

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**H. B. No. 145**

**Representative Driehaus**

**Cosponsor: Representative Mallory**

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**A B I L L**

To amend sections 2903.11, 2903.12, and 2903.13 of 1  
the Revised Code to impose the same criminal 2  
penalties for assaulting a resident participating 3  
in a citizens on patrol program as are imposed for 4  
assaulting a peace officer. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2903.11, 2903.12, and 2903.13 of the 6  
Revised Code be amended to read as follows: 7

**Sec. 2903.11.** (A) No person shall knowingly do either of the 8  
following: 9

(1) Cause serious physical harm to another or to another's 10  
unborn; 11

(2) Cause or attempt to cause physical harm to another or to 12  
another's unborn by means of a deadly weapon or dangerous 13  
ordnance. 14

(B) No person, with knowledge that the person has tested 15  
positive as a carrier of a virus that causes acquired 16  
immunodeficiency syndrome, shall knowingly do any of the 17  
following: 18

(1) Engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;

(2) Engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;

(3) Engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.

(C) The prosecution of a person under this section does not preclude prosecution of that person under section 2907.02 of the Revised Code.

(D)(1) Whoever violates this section is guilty of felonious assault, a felony of the second degree. If the victim of a violation of division (A) of this section is a peace officer ~~or~~ an investigator of the bureau of criminal identification and investigation, or a participant in a citizens on patrol program, felonious assault is a felony of the first degree. If the victim of the offense is a peace officer ~~or~~ an investigator of the bureau of criminal identification and investigation, or a participant in a citizens on patrol program and if the victim suffered serious physical harm as a result of the commission of the offense, felonious assault is a felony of the first degree, and the court, pursuant to division (F) of section 2929.13 of the Revised Code, shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(2) In addition to any other sanctions imposed pursuant to division (D)(1) of this section for felonious assault committed in violation of division (A)(2) of this section, if the deadly weapon used in the commission of the violation is a motor vehicle, the

court shall impose upon the offender a class two suspension of the  
offender's driver's license, commercial driver's license,  
temporary instruction permit, probationary license, or nonresident  
operating privilege as specified in division (A)(2) of section  
4510.02 of the Revised Code.

(E) As used in this section:

(1) "Deadly weapon" and "dangerous ordnance" have the same  
meanings as in section 2923.11 of the Revised Code.

(2) "Motor vehicle" has the same meaning as in section  
4501.01 of the Revised Code.

(3) "Peace officer" has the same meaning as in section  
2935.01 of the Revised Code.

(4) "Sexual conduct" has the same meaning as in section  
2907.01 of the Revised Code, except that, as used in this section,  
it does not include the insertion of an instrument, apparatus, or  
other object that is not a part of the body into the vaginal or  
anal opening of another, unless the offender knew at the time of  
the insertion that the instrument, apparatus, or other object  
carried the offender's bodily fluid.

(5) "Investigator of the bureau of criminal identification  
and investigation" means an investigator of the bureau of criminal  
identification and investigation who is commissioned by the  
superintendent of the bureau as a special agent for the purpose of  
assisting law enforcement officers or providing emergency  
assistance to peace officers pursuant to authority granted under  
section 109.541 of the Revised Code.

(6) "Investigator" has the same meaning as in section 109.541  
of the Revised Code.

(7) "Citizens on patrol program" means a law enforcement  
volunteer program that is registered with the volunteers in police

service program that is administered by the international 80  
association of chiefs of police on behalf of the United States 81  
department of justice and that is formed in affiliation or 82  
association with, and trained by, a law enforcement agency to 83  
observe activities within a neighborhood, to report the 84  
volunteers' observations to the law enforcement agency, and to 85  
take other actions intended to reduce crime in the neighborhood. 86

(8) "Law enforcement agency" has the same meaning as in 87  
section 109.573 of the Revised Code and also includes the office 88  
of any village marshal, any police force of a metropolitan housing 89  
authority, any state university law enforcement department, and 90  
the office of any township constable. 91

(9) "Participant in a citizens on patrol program" means a 92  
person engaged in or traveling to or from a meeting, neighborhood 93  
patrol, or other scheduled activity of a citizens on patrol 94  
program. 95

**Sec. 2903.12.** (A) No person, while under the influence of 96  
sudden passion or in a sudden fit of rage, either of which is 97  
brought on by serious provocation occasioned by the victim that is 98  
reasonably sufficient to incite the person into using deadly 99  
force, shall knowingly: 100

