

By: Senator(s) Jackson (11th)

To: Judiciary, Division B

SENATE BILL NO. 2009

1 AN ACT TO PROVIDE FOR ENHANCEMENT OF ANY FELONY COMMITTED
2 UPON A PERSON 65 YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
3 PERSON CHARGED KNEW OR HAD REASON TO KNOW THE AGE OF THE VICTIM;
4 TO AMEND SECTION 97-3-7, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
5 ENHANCEMENT OF THE PENALTY FOR ASSAULT WHEN THE VICTIM IS 65 YEARS
6 OF AGE OR OLDER; TO PROVIDE FOR CODIFICATION OF SECTION 1 OF THIS
7 ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Whenever a person is charged with committing a
10 felony offense upon a person sixty-five (65) years of age or
11 older, regardless of whether the person charged knew or had reason
12 to know the age of the victim, the offense for which the person is
13 charged shall be subject to double the punishment, including fine,
14 imprisonment, or both, that would otherwise attach.

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

17 97-3-7. (1) A person is guilty of simple assault if he (a)
18 attempts to cause or purposely, knowingly or recklessly causes
19 bodily injury to another; or (b) negligently causes bodily injury
20 to another with a deadly weapon or other means likely to produce
21 death or serious bodily harm; or (c) attempts by physical menace
22 to put another in fear of imminent serious bodily harm; and, upon
23 conviction, he shall be punished by a fine of not more than Five
24 Hundred Dollars (\$500.00) or by imprisonment in the county jail
25 for not more than six (6) months, or both. However, a person
26 convicted of simple assault (a) upon a statewide elected official,
27 law enforcement officer, fireman, emergency medical personnel,
28 public health personnel, social worker or child protection
29 specialist employed by the Department of Human Services or another

30 agency, superintendent, principal, teacher or other instructional
31 personnel, school attendance officer, school bus driver, or a
32 judge of a circuit, chancery, county, justice or youth court or a
33 judge of the Court of Appeals or a justice of the Supreme Court,
34 district attorney, legal assistant to a district attorney, county
35 prosecutor, municipal prosecutor, court reporter employed by a
36 court, court administrator, clerk or deputy clerk of the court, or
37 public defender, while such statewide elected official, judge or
38 justice, law enforcement officer, fireman, emergency medical
39 personnel, public health personnel, social worker, child
40 protection specialist, superintendent, principal, teacher or other
41 instructional personnel, school attendance officer, school bus
42 driver, district attorney, legal assistant to a district attorney,
43 county prosecutor, municipal prosecutor, court reporter employed
44 by a court, court administrator, clerk or deputy clerk of the
45 court, or public defender is acting within the scope of his duty,
46 office or employment; * * * (b) upon a legislator while the
47 Legislature is in regular or extraordinary session or while
48 otherwise acting within the scope of his duty, office or
49 employment; or (c) upon a person sixty-five (65) years of age or
50 older, regardless of whether the person charged knew or had reason
51 to know the age of the victim, shall be punished by a fine of not
52 more than One Thousand Dollars (\$1,000.00) or by imprisonment for
53 not more than five (5) years, or both.

54 (2) A person is guilty of aggravated assault if he (a)
55 attempts to cause serious bodily injury to another, or causes such
56 injury purposely, knowingly or recklessly under circumstances
57 manifesting extreme indifference to the value of human life; or
58 (b) attempts to cause or purposely or knowingly causes bodily
59 injury to another with a deadly weapon or other means likely to
60 produce death or serious bodily harm; and, upon conviction, he
61 shall be punished by imprisonment in the county jail for not more
62 than one (1) year or in the Penitentiary for not more than twenty

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

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

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

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

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

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

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

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

142 **SECTION 3.** Section 1 of this act shall be codified within
143 Title 99, Chapter 19, Mississippi Code of 1972.

144 **SECTION 4.** This act shall take effect and be in force from
145 and after July 1, 2006.