

As Introduced

**129th General Assembly
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H. B. No. 38

Representative Luckie

Cosponsors: Representatives Murray, Weddington

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A B I L L

To amend section 2903.13 of the Revised Code to 1
impose the same criminal penalties for assaulting 2
a school security guard as are imposed for 3
assaulting a school teacher. 4

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

Section 1. That section 2903.13 of the Revised Code be 5
amended to read as follows: 6

Sec. 2903.13. (A) No person shall knowingly cause or attempt 7
to cause physical harm to another or to another's unborn. 8

(B) No person shall recklessly cause serious physical harm to 9
another or to another's unborn. 10

(C) Whoever violates this section is guilty of assault, and 11
the court shall sentence the offender as provided in this division 12
and divisions (C)(1), (2), (3), (4), (5), and (6) of this section. 13
Except as otherwise provided in division (C)(1), (2), (3), (4), or 14
(5) of this section, assault is a misdemeanor of the first degree. 15

(1) Except as otherwise provided in this division, if the 16
offense is committed by a caretaker against a functionally 17
impaired person under the caretaker's care, assault is a felony of 18

the fourth degree. If the offense is committed by a caretaker 19
against a functionally impaired person under the caretaker's care, 20
if the offender previously has been convicted of or pleaded guilty 21
to a violation of this section or section 2903.11 or 2903.16 of 22
the Revised Code, and if in relation to the previous conviction 23
the offender was a caretaker and the victim was a functionally 24
impaired person under the offender's care, assault is a felony of 25
the third degree. 26

(2) If the offense is committed in any of the following 27
circumstances, assault is a felony of the fifth degree: 28

(a) The offense occurs in or on the grounds of a state 29
correctional institution or an institution of the department of 30
youth services, the victim of the offense is an employee of the 31
department of rehabilitation and correction, the department of 32
youth services, or a probation department or is on the premises of 33
the particular institution for business purposes or as a visitor, 34
and the offense is committed by a person incarcerated in the state 35
correctional institution, by a person institutionalized in the 36
department of youth services institution pursuant to a commitment 37
to the department of youth services, by a parolee, by an offender 38
under transitional control, under a community control sanction, or 39
on an escorted visit, by a person under post-release control, or 40
by an offender under any other type of supervision by a government 41
agency. 42

(b) The offense occurs in or on the grounds of a local 43
correctional facility, the victim of the offense is an employee of 44
the local correctional facility or a probation department or is on 45
the premises of the facility for business purposes or as a 46
visitor, and the offense is committed by a person who is under 47
custody in the facility subsequent to the person's arrest for any 48
crime or delinquent act, subsequent to the person's being charged 49
with or convicted of any crime, or subsequent to the person's 50

being alleged to be or adjudicated a delinquent child. 51

(c) The offense occurs off the grounds of a state 52
correctional institution and off the grounds of an institution of 53
the department of youth services, the victim of the offense is an 54
employee of the department of rehabilitation and correction, the 55
department of youth services, or a probation department, the 56
offense occurs during the employee's official work hours and while 57
the employee is engaged in official work responsibilities, and the 58
offense is committed by a person incarcerated in a state 59
correctional institution or institutionalized in the department of 60
youth services who temporarily is outside of the institution for 61
any purpose, by a parolee, by an offender under transitional 62
control, under a community control sanction, or on an escorted 63
visit, by a person under post-release control, or by an offender 64
under any other type of supervision by a government agency. 65

(d) The offense occurs off the grounds of a local 66
correctional facility, the victim of the offense is an employee of 67
the local correctional facility or a probation department, the 68
offense occurs during the employee's official work hours and while 69
the employee is engaged in official work responsibilities, and the 70
offense is committed by a person who is under custody in the 71
facility subsequent to the person's arrest for any crime or 72
delinquent act, subsequent to the person being charged with or 73
convicted of any crime, or subsequent to the person being alleged 74
to be or adjudicated a delinquent child and who temporarily is 75
outside of the facility for any purpose or by a parolee, by an 76
offender under transitional control, under a community control 77
sanction, or on an escorted visit, by a person under post-release 78
control, or by an offender under any other type of supervision by 79
a government agency. 80

(e) The victim of the offense is a school teacher or 81
administrator ~~or~~, a school bus operator, or a school security 82

guard, and the offense occurs in a school, on school premises, in 83
a school building, on a school bus, or while the victim is outside 84
of school premises or a school bus and is engaged in duties or 85
official responsibilities associated with the victim's employment 86
or position as a school teacher or administrator ~~or~~, a school bus 87
operator, or a school security guard, including, but not limited 88
to, driving, accompanying, or chaperoning students at or on class 89
or field trips, athletic events, or other school extracurricular 90
activities or functions outside of school premises. 91

