

As Introduced

129th General Assembly
Regular Session
2011-2012

H. B. No. 384

Representatives Driehaus, Pillich

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A BILL

To amend section 2903.13 of the Revised Code to
increase to a felony of the fifth degree the
penalty for committing assault against an Ohio
transit system bus operator or maintenance worker
or a contracted employee performing those services
for an Ohio transit system.

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

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

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

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

(C) (1) Whoever violates this section is guilty of assault,
and the court shall sentence the offender as provided in ~~this~~
~~division and~~ divisions (C) ~~(1)~~, (2), (3), (4), (5), ~~and~~ (6), (7),
and (8) of this section. ~~Except~~

(2) ~~Except~~ as otherwise provided in division (C) ~~(1)~~, ~~(2)~~,
(3), (4), ~~or~~ (5), (6), or (7) of this section, assault is a
misdemeanor of the first degree.

~~(1)~~(3) Except as otherwise provided in this division, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, assault is a felony of the fourth degree. If the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, if the offender previously has been convicted of or pleaded guilty to a violation of this section or section 2903.11 or 2903.16 of the Revised Code, and if in relation to the previous conviction the offender was a caretaker and the victim was a functionally impaired person under the offender's care, assault is a felony of the third degree.

~~(2)~~(4) If the offense is committed in any of the following circumstances, assault is a felony of the fifth degree:

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

(b) The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under

custody in the facility subsequent to the person's arrest for any 52
crime or delinquent act, subsequent to the person's being charged 53
with or convicted of any crime, or subsequent to the person's 54
being alleged to be or adjudicated a delinquent child. 55

(c) The offense occurs off the grounds of a state 56
correctional institution and off the grounds of an institution of 57
the department of youth services, the victim of the offense is an 58
employee of the department of rehabilitation and correction, the 59
department of youth services, or a probation department, the 60
offense occurs during the employee's official work hours and while 61
the employee is engaged in official work responsibilities, and the 62
offense is committed by a person incarcerated in a state 63
correctional institution or institutionalized in the department of 64
youth services who temporarily is outside of the institution for 65
any purpose, by a parolee, by an offender under transitional 66
control, under a community control sanction, or on an escorted 67
visit, by a person under post-release control, or by an offender 68
under any other type of supervision by a government agency. 69

(d) The offense occurs off the grounds of a local 70
correctional facility, the victim of the offense is an employee of 71
the local correctional facility or a probation department, the 72
offense occurs during the employee's official work hours and while 73
the employee is engaged in official work responsibilities, and the 74
offense is committed by a person who is under custody in the 75
facility subsequent to the person's arrest for any crime or 76
delinquent act, subsequent to the person being charged with or 77
convicted of any crime, or subsequent to the person being alleged 78
to be or adjudicated a delinquent child and who temporarily is 79
outside of the facility for any purpose or by a parolee, by an 80
offender under transitional control, under a community control 81
sanction, or on an escorted visit, by a person under post-release 82
control, or by an offender under any other type of supervision by 83

a government agency. 84

(e) The victim of the offense is a school teacher or 85
administrator or a school bus operator, and the offense occurs in 86
a school, on school premises, in a school building, on a school 87
bus, or while the victim is outside of school premises or a school 88
bus and is engaged in duties or official responsibilities 89
associated with the victim's employment or position as a school 90
teacher or administrator or a school bus operator, including, but 91
not limited to, driving, accompanying, or chaperoning students at 92
or on class or field trips, athletic events, or other school 93
extracurricular activities or functions outside of school 94
premises. 95

(f) The victim of the offense is an operator of an Ohio 96
transit system bus, a maintenance worker of an Ohio transit 97
system, or a contracted employee providing services to an Ohio 98
transit system as an operator of a system bus or a maintenance 99
worker for the system, and the offense occurs while the victim is 100
engaged in duties or official responsibilities associated with the 101
victim's employment or position as an operator of an Ohio transit 102
system bus or a maintenance worker of or for an Ohio transit 103
system. 104

~~(3)~~(5) If the victim of the offense is a peace officer or an 105
investigator of the bureau of criminal identification and 106
investigation, a firefighter, or a person performing emergency 107
medical service, while in the performance of their official 108
duties, assault is a felony of the fourth degree. 109

~~(4)~~(6) If the victim of the offense is a peace officer or an 110
investigator of the bureau of criminal identification and 111
investigation and if the victim suffered serious physical harm as 112
a result of the commission of the offense, assault is a felony of 113
the fourth degree, and the court, pursuant to division (F) of 114
section 2929.13 of the Revised Code, shall impose as a mandatory 115

prison term one of the prison terms prescribed for a felony of the 116
fourth degree that is at least twelve months in duration. 117

~~(5)~~(7) If the victim of the offense is an officer or employee 118
of a public children services agency or a private child placing 119
agency and the offense relates to the officer's or employee's 120
performance or anticipated performance of official 121
responsibilities or duties, assault is either a felony of the 122
fifth degree or, if the offender previously has been convicted of 123
or pleaded guilty to an offense of violence, the victim of that 124
prior offense was an officer or employee of a public children 125
services agency or private child placing agency, and that prior 126
offense related to the officer's or employee's performance or 127
anticipated performance of official responsibilities or duties, a 128
felony of the fourth degree. 129

~~(6)~~(8) If an offender who is convicted of or pleads guilty to 130
assault when it is a misdemeanor also is convicted of or pleads 131
guilty to a specification as described in section 2941.1423 of the 132
Revised Code that was included in the indictment, count in the 133
indictment, or information charging the offense, the court shall 134
sentence the offender to a mandatory jail term as provided in 135
division (G) of section 2929.24 of the Revised Code. 136

If an offender who is convicted of or pleads guilty to 137
assault when it is a felony also is convicted of or pleads guilty 138
to a specification as described in section 2941.1423 of the 139
Revised Code that was included in the indictment, count in the 140
indictment, or information charging the offense, except as 141
otherwise provided in division (C)~~(4)~~(6) of this section, the 142
court shall sentence the offender to a mandatory prison term as 143
provided in division (B)(8) of section 2929.14 of the Revised 144
Code. 145

(D) As used in this section: 146

(1) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	147 148
(2) "Firefighter" has the same meaning as in section 3937.41 of the Revised Code.	149 150
(3) "Emergency medical service" has the same meaning as in section 4765.01 of the Revised Code.	151 152
(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail established under section 341.23 or 753.21 of the Revised Code, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.	153 154 155 156 157 158 159 160
(5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.	161 162 163 164 165
(6) "School teacher or administrator" means either of the following:	166 167
(a) A person who is employed in the public schools of the state under a contract described in section 3319.08 of the Revised Code in a position in which the person is required to have a certificate issued pursuant to sections 3319.22 to 3319.311 of the Revised Code.	168 169 170 171 172
(b) A person who is employed by a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and who is certificated in accordance with section 3301.071 of the Revised Code.	173 174 175 176

(7) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.	177 178
(8) "Escorted visit" means an escorted visit granted under section 2967.27 of the Revised Code.	179 180
(9) "Post-release control" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.	181 182
(10) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.	183 184 185
<u>(11) "Ohio transit system bus" means a motor vehicle of an Ohio transit system that is designed for carrying more than nine passengers and used for the transportation of persons but does not mean any school bus.</u>	186 187 188 189
<u>(12) "Ohio transit system" has the same meaning as in section 2305.33 of the Revised Code.</u>	190 191
<u>(13) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.</u>	192 193
Section 2. That existing section 2903.13 of the Revised Code is hereby repealed.	194 195