Order Registry authorized under Section 93-21-25, and the existence of a domestic abuse protection order against the accused shall be considered when determining appropriate bail.

*SOURCES: Codes, 1871, § 2874; 1880, § 3044; 1892, § 1397; 1906, § 1469; Hemingway's 1917, § 1227; 1930, § 1249; 1942, § 2492. **HB 780 (2012).***

§ 99-5-37. Domestic violence or knowing violation of domestic abuse protective order; required appearance before judge; considerations; conditions.

(1) In any arrest for

- (a) a misdemeanor that is an act of domestic violence as defined in Section 99-3-7(5);
- (b) aggravated domestic violence as defined in Section 97-3-7(4);
- (c) aggravated stalking as defined in Section 97-3-107(2);
- (d) a knowing violation of a condition of bond imposed pursuant to this section; or
- (e) a knowing violation of a domestic abuse protection order issued pursuant to Section 93-21-1 et seq., or a similar order issued by a foreign court of competent jurisdiction for the purpose of protecting a person from domestic abuse,

no bail shall be granted until the person arrested has appeared before a judge of the court of competent jurisdiction. The appearance may be by telephone. Nothing in this section shall be construed to interfere with the defendant's right to an initial appearance or preliminary hearing.

(2) Upon setting bail, the judge may impose on the arrested person a holding period not to exceed twenty-four (24) hours from the time of the initial appearance or setting of bail. The judge also shall give particular consideration to the exigencies of the case, including, but not limited to,

- (a) the potential for further violence;
- (b) the past history, if any, of violence between the defendant and alleged victim;

- (c) the level of violence of the instant offense;
- (d) any threats of further violence; and
- (e) the existence of a domestic violence protection order prohibiting the defendant from engaging in abusive behavior,

and shall impose any specific conditions on the bond as he or she may deem necessary. Specific conditions which may be imposed by the judge may include, but are not limited to, the issuance of an order prohibiting the 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.

*SOURCES: Laws, 1998, ch. 525, § 2; Laws, 2003, ch. 431, § 1; Laws, 2007, ch. 589, § 11; Laws, 2009, ch. 433, § 2; Laws, 2010, ch. 536, § 3, eff from and after July 1, 2010. **HB 780 (2012)***

PRETRIAL PROCEEDINGS (Selected Sections)

§ 99-15-26. Dismissal of action upon successful completion of certain court-imposed conditions.

§ 99-15-26. Dismissal of action upon successful completion of certain court-imposed conditions.

- (1) (a) In all criminal cases, felony and misdemeanor, other than crimes against the person or a violation of Section 97-11-31, the circuit or county court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
- (b) In all misdemeanor criminal cases, other than crimes against the person, the justice or municipal court shall be empowered, upon the entry of a plea of guilty by a criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
- (c) In all criminal cases charging a misdemeanor of domestic violence as defined in Section 99-3-7(5) or aggravated domestic violence as defined in Section 97-3-7(4), a circuit, county, justice or municipal court shall be empowered, upon the entry of a plea of guilty by the criminal defendant, to withhold acceptance of the plea and sentence thereon pending successful completion of such conditions as may be imposed by the court pursuant to subsection (2) of this section.
- (d) No person having previously qualified under the provisions of this section or having ever been convicted of a felony shall be eligible to qualify for release in accordance with this section. A person shall not be eligible to qualify for release in accordance with this section if such person has been charged (i) with an offense pertaining to the sale, barter, transfer, manufacture, distribution or dispensing of a controlled substance, or the possession with intent to sell, barter, transfer, manufacture, distribute or dispense a controlled substance, as provided in Section 41-29-139(a)(1), except for a charge under said provision when the controlled substance involved is one (1) ounce or less of marijuana; (ii) with an offense pertaining to the possession of one (1) kilogram or more of marijuana as provided in Section 41-29-139(c)(2)(F) and (G); or (iii) with an offense under the Mississippi Implied Consent Law.
- (2) (a) Conditions which the circuit, county, justice or municipal court may impose under subsection (1) of this section shall consist of:
 - (i) Reasonable restitution to the victim of the crime.
 - (ii) Performance of not more than nine hundred sixty (960) hours of public service work approved

by the court.

- (iii) Payment of a fine not to exceed the statutory limit.
 - (iv) Successful completion of drug, alcohol, psychological or psychiatric treatment, successful completion of a program designed to bring about the cessation of domestic abuse, or any combination thereof, if the court deems treatment necessary.
 - (v) The circuit or county court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed five (5) years. The justice or municipal court, in its discretion, may require the defendant to remain in the program subject to good behavior for a period of time not to exceed two (2) years.
- (b) Conditions which the circuit or county court may impose under subsection (1) of this section also include successful completion of a regimented inmate discipline program.
- (3) When the court has imposed upon the defendant the conditions set out in this section, the court shall release the bail bond, if any.
 - (4) Upon successful completion of the court-imposed conditions permitted by subsection (2) of this section, the court shall direct that the cause be dismissed and the case be closed.
 - (5) Upon petition therefor, the court shall expunge the record of any case in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case.
 - (6) This section shall take effect and be in force from and after March 31, 1983.

*SOURCES: Laws, 1983, ch. 446, §§ 1-4; Laws, 1987, ch. 364; Laws, 1989, ch. 565, § 2; Laws, 1996, ch. 391, § 1; Laws, 1996, ch. 454, § 3; Laws, 2003, ch. 557, § 2; Laws, 2004, ch. 455, § 1; Laws, 2007, ch. 549, § 1; Laws, 2008, ch. 458, § 2, eff from and after July 1, 2008. **HB 780 (2012)**.*