

As Reported by the House Judiciary Committee

130th General Assembly

Regular Session

2013-2014

Am. H. B. No. 355

Representatives Driehaus, Blair

**Cosponsors: Representatives Celebrezze, Boyd, Grossman, Ashford,
Mallory, Blessing, Strahorn, Reece, Phillips, Antonio, Stinziano, Foley,
Sheehy, Ramos, Boose, Pillich, Slesnick**

—

A B I L L

To amend sections 2903.13 and 2917.41 and to enact 1
section 306.20 of the Revised Code to increase the 2
penalty for assault when the victim is an employee 3
of an Ohio transit system whom the offender knows 4
or has reasonable cause to know is such an 5
employee engaged in the performance of the 6
victim's duties; to permit the court to impose a 7
fine of up to \$5000 and a six-month or lifetime 8
prohibition from riding an Ohio transit system for 9
assault committed in such specified circumstances; 10
to authorize Ohio transit systems to post a 11
warning sign indicating that abuse or assault of 12
staff will not be tolerated and might result in a 13
felony conviction; and to increase the penalty for 14
evading payment of the known fares of a public 15
transportation system. 16

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

Section 1. That sections 2903.13 and 2917.41 be amended and 17
section 306.20 of the Revised Code be enacted to read as follows: 18

Sec. 306.20. (A) Any Ohio transit system may post the notice 19
described in division (B) of this section in accordance with this 20
division. An Ohio transit system that decides to post the notice 21
shall consider posting it in a conspicuous location in all of the 22
transit system's buses and rail cars. 23

(B) A notice posted pursuant to division (A) of this section 24
shall include, at a minimum, all of the following statements and 25
information: 26

"WE WILL NOT TOLERATE 27
any form of threatening or 28
aggressive behavior 29
toward our staff. 30

Assaults against our staff might 31
result in a felony conviction. 32

All staff have the right to carry out 33
their work without fearing for their safety." 34

(C) As used in this section, "Ohio transit system" has the 35
same meaning as in section 2305.33 of the Revised Code. 36

Sec. 2903.13. (A) No person shall knowingly cause or attempt 37
to cause physical harm to another or to another's unborn. 38

(B) No person shall recklessly cause serious physical harm to 39
another or to another's unborn. 40

(C)(1) Whoever violates this section is guilty of assault, 41
and the court shall sentence the offender as provided in this 42
division and divisions (C)(1), (2), (3), (4), (5), (6), (7), (8), 43
(9), ~~and~~ (10), and (11) of this section. Except as otherwise 44
provided in division (C)(2), (3), (4), (5), (6), (7), (8), ~~or~~ (9), 45
or (10) of this section, assault is a misdemeanor of the first 46
degree. 47

(2) Except as otherwise provided in this division, if the 48

offense is committed by a caretaker against a functionally 49
impaired person under the caretaker's care, assault is a felony of 50
the fourth degree. If the offense is committed by a caretaker 51
against a functionally impaired person under the caretaker's care, 52
if the offender previously has been convicted of or pleaded guilty 53
to a violation of this section or section 2903.11 or 2903.16 of 54
the Revised Code, and if in relation to the previous conviction 55
the offender was a caretaker and the victim was a functionally 56
impaired person under the offender's care, assault is a felony of 57
the third degree. 58

(3) If the offense occurs in or on the grounds of a state 59
correctional institution or an institution of the department of 60
youth services, the victim of the offense is an employee of the 61
department of rehabilitation and correction or the department of 62
youth services, and the offense is committed by a person 63
incarcerated in the state correctional institution or by a person 64
institutionalized in the department of youth services institution 65
pursuant to a commitment to the department of youth services, 66
assault is a felony of the third degree. 67

(4) If the offense is committed in any of the following 68
circumstances, assault is a felony of the fifth degree: 69