(1) Cause serious physical harm to another or to another's 101  
unborn; 102

(2) Cause or attempt to cause physical harm to another or to 103  
another's unborn by means of a deadly weapon or dangerous 104  
ordnance, as defined in section 2923.11 of the Revised Code. 105

(B) Whoever violates this section is guilty of aggravated 106  
assault, a felony of the fourth degree. If the victim of the 107  
offense is a peace officer ~~or~~, an investigator of the bureau of 108  
criminal identification and investigation, or a participant in a 109

citizens on patrol program, aggravated assault is a felony of the 110  
third degree. If the victim of the offense is a peace officer ~~or,~~ 111  
an investigator of the bureau of criminal identification and 112  
investigation, or a participant in a citizens on patrol program, 113  
and if the victim suffered serious physical harm as a result of 114  
the commission of the offense, aggravated assault is a felony of 115  
the third degree, and the court, pursuant to division (F) of 116  
section 2929.13 of the Revised Code, shall impose as a mandatory 117  
prison term one of the prison terms prescribed for a felony of the 118  
third degree. 119

(C) As used in this section: 120

(1) "Investigator of the bureau of criminal identification 121  
and investigation" has the same meaning as in section 2903.11 of 122  
the Revised Code. 123

(2) "Peace officer" has the same meaning as in section 124  
2935.01 of the Revised Code. 125

(3) "Citizens on patrol program," "law enforcement agency," 126  
and "participant" have the same meanings as in section 2903.11 of 127  
the Revised Code. 128

**Sec. 2903.13.** (A) No person shall knowingly cause or attempt 129  
to cause physical harm to another or to another's unborn. 130

(B) No person shall recklessly cause serious physical harm to 131  
another or to another's unborn. 132

(C) Whoever violates this section is guilty of assault. 133  
Except as otherwise provided in division (C)(1), (2), (3), (4), or 134  
(5) of this section, assault is a misdemeanor of the first degree. 135

(1) Except as otherwise provided in this division, if the 136  
offense is committed by a caretaker against a functionally 137  
impaired person under the caretaker's care, assault is a felony of 138  
the fourth degree. If the offense is committed by a caretaker 139

against a functionally impaired person under the caretaker's care, 140  
if the offender previously has been convicted of or pleaded guilty 141  
to a violation of this section or section 2903.11 or 2903.16 of 142  
the Revised Code, and if in relation to the previous conviction 143  
the offender was a caretaker and the victim was a functionally 144  
impaired person under the offender's care, assault is a felony of 145  
the third degree. 146

(2) If the offense is committed in any of the following 147  
circumstances, assault is a felony of the fifth degree: 148

(a) The offense occurs in or on the grounds of a state 149  
correctional institution or an institution of the department of 150  
youth services, the victim of the offense is an employee of the 151  
department of rehabilitation and correction, the department of 152  
youth services, or a probation department or is on the premises of 153  
the particular institution for business purposes or as a visitor, 154  
and the offense is committed by a person incarcerated in the state 155  
correctional institution, by a person institutionalized in the 156  
department of youth services institution pursuant to a commitment 157  
to the department of youth services, by a parolee, by an offender 158  
under transitional control, under a community control sanction, or 159  
on an escorted visit, by a person under post-release control, or 160  
by an offender under any other type of supervision by a government 161  
agency. 162

(b) The offense occurs in or on the grounds of a local 163  
correctional facility, the victim of the offense is an employee of 164  
the local correctional facility or a probation department or is on 165  
the premises of the facility for business purposes or as a 166  
visitor, and the offense is committed by a person who is under 167  
custody in the facility subsequent to the person's arrest for any 168  
crime or delinquent act, subsequent to the person's being charged 169  
with or convicted of any crime, or subsequent to the person's 170  
being alleged to be or adjudicated a delinquent child. 171

(c) The offense occurs off the grounds of a state 172  
correctional institution and off the grounds of an institution of 173  
the department of youth services, the victim of the offense is an 174  
employee of the department of rehabilitation and correction, the 175  
department of youth services, or a probation department, the 176  
offense occurs during the employee's official work hours and while 177  
the employee is engaged in official work responsibilities, and the 178  
offense is committed by a person incarcerated in a state 179  
correctional institution or institutionalized in the department of 180  
youth services who temporarily is outside of the institution for 181  
any purpose, by a parolee, by an offender under transitional 182  
control, under a community control sanction, or on an escorted 183  
visit, by a person under post-release control, or by an offender 184  
under any other type of supervision by a government agency. 185

