

As Introduced

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H. B. No. 90

Representative Driehaus

Cosponsors: Representatives Murray, Yuko, Pillich, 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 uniformed law enforcement volunteer program 4
as are imposed for 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 19
disclosing that knowledge to the other person prior to engaging in 20
the sexual conduct; 21

(2) Engage in sexual conduct with a person whom the offender 22
knows or has reasonable cause to believe lacks the mental capacity 23
to appreciate the significance of the knowledge that the offender 24
has tested positive as a carrier of a virus that causes acquired 25
immunodeficiency syndrome; 26

(3) Engage in sexual conduct with a person under eighteen 27
years of age who is not the spouse of the offender. 28

(C) The prosecution of a person under this section does not 29
preclude prosecution of that person under section 2907.02 of the 30
Revised Code. 31

(D)(1)(a) Whoever violates this section is guilty of 32
felonious assault. Except as otherwise provided in this division 33
or division (D)(1)(b) of this section, felonious assault is a 34
felony of the second degree. If the victim of a violation of 35
division (A) of this section is a peace officer ~~or~~, an 36
investigator of the bureau of criminal identification and 37
investigation, or a readily identifiable participant in a 38
uniformed law enforcement volunteer program, felonious assault is 39
a felony of the first degree. 40

(b) Regardless of whether the felonious assault is a felony 41
of the first or second degree under division (D)(1)(a) of this 42
section, if the offender also is convicted of or pleads guilty to 43
a specification as described in section 2941.1423 of the Revised 44
Code that was included in the indictment, count in the indictment, 45
or information charging the offense, except as otherwise provided 46
in this division or unless a longer prison term is required under 47
any other provision of law, the court shall sentence the offender 48
to a mandatory prison term as provided in division (D)(8) of 49

section 2929.14 of the Revised Code. If the victim of the offense 50
is a peace officer ~~or~~, an investigator of the bureau of criminal 51
identification and investigation, or a readily identifiable 52
participant in a uniformed law enforcement volunteer program, and 53
if the victim suffered serious physical harm as a result of the 54
commission of the offense, felonious assault is a felony of the 55
first degree, and the court, pursuant to division (F) of section 56
2929.13 of the Revised Code, shall impose as a mandatory prison 57
term one of the prison terms prescribed for a felony of the first 58
degree. 59

(2) In addition to any other sanctions imposed pursuant to 60
division (D)(1) of this section for felonious assault committed in 61
violation of division (A)(2) of this section, if the deadly weapon 62
used in the commission of the violation is a motor vehicle, the 63
court shall impose upon the offender a class two suspension of the 64
offender's driver's license, commercial driver's license, 65
temporary instruction permit, probationary license, or nonresident 66
operating privilege as specified in division (A)(2) of section 67
4510.02 of the Revised Code. 68

(E) As used in this section: 69

(1) "Deadly weapon" and "dangerous ordnance" have the same 70
meanings as in section 2923.11 of the Revised Code. 71

(2) "Motor vehicle" has the same meaning as in section 72
4501.01 of the Revised Code. 73

(3) "Peace officer" has the same meaning as in section 74
2935.01 of the Revised Code. 75

(4) "Sexual conduct" has the same meaning as in section 76
2907.01 of the Revised Code, except that, as used in this section, 77
it does not include the insertion of an instrument, apparatus, or 78
other object that is not a part of the body into the vaginal or 79
anal opening of another, unless the offender knew at the time of 80

the insertion that the instrument, apparatus, or other object 81
carried the offender's bodily fluid. 82

(5) "Investigator of the bureau of criminal identification 83
and investigation" means an investigator of the bureau of criminal 84
identification and investigation who is commissioned by the 85
superintendent of the bureau as a special agent for the purpose of 86
assisting law enforcement officers or providing emergency 87
assistance to peace officers pursuant to authority granted under 88
section 109.541 of the Revised Code. 89

(6) "Investigator" has the same meaning as in section 109.541 90
of the Revised Code. 91

(7) "Uniformed law enforcement volunteer program" means a law 92
enforcement volunteer program that is registered with the 93
volunteers in police service program that is administered by the 94
international association of chiefs of police on behalf of the 95
United States department of justice and that is formed in 96
affiliation or association with, and trained by, a law enforcement 97
agency to observe activities within a neighborhood, to report the 98
volunteers' observations to the law enforcement agency, and to 99
take other actions intended to reduce crime in the neighborhood. 100

(8) "Law enforcement agency" has the same meaning as in 101
section 109.573 of the Revised Code and also includes the office 102
of any village marshal, any police force of a metropolitan housing 103
authority, any state university law enforcement officer 104
department, and the office of any township constable. 105

(9) "Participant in a uniformed law enforcement volunteer 106
program" means a person engaged in or traveling to or from a 107
meeting, neighborhood patrol, or other scheduled activity of a 108
uniformed law enforcement volunteer program. 109

Sec. 2903.12. (A) No person, while under the influence of 110

sudden passion or in a sudden fit of rage, either of which is 111
brought on by serious provocation occasioned by the victim that is 112
reasonably sufficient to incite the person into using deadly 113
force, shall knowingly: 114