(a) The offense occurs in or on 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 or is on 72
the premises of the facility for business purposes or as a 73
visitor, and the offense is committed by a person who is under 74
custody in the facility subsequent to the person's arrest for any 75
crime or delinquent act, subsequent to the person's being charged 76
with or convicted of any crime, or subsequent to the person's 77
being alleged to be or adjudicated a delinquent child. 78

(b) The offense occurs off the grounds of a state 79
correctional institution and off the grounds of an institution of 80

the department of youth services, the victim of the offense is an 81
employee of the department of rehabilitation and correction, the 82
department of youth services, or a probation department, the 83
offense occurs during the employee's official work hours and while 84
the employee is engaged in official work responsibilities, and the 85
offense is committed by a person incarcerated in a state 86
correctional institution or institutionalized in the department of 87
youth services who temporarily is outside of the institution for 88
any purpose, by a parolee, by an offender under transitional 89
control, under a community control sanction, or on an escorted 90
visit, by a person under post-release control, or by an offender 91
under any other type of supervision by a government agency. 92

(c) The offense occurs off the grounds of a local 93
correctional facility, the victim of the offense is an employee of 94
the local correctional facility or a probation department, the 95
offense occurs during the employee's official work hours and while 96
the employee is engaged in official work responsibilities, and the 97
offense is committed by a person who is under custody in the 98
facility subsequent to the person's arrest for any crime or 99
delinquent act, subsequent to the person being charged with or 100
convicted of any crime, or subsequent to the person being alleged 101
to be or adjudicated a delinquent child and who temporarily is 102
outside of the facility for any purpose or by a parolee, by an 103
offender under transitional control, under a community control 104
sanction, or on an escorted visit, by a person under post-release 105
control, or by an offender under any other type of supervision by 106
a government agency. 107

(d) The victim of the offense is a school teacher or 108
administrator or a school bus operator, and the offense occurs in 109
a school, on school premises, in a school building, on a school 110
bus, or while the victim is outside of school premises or a school 111
bus and is engaged in duties or official responsibilities 112

associated with the victim's employment or position as a school 113
teacher or administrator or a school bus operator, including, but 114
not limited to, driving, accompanying, or chaperoning students at 115
or on class or field trips, athletic events, or other school 116
extracurricular activities or functions outside of school 117
premises. 118

(5) If the victim of the offense is a peace officer or an 119
investigator of the bureau of criminal identification and 120
investigation, a firefighter, or a person performing emergency 121
medical service, while in the performance of their official 122
duties, assault is a felony of the fourth degree. 123

(6) If the victim of the offense is a peace officer or an 124
investigator of the bureau of criminal identification and 125
investigation and if the victim suffered serious physical harm as 126
a result of the commission of the offense, assault is a felony of 127
the fourth degree, and the court, pursuant to division (F) of 128
section 2929.13 of the Revised Code, shall impose as a mandatory 129
prison term one of the prison terms prescribed for a felony of the 130
fourth degree that is at least twelve months in duration. 131

(7) If the victim of the offense is an officer or employee of 132
a public children services agency or a private child placing 133
agency and the offense relates to the officer's or employee's 134
performance or anticipated performance of official 135
responsibilities or duties, assault is either a felony of the 136
fifth degree or, if the offender previously has been convicted of 137
or pleaded guilty to an offense of violence, the victim of that 138
prior offense was an officer or employee of a public children 139
services agency or private child placing agency, and that prior 140
offense related to the officer's or employee's performance or 141
anticipated performance of official responsibilities or duties, a 142
felony of the fourth degree. 143

(8) If the victim of the offense is a health care 144

professional of a hospital, a health care worker of a hospital, or 145
a security officer of a hospital whom the offender knows or has 146
reasonable cause to know is a health care professional of a 147
hospital, a health care worker of a hospital, or a security 148
officer of a hospital, if the victim is engaged in the performance 149
of the victim's duties, and if the hospital offers de-escalation 150
or crisis intervention training for such professionals, workers, 151
or officers, assault is one of the following: 152

