

BowTieLawyer

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Domestic Relations vs. Domestic Incarceration for bad behavior.

In Family Law, dealing with divorce and child custody issues are enough to keep any attorney busy. Adding changing emotions, gray areas of the law relating to dividing assets and assessing how a particular case will determine the best interests of a child, attorneys and clients don't need more on their plate to deal with. Jail!



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I have previously blogged on going to [Jail for having sex](#) and [not paying child support](#), but there is a lot of folks go to jail in their family law case, letting their emotions get the best of them.

It is quite common for Family law matters to “spill over” into Justice Court or Municipal Courts. Matters like assault, trespass and domestic violence violations. I have included portions of the statute for you to read and italicized common issues.

The severity of these charges depends in large part on the severity of the circumstances, the severity of the offense, and whether there is a history of violations or abuse. Unfortunately, it is not uncommon for attorneys to attempt to use these criminal allegations to “one-up” the other and attempt to use the criminal charges in divorce negotiations.

Lawyers would be wise to warn their clients about the possibility of a client losing their cool, even if it results in criminal charges and that, perhaps, their former significant other may “create” circumstances in the future that are against them in a later or pending divorce action.

§ 97-3-7. Simple assault

(1) (a) *A person is guilty of simple assault if he (i) attempts to cause or purposely...causes bodily injury to another; (ii) negligently causes bodily injury with a deadly weapon... or (iii) attempts by physical menace to put another in imminent serious bodily harm;* shall be punished by a fine of not more than Five Hundred Dollars or imprisonment for not more than six (6) months, or both.

§ 97-17-85. Trespass; going upon inclosed land of another

If any person shall go upon the enclosed land of another without his consent, after having been notified not to do so ...or shall remain on such land after a request by such person; shall, upon conviction, be fined not more than Fifty Dollars (\$ 50.00).

§ 97-3-7. Simple domestic violence; Aggravated domestic violence

(3) A person is guilty of simple domestic violence who commits simple assault as described in subsection (a) against a current or former spouse ... upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not more than five (5) years. ...a third conviction of simple domestic violence...within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment not less than five (5) years nor more than ten (10) years.

§ 97-3-7. Aggravated domestic violence

(4) A person is guilty of aggravated domestic violence who commits aggravated assault as described in subsection (a) against, or who strangles, or attempts to strangle, a current or former spouse ... Upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not more than twenty (20) years nor more than twenty (20) years... a third conviction of aggravated domestic violence... within five (5) years, the defendant shall be guilty of a felony and sentenced to a term of imprisonment of not less than five (5) years nor more than twenty (20) years.

(2) (a) A person is guilty of aggravated assault if he (i) attempts to cause serious bodily injury to another person; (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 while in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615; and, upon conviction, the defendant 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.

Matthew Thompson is a family law attorney that has only been to jail to help his clients get out. He interviews and advises that you do too!

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You may also contact Matthew with your family law case, question or concern at (601) 850-8000 or Matthew@wmtlawfirm.com.



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