(d) The offense occurs off the grounds of a local 186  
correctional facility, the victim of the offense is an employee of 187  
the local correctional facility or a probation department, the 188  
offense occurs during the employee's official work hours and while 189  
the employee is engaged in official work responsibilities, and the 190  
offense is committed by a person who is under custody in the 191  
facility subsequent to the person's arrest for any crime or 192  
delinquent act, subsequent to the person being charged with or 193  
convicted of any crime, or subsequent to the person being alleged 194  
to be or adjudicated a delinquent child and who temporarily is 195  
outside of the facility for any purpose or by a parolee, by an 196  
offender under transitional control, under a community control 197  
sanction, or on an escorted visit, by a person under post-release 198  
control, or by an offender under any other type of supervision by 199  
a government agency. 200

(e) The victim of the offense is a school teacher or 201  
administrator or a school bus operator, and the offense occurs in 202  
a school, on school premises, in a school building, on a school 203

bus, or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

(3) If the victim of the offense is a peace officer or an investigator of the bureau of criminal identification and investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties, or is a participant in a citizens on patrol program, assault is a felony of the fourth degree.

(4) If the victim of the offense is a peace officer ~~or~~, an investigator of the bureau of criminal identification and investigation, or a participant in a citizens on patrol program and if the victim suffered serious physical harm as a result of the commission of the offense, assault is a felony of the fourth degree, and the court, pursuant to division (F) of section 2929.13 of the Revised Code, shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least twelve months in duration.

(5) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, assault is either a felony of the fifth degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior



offense related to the officer's or employee's performance or	236
anticipated performance of official responsibilities or duties, a	237
felony of the fourth degree.	238
(D) As used in this section:	239
(1) "Peace officer" has the same meaning as in section	240
2935.01 of the Revised Code.	241
(2) "Firefighter" has the same meaning as in section 3937.41	242
of the Revised Code.	243
(3) "Emergency medical service" has the same meaning as in	244
section 4765.01 of the Revised Code.	245
(4) "Local correctional facility" means a county,	246
multicounty, municipal, municipal-county, or multicounty-municipal	247
jail or workhouse, a minimum security jail established under	248
section 341.23 or 753.21 of the Revised Code, or another county,	249
multicounty, municipal, municipal-county, or multicounty-municipal	250
facility used for the custody of persons arrested for any crime or	251
delinquent act, persons charged with or convicted of any crime, or	252
persons alleged to be or adjudicated a delinquent child.	253
(5) "Employee of a local correctional facility" means a	254
person who is an employee of the political subdivision or of one	255
or more of the affiliated political subdivisions that operates the	256
local correctional facility and who operates or assists in the	257
operation of the facility.	258
(6) "School teacher or administrator" means either of the	259
following:	260
(a) A person who is employed in the public schools of the	261
state under a contract described in section 3319.08 of the Revised	262
Code in a position in which the person is required to have a	263
certificate issued pursuant to sections 3319.22 to 3319.311 of the	264
Revised Code.	265

(b) A person who is employed by a nonpublic school for which 266  
the state board of education prescribes minimum standards under 267  
section 3301.07 of the Revised Code and who is certificated in 268  
accordance with section 3301.071 of the Revised Code. 269

(7) "Community control sanction" has the same meaning as in 270  
section 2929.01 of the Revised Code. 271

(8) "Escorted visit" means an escorted visit granted under 272  
section 2967.27 of the Revised Code. 273

(9) "Post-release control" and "transitional control" have 274  
the same meanings as in section 2967.01 of the Revised Code. 275

(10) "Investigator of the bureau of criminal identification 276  
and investigation" has the same meaning as in section 2903.11 of 277  
the Revised Code. 278

(11) "Citizens on patrol program," "law enforcement agency," 279  
and "participant" have the same meanings as in section 2903.11 of 280  
the Revised Code. 281

**Section 2.** That existing sections 2903.11, 2903.12, and 282  
2903.13 of the Revised Code are hereby repealed. 283

**Section 3.** Section 2903.11 of the Revised Code is presented 284  
in this act as a composite of the section as amended by both Sub. 285  
H.B. 347 and Am. Sub. H.B. 461 of the 126th General Assembly. The 286  
General Assembly, applying the principle stated in division (B) of 287  
section 1.52 of the Revised Code that amendments are to be 288  
harmonized if reasonably capable of simultaneous operation, finds 289  
that the composite is the resulting version of the section in 290  
effect prior to the effective date of the section as presented in 291  
this act. 292