(a) Except as otherwise provided in division (C)(8)(b) of 153
this section, assault committed in the specified circumstances is 154
a misdemeanor of the first degree. Notwithstanding the fine 155
specified in division (A)(2)~~(b)~~(a) of section 2929.28 of the 156
Revised Code for a misdemeanor of the first degree, in sentencing 157
the offender under this division and if the court decides to 158
impose a fine, the court may impose upon the offender a fine of 159
not more than five thousand dollars. 160

(b) If the offender previously has been convicted of or 161
pleaded guilty to one or more assault or homicide offenses 162
committed against hospital personnel, assault committed in the 163
specified circumstances is a felony of the fifth degree. 164

(9) If the victim of the offense is a judge, magistrate, 165
prosecutor, or court official or employee whom the offender knows 166
or has reasonable cause to know is a judge, magistrate, 167
prosecutor, or court official or employee, and if the victim is 168
engaged in the performance of the victim's duties, assault is one 169
of the following: 170

(a) Except as otherwise provided in division (C)(8)(b) of 171
this section, assault committed in the specified circumstances is 172
a misdemeanor of the first degree. In sentencing the offender 173
under this division, if the court decides to impose a fine, 174
notwithstanding the fine specified in division (A)(2)~~(b)~~(a) of 175
section 2929.28 of the Revised Code for a misdemeanor of the first 176

degree, the court may impose upon the offender a fine of not more than five thousand dollars. 177
178

(b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony of the fifth degree. 179
180
181
182

(10) If the victim of the offense is an operator of an Ohio transit system bus or Ohio transit system rail car, a maintenance worker of an Ohio transit system, or a contracted employee providing any of these services to an Ohio transit system, if the offender knows or has reasonable cause to know that the victim is an operator of an Ohio transit system bus or Ohio transit system rail car, a maintenance worker of an Ohio transit system, or a contracted employee providing any of these services to an Ohio transit system, and if the victim is engaged in the performance of the victim's duties, assault is one of the following: 183
184
185
186
187
188
189
190
191
192

(a) Except as otherwise provided in division (C)(10)(b) of this section, assault committed in the specified circumstances is a felony of the fifth degree. Notwithstanding the fine specified in division (A)(3) of section 2929.18 of the Revised Code for a felony of the fifth degree, if the court decides to impose a fine under this division, the court may impose upon the offender a fine of not more than five thousand dollars. Additionally, the court may prohibit the offender from riding any Ohio transit system bus or Ohio transit system rail car for six months. 193
194
195
196
197
198
199
200
201

(b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against an operator of an Ohio transit system bus or Ohio transit system rail car, a maintenance worker of an Ohio transit system, or a contracted employee providing any of these services to an Ohio transit system, assault committed in the specified circumstances is a felony of the fourth degree. 202
203
204
205
206
207
208

Additionally, the court may prohibit the offender from riding any 209
Ohio transit system bus or Ohio transit system rail car for the 210
offender's lifetime. 211

(11) If an offender who is convicted of or pleads guilty to 212
assault when it is a misdemeanor also is convicted of or pleads 213
guilty to a specification as described in section 2941.1423 of the 214
Revised Code that was included in the indictment, count in the 215
indictment, or information charging the offense, the court shall 216
sentence the offender to a mandatory jail term as provided in 217
division (G) of section 2929.24 of the Revised Code. 218

If an offender who is convicted of or pleads guilty to 219
assault when it is a felony also is convicted of or pleads guilty 220
to a specification as described in section 2941.1423 of the 221
Revised Code that was included in the indictment, count in the 222
indictment, or information charging the offense, except as 223
otherwise provided in division (C)(6) of this section, the court 224
shall sentence the offender to a mandatory prison term as provided 225
in division (B)(8) of section 2929.14 of the Revised Code. 226

(D) As used in this section: 227

(1) "Peace officer" has the same meaning as in section 228
2935.01 of the Revised Code. 229

