

As Introduced

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

S. B. No. 137

Senator Austria

**Cosponsors: Senators Carey, Clancy, Coughlin, Goodman, Schaffer, Cafaro,
Bocchieri**

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A B I L L

To amend section 2903.13 of the Revised Code to 1
increase the penalty for assault when the victim 2
of the offense is seventy years of age or older. 3

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

Section 1. That section 2903.13 of the Revised Code be 4
amended to read as follows: 5

Sec. 2903.13. (A) No person shall knowingly cause or attempt 6
to cause physical harm to another or to another's unborn. 7

(B) No person shall recklessly cause serious physical harm to 8
another or to another's unborn. 9

(C) Whoever violates this section is guilty of assault. 10
Except as otherwise provided in division (C)(1), (2), (3), (4), ~~or~~ 11
(5), or (6) of this section, assault is a misdemeanor of the first 12
degree. 13

(1) Except as otherwise provided in this division, if the 14
offense is committed by a caretaker against a functionally 15
impaired person under the caretaker's care, assault is a felony of 16
the fourth degree. If the offense is committed by a caretaker 17

against a functionally impaired person under the caretaker's care, 18
if the offender previously has been convicted of or pleaded guilty 19
to a violation of this section or section 2903.11 or 2903.16 of 20
the Revised Code, and if in relation to the previous conviction 21
the offender was a caretaker and the victim was a functionally 22
impaired person under the offender's care, assault is a felony of 23
the third degree. 24

(2) If the offense is committed in any of the following 25
circumstances, assault is a felony of the fifth degree: 26

(a) The offense occurs in or on the grounds of a state 27
correctional institution or an institution of the department of 28
youth services, the victim of the offense is an employee of the 29
department of rehabilitation and correction, the department of 30
youth services, or a probation department or is on the premises of 31
the particular institution for business purposes or as a visitor, 32
and the offense is committed by a person incarcerated in the state 33
correctional institution, by a person institutionalized in the 34
department of youth services institution pursuant to a commitment 35
to the department of youth services, by a parolee, by an offender 36
under transitional control, under a community control sanction, or 37
on an escorted visit, by a person under post-release control, or 38
by an offender under any other type of supervision by a government 39
agency. 40

(b) The offense occurs in or on the grounds of a local 41
correctional facility, the victim of the offense is an employee of 42
the local correctional facility or a probation department or is on 43
the premises of the facility for business purposes or as a 44
visitor, and the offense is committed by a person who is under 45
custody in the facility subsequent to the person's arrest for any 46
crime or delinquent act, subsequent to the person's being charged 47
with or convicted of any crime, or subsequent to the person's 48
being alleged to be or adjudicated a delinquent child. 49

(c) The offense occurs off the grounds of a state 50
correctional institution and off the grounds of an institution of 51
the department of youth services, the victim of the offense is an 52
employee of the department of rehabilitation and correction, the 53
department of youth services, or a probation department, the 54
offense occurs during the employee's official work hours and while 55
the employee is engaged in official work responsibilities, and the 56
offense is committed by a person incarcerated in a state 57
correctional institution or institutionalized in the department of 58
youth services who temporarily is outside of the institution for 59
any purpose, by a parolee, by an offender under transitional 60
control, under a community control sanction, or on an escorted 61
visit, by a person under post-release control, or by an offender 62
under any other type of supervision by a government agency. 63

(d) The offense occurs off the grounds of a local 64
correctional facility, the victim of the offense is an employee of 65
the local correctional facility or a probation department, the 66
offense occurs during the employee's official work hours and while 67
the employee is engaged in official work responsibilities, and the 68
offense is committed by a person who is under custody in the 69
facility subsequent to the person's arrest for any crime or 70
delinquent act, subsequent to the person being charged with or 71
convicted of any crime, or subsequent to the person being alleged 72
to be or adjudicated a delinquent child and who temporarily is 73
outside of the facility for any purpose or by a parolee, by an 74
offender under transitional control, under a community control 75
sanction, or on an escorted visit, by a person under post-release 76
control, or by an offender under any other type of supervision by 77
a government agency. 78

(e) The victim of the offense is a school teacher or 79
administrator or a school bus operator, and the offense occurs in 80
a school, on school premises, in a school building, on a school 81

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, 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 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 anticipated performance of official responsibilities or duties, a

felony of the fourth degree.	114
<u>(6) If the victim of the offense is seventy years of age or</u>	115
<u>older, assault is a felony of the fifth degree.</u>	116
(D) As used in this section:	117
(1) "Peace officer" has the same meaning as in section	118
2935.01 of the Revised Code.	119
(2) "Firefighter" has the same meaning as in section 3937.41	120
of the Revised Code.	121
(3) "Emergency medical service" has the same meaning as in	122
section 4765.01 of the Revised Code.	123
(4) "Local correctional facility" means a county,	124
multicounty, municipal, municipal-county, or multicounty-municipal	125
jail or workhouse, a minimum security jail established under	126
section 341.23 or 753.21 of the Revised Code, or another county,	127
multicounty, municipal, municipal-county, or multicounty-municipal	128
facility used for the custody of persons arrested for any crime or	129
delinquent act, persons charged with or convicted of any crime, or	130
persons alleged to be or adjudicated a delinquent child.	131
(5) "Employee of a local correctional facility" means a	132
person who is an employee of the political subdivision or of one	133
or more of the affiliated political subdivisions that operates the	134
local correctional facility and who operates or assists in the	135
operation of the facility.	136
(6) "School teacher or administrator" means either of the	137
following:	138
(a) A person who is employed in the public schools of the	139
state under a contract described in section 3319.08 of the Revised	140
Code in a position in which the person is required to have a	141
certificate issued pursuant to sections 3319.22 to 3319.311 of the	142
Revised Code.	143

(b) A person who is employed by a nonpublic school for which	144
the state board of education prescribes minimum standards under	145
section 3301.07 of the Revised Code and who is certificated in	146
accordance with section 3301.071 of the Revised Code.	147
(7) "Community control sanction" has the same meaning as in	148
section 2929.01 of the Revised Code.	149
(8) "Escorted visit" means an escorted visit granted under	150
section 2967.27 of the Revised Code.	151
(9) "Post-release control" and "transitional control" have	152
the same meanings as in section 2967.01 of the Revised Code.	153
(10) "Investigator of the bureau of criminal identification	154
and investigation" has the same meaning as in section 2903.11 of	155
the Revised Code.	156
Section 2. That existing section 2903.13 of the Revised Code	157
is hereby repealed.	158