(1) Cause serious physical harm to another or to another's 115
unborn; 116

(2) Cause or attempt to cause physical harm to another or to 117
another's unborn by means of a deadly weapon or dangerous 118
ordnance, as defined in section 2923.11 of the Revised Code. 119

(B) Whoever violates this section is guilty of aggravated 120
assault. Except as otherwise provided in this division, aggravated 121
assault is a felony of the fourth degree. If the victim of the 122
offense is a peace officer ~~or~~, an investigator of the bureau of 123
criminal identification and investigation, or a readily 124
identifiable participant in a uniformed law enforcement volunteer 125
program, aggravated assault is a felony of the third degree. 126
Regardless of whether the offense is a felony of the third or 127
fourth degree under this division, if the offender also is 128
convicted of or pleads guilty to a specification as described in 129
section 2941.1423 of the Revised Code that was included in the 130
indictment, count in the indictment, or information charging the 131
offense, except as otherwise provided in this division, the court 132
shall sentence the offender to a mandatory prison term as provided 133
in division (D)(8) of section 2929.14 of the Revised Code. If the 134
victim of the offense is a peace officer ~~or~~, an investigator of 135
the bureau of criminal identification and investigation, or a 136
readily identifiable participant in a uniformed law enforcement 137
volunteer program, and if the victim suffered serious physical 138
harm as a result of the commission of the offense, aggravated 139
assault is a felony of the third degree, and the court, pursuant 140
to division (F) of section 2929.13 of the Revised Code, shall 141
impose as a mandatory prison term one of the prison terms 142

prescribed for a felony of the third degree.	143
(C) As used in this section:	144
(1) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.	145 146 147
(2) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	148 149
(3) <u>"Uniformed law enforcement volunteer program," "law enforcement agency," and "participant in a uniformed law enforcement volunteer program" have the same meanings as in section 2903.11 of the Revised Code.</u>	150 151 152 153
Sec. 2903.13. (A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.	154 155
(B) No person shall recklessly cause serious physical harm to another or to another's unborn.	156 157
(C) 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) of this section. Except as otherwise provided in division (C)(1), (2), (3), (4), or (5) of this section, assault is a misdemeanor of the first degree.	158 159 160 161 162
(1) 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	163 164 165 166 167 168 169 170 171 172

the third degree. 173

(2) If the offense is committed in any of the following 174
circumstances, assault is a felony of the fifth degree: 175

(a) The offense occurs in or on the grounds of a state 176
correctional institution or an institution of the department of 177
youth services, the victim of the offense is an employee of the 178
department of rehabilitation and correction, the department of 179
youth services, or a probation department or is on the premises of 180
the particular institution for business purposes or as a visitor, 181
and the offense is committed by a person incarcerated in the state 182
correctional institution, by a person institutionalized in the 183
department of youth services institution pursuant to a commitment 184
to the department of youth services, by a parolee, by an offender 185
under transitional control, under a community control sanction, or 186
on an escorted visit, by a person under post-release control, or 187
by an offender under any other type of supervision by a government 188
agency. 189

(b) The offense occurs in or on the grounds of a local 190
correctional facility, the victim of the offense is an employee of 191
the local correctional facility or a probation department or is on 192
the premises of the facility for business purposes or as a 193
visitor, and the offense is committed by a person who is under 194
custody in the facility subsequent to the person's arrest for any 195
crime or delinquent act, subsequent to the person's being charged 196
with or convicted of any crime, or subsequent to the person's 197
being alleged to be or adjudicated a delinquent child. 198

(c) The offense occurs off the grounds of a state 199
correctional institution and off the grounds of an institution of 200
the department of youth services, the victim of the offense is an 201
employee of the department of rehabilitation and correction, the 202
department of youth services, or a probation department, the 203
offense occurs during the employee's official work hours and while 204

the employee is engaged in official work responsibilities, and the 205
offense is committed by a person incarcerated in a state 206
correctional institution or institutionalized in the department of 207
youth services who temporarily is outside of the institution for 208
any purpose, by a parolee, by an offender under transitional 209
control, under a community control sanction, or on an escorted 210
visit, by a person under post-release control, or by an offender 211
under any other type of supervision by a government agency. 212

(d) The offense occurs off the grounds of a local 213
correctional facility, the victim of the offense is an employee of 214
the local correctional facility or a probation department, the 215
offense occurs during the employee's official work hours and while 216
the employee is engaged in official work responsibilities, and the 217
offense is committed by a person who is under custody in the 218
facility subsequent to the person's arrest for any crime or 219
delinquent act, subsequent to the person being charged with or 220
convicted of any crime, or subsequent to the person being alleged 221
to be or adjudicated a delinquent child and who temporarily is 222
outside of the facility for any purpose or by a parolee, by an 223
offender under transitional control, under a community control 224
sanction, or on an escorted visit, by a person under post-release 225
control, or by an offender under any other type of supervision by 226
a government agency. 227

