

**ARKANSAS SENATE**  
87th General Assembly - Regular Session, 2009  
**Amendment Form**

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**Subtitle of House Bill No. 1040**

"AN ACT TO CREATE THE OFFENSE OF SMOTHERING OR STRANGULATION AND  
PROVIDING FOR PENALTIES."

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**Amendment No. 2 to House Bill No. 1040.**

Amend House Bill No. 1040 as engrossed, S2/17/09 (version: 02-17-2009 08:34):

Add Senator H. Wilkins as a co-sponsor to the bill.

AND

Page 1, delete lines 11 through 13 and substitute "AN ACT TO AMEND THE OFFENSES OF AGGRAVATED ASSAULT AND ASSAULT IN THE FIRST DEGREE; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 16 through 18 and substitute "AN ACT TO AMEND THE OFFENSES OF AGGRAVATED ASSAULT AND ASSAULT IN THE FIRST DEGREE."

AND

Delete everything following the Enacting Clause and substitute:

"Section 1. Arkansas Code 5-13-204 is amended to read as follows:  
5-13-204. Aggravated assault.

(a) A person commits aggravated assault if, under circumstances manifesting extreme indifference to the value of human life, he or she purposely:

- (1) Engages in conduct that creates a substantial danger of death or serious physical injury to another person; ~~or~~
- (2) Displays a firearm in such a manner that creates a substantial danger of death or serious physical injury to another person; ~~or~~
- (3) Impedes or prevents the respiration of another person or the circulation of another person's blood by applying pressure on the throat or neck or by blocking the nose or mouth of the other person.

(b) Aggravated assault is a Class D felony.

(c) The provisions of this section do not apply to:

- (1) A law enforcement officer acting within the scope of his or



her duty; or

(2) ~~Any~~ A person acting in self-defense or the defense of a third party.

Section 2. Arkansas Code 5-13-205 is amended to read as follows:  
5-13-205. Assault in the first degree.

(a) A person commits assault in the first degree if he or she:

(1) ~~recklessly~~ Recklessly engages in conduct that creates a substantial risk of death or serious physical injury to another person; or

(2) Purposely impedes or prevents the respiration of another person or the circulation of another person's blood by applying pressure on the throat or neck or by blocking the nose or mouth of the other person.

(b) Assault in the first degree is a Class A misdemeanor.

(c) It is a defense to prosecution under subdivision (a)(2) of this section if the other person consented to the impeding or prevention of his or her respiration or circulation of blood.

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator D. Johnson

BPG/BCS - 02-20-2009 11:15

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Secretary