(3) If the victim of the offense is a peace officer or an 92
investigator of the bureau of criminal identification and 93
investigation, a firefighter, or a person performing emergency 94
medical service, while in the performance of their official 95
duties, assault is a felony of the fourth degree. 96

(4) If the victim of the offense is a peace officer or an 97
investigator of the bureau of criminal identification and 98
investigation and if the victim suffered serious physical harm as 99
a result of the commission of the offense, assault is a felony of 100
the fourth degree, and the court, pursuant to division (F) of 101
section 2929.13 of the Revised Code, shall impose as a mandatory 102
prison term one of the prison terms prescribed for a felony of the 103
fourth degree that is at least twelve months in duration. 104

(5) If the victim of the offense is an officer or employee of 105
a public children services agency or a private child placing 106
agency and the offense relates to the officer's or employee's 107
performance or anticipated performance of official 108
responsibilities or duties, assault is either a felony of the 109
fifth degree or, if the offender previously has been convicted of 110
or pleaded guilty to an offense of violence, the victim of that 111
prior offense was an officer or employee of a public children 112
services agency or private child placing agency, and that prior 113
offense related to the officer's or employee's performance or 114

anticipated performance of official responsibilities or duties, a 115
felony of the fourth degree. 116

(6) If an offender who is convicted of or pleads guilty to 117
assault when it is a misdemeanor also is convicted of or pleads 118
guilty to a specification as described in section 2941.1423 of the 119
Revised Code that was included in the indictment, count in the 120
indictment, or information charging the offense, the court shall 121
sentence the offender to a mandatory jail term as provided in 122
division (G) of section 2929.24 of the Revised Code. 123

If an offender who is convicted of or pleads guilty to 124
assault when it is a felony also is convicted of or pleads guilty 125
to a specification as described in section 2941.1423 of the 126
Revised Code that was included in the indictment, count in the 127
indictment, or information charging the offense, except as 128
otherwise provided in division (C)(4) of this section, the court 129
shall sentence the offender to a mandatory prison term as provided 130
in division (D)(8) of section 2929.14 of the Revised Code. 131

(D) As used in this section: 132 133

(1) "Peace officer" has the same meaning as in section 134
2935.01 of the Revised Code. 135

(2) "Firefighter" has the same meaning as in section 3937.41 136
of the Revised Code. 137

(3) "Emergency medical service" has the same meaning as in 138
section 4765.01 of the Revised Code. 139

(4) "Local correctional facility" means a county, 140
multicounty, municipal, municipal-county, or multicounty-municipal 141
jail or workhouse, a minimum security jail established under 142
section 341.23 or 753.21 of the Revised Code, or another county, 143
multicounty, municipal, municipal-county, or multicounty-municipal 144
facility used for the custody of persons arrested for any crime or 145

delinquent act, persons charged with or convicted of any crime, or 146
persons alleged to be or adjudicated a delinquent child. 147

(5) "Employee of a local correctional facility" means a 148
person who is an employee of the political subdivision or of one 149
or more of the affiliated political subdivisions that operates the 150
local correctional facility and who operates or assists in the 151
operation of the facility. 152

(6) "School teacher or administrator" means either of the 153
following: 154

(a) A person who is employed in the public schools of the 155
state under a contract described in section 3319.08 of the Revised 156
Code in a position in which the person is required to have a 157
certificate issued pursuant to sections 3319.22 to 3319.311 of the 158
Revised Code. 159

(b) A person who is employed by a nonpublic school for which 160
the state board of education prescribes minimum standards under 161
section 3301.07 of the Revised Code and who is certificated in 162
accordance with section 3301.071 of the Revised Code. 163

(7) "Community control sanction" has the same meaning as in 164
section 2929.01 of the Revised Code. 165

(8) "Escorted visit" means an escorted visit granted under 166
section 2967.27 of the Revised Code. 167

(9) "Post-release control" and "transitional control" have 168
the same meanings as in section 2967.01 of the Revised Code. 169

(10) "Investigator of the bureau of criminal identification 170
and investigation" has the same meaning as in section 2903.11 of 171
the Revised Code. 172

Section 2. That existing section 2903.13 of the Revised Code 173
is hereby repealed. 174