(e) The victim of the offense is a school teacher or 228
administrator or a school bus operator, and the offense occurs in 229
a school, on school premises, in a school building, on a school 230
bus, or while the victim is outside of school premises or a school 231
bus and is engaged in duties or official responsibilities 232
associated with the victim's employment or position as a school 233
teacher or administrator or a school bus operator, including, but 234
not limited to, driving, accompanying, or chaperoning students at 235
or on class or field trips, athletic events, or other school 236

extracurricular activities or functions outside of school 237
premises. 238

(3) If the victim of the offense is a peace officer or an 239
investigator of the bureau of criminal identification and 240
investigation, a firefighter, or a person performing emergency 241
medical service, while in the performance of their official 242
duties, or is a readily identifiable participant in a uniformed 243
law enforcement volunteer program, assault is a felony of the 244
fourth degree. 245

(4) If the victim of the offense is a peace officer ~~or~~, an 246
investigator of the bureau of criminal identification and 247
investigation, or a readily identifiable participant in a 248
uniformed law enforcement volunteer program and if the victim 249
suffered serious physical harm as a result of the commission of 250
the offense, assault is a felony of the fourth degree, and the 251
court, pursuant to division (F) of section 2929.13 of the Revised 252
Code, shall impose as a mandatory prison term one of the prison 253
terms prescribed for a felony of the fourth degree that is at 254
least twelve months in duration. 255

(5) If the victim of the offense is an officer or employee of 256
a public children services agency or a private child placing 257
agency and the offense relates to the officer's or employee's 258
performance or anticipated performance of official 259
responsibilities or duties, assault is either a felony of the 260
fifth degree or, if the offender previously has been convicted of 261
or pleaded guilty to an offense of violence, the victim of that 262
prior offense was an officer or employee of a public children 263
services agency or private child placing agency, and that prior 264
offense related to the officer's or employee's performance or 265
anticipated performance of official responsibilities or duties, a 266
felony of the fourth degree. 267

(6) If an offender who is convicted of or pleads guilty to 268

assault when it is a misdemeanor also is convicted of or pleads 269
guilty to a specification as described in section 2941.1423 of the 270
Revised Code that was included in the indictment, count in the 271
indictment, or information charging the offense, the court shall 272
sentence the offender to a mandatory jail term as provided in 273
division (G) of section 2929.24 of the Revised Code. 274

If an offender who is convicted of or pleads guilty to 275
assault when it is a felony also is convicted of or pleads guilty 276
to a specification as described in section 2941.1423 of the 277
Revised Code that was included in the indictment, count in the 278
indictment, or information charging the offense, except as 279
otherwise provided in division (C)(4) of this section, the court 280
shall sentence the offender to a mandatory prison term as provided 281
in division (D)(8) of section 2929.14 of the Revised Code. 282

(D) As used in this section: 283

(1) "Peace officer" has the same meaning as in section 284
2935.01 of the Revised Code. 285

(2) "Firefighter" has the same meaning as in section 3937.41 286
of the Revised Code. 287

(3) "Emergency medical service" has the same meaning as in 288
section 4765.01 of the Revised Code. 289

(4) "Local correctional facility" means a county, 290
multicounty, municipal, municipal-county, or multicounty-municipal 291
jail or workhouse, a minimum security jail established under 292
section 341.23 or 753.21 of the Revised Code, or another county, 293
multicounty, municipal, municipal-county, or multicounty-municipal 294
facility used for the custody of persons arrested for any crime or 295
delinquent act, persons charged with or convicted of any crime, or 296
persons alleged to be or adjudicated a delinquent child. 297

(5) "Employee of a local correctional facility" means a 298
person who is an employee of the political subdivision or of one 299

or more of the affiliated political subdivisions that operates the 300
local correctional facility and who operates or assists in the 301
operation of the facility. 302

(6) "School teacher or administrator" means either of the 303
following: 304

(a) A person who is employed in the public schools of the 305
state under a contract described in section 3319.08 of the Revised 306
Code in a position in which the person is required to have a 307
certificate issued pursuant to sections 3319.22 to 3319.311 of the 308
Revised Code. 309

(b) A person who is employed by a nonpublic school for which 310
the state board of education prescribes minimum standards under 311
section 3301.07 of the Revised Code and who is certificated in 312
accordance with section 3301.071 of the Revised Code. 313

(7) "Community control sanction" has the same meaning as in 314
section 2929.01 of the Revised Code. 315

(8) "Escorted visit" means an escorted visit granted under 316
section 2967.27 of the Revised Code. 317

(9) "Post-release control" and "transitional control" have 318
the same meanings as in section 2967.01 of the Revised Code. 319

(10) "Investigator of the bureau of criminal identification 320
and investigation" has the same meaning as in section 2903.11 of 321
the Revised Code. 322

(11) "Uniformed law enforcement volunteer program," "law 323
enforcement agency," and "participant in a uniformed law 324
enforcement volunteer program" have the same meanings as in 325
section 2903.11 of the Revised Code. 326

Section 2. That existing sections 2903.11, 2903.12, and 327
2903.13 of the Revised Code are hereby repealed. 328