(2) "Firefighter" has the same meaning as in section 3937.41 230
of the Revised Code. 231

(3) "Emergency medical service" has the same meaning as in 232
section 4765.01 of the Revised Code. 233

(4) "Local correctional facility" means a county, 234
multicounty, municipal, municipal-county, or multicounty-municipal 235
jail or workhouse, a minimum security jail established under 236
section 341.23 or 753.21 of the Revised Code, or another county, 237
multicounty, municipal, municipal-county, or multicounty-municipal 238
facility used for the custody of persons arrested for any crime or 239

delinquent act, persons charged with or convicted of any crime, or 240
persons alleged to be or adjudicated a delinquent child. 241

(5) "Employee of a local correctional facility" means a 242
person who is an employee of the political subdivision or of one 243
or more of the affiliated political subdivisions that operates the 244
local correctional facility and who operates or assists in the 245
operation of the facility. 246

(6) "School teacher or administrator" means either of the 247
following: 248

(a) A person who is employed in the public schools of the 249
state under a contract described in section 3311.77 or 3319.08 of 250
the Revised Code in a position in which the person is required to 251
have a certificate issued pursuant to sections 3319.22 to 3319.311 252
of the Revised Code. 253

(b) A person who is employed by a nonpublic school for which 254
the state board of education prescribes minimum standards under 255
section 3301.07 of the Revised Code and who is certificated in 256
accordance with section 3301.071 of the Revised Code. 257

(7) "Community control sanction" has the same meaning as in 258
section 2929.01 of the Revised Code. 259

(8) "Escorted visit" means an escorted visit granted under 260
section 2967.27 of the Revised Code. 261

(9) "Post-release control" and "transitional control" have 262
the same meanings as in section 2967.01 of the Revised Code. 263

(10) "Investigator of the bureau of criminal identification 264
and investigation" has the same meaning as in section 2903.11 of 265
the Revised Code. 266

(11) "Health care professional" and "health care worker" have 267
the same meanings as in section 2305.234 of the Revised Code. 268

(12) "Assault or homicide offense committed against hospital 269

personnel" means a violation of this section or of section 270
2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 271
2903.14 of the Revised Code committed in circumstances in which 272
all of the following apply: 273

(a) The victim of the offense was a health care professional 274
of a hospital, a health care worker of a hospital, or a security 275
officer of a hospital. 276

(b) The offender knew or had reasonable cause to know that 277
the victim was a health care professional of a hospital, a health 278
care worker of a hospital, or a security officer of a hospital. 279

(c) The victim was engaged in the performance of the victim's 280
duties. 281

(d) The hospital offered de-escalation or crisis intervention 282
training for such professionals, workers, or officers. 283

(13) "De-escalation or crisis intervention training" means 284
de-escalation or crisis intervention training for health care 285
professionals of a hospital, health care workers of a hospital, 286
and security officers of a hospital to facilitate interaction with 287
patients, members of a patient's family, and visitors, including 288
those with mental impairments. 289

(14) "Assault or homicide offense committed against justice 290
system personnel" means a violation of this section or of section 291
2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 292
2903.14 of the Revised Code committed in circumstances in which 293
the victim of the offense was a judge, magistrate, prosecutor, or 294
court official or employee whom the offender knew or had 295
reasonable cause to know was a judge, magistrate, prosecutor, or 296
court official or employee, and the victim was engaged in the 297
performance of the victim's duties. 298

(15) "Court official or employee" means any official or 299
employee of a court created under the constitution or statutes of 300

this state or of a United States court located in this state. 301

(16) "Judge" means a judge of a court created under the 302
constitution or statutes of this state or of a United States court 303
located in this state. 304

(17) "Magistrate" means an individual who is appointed by a 305
court of record of this state and who has the powers and may 306
perform the functions specified in Civil Rule 53, Criminal Rule 307
19, or Juvenile Rule 40, or an individual who is appointed by a 308
United States court located in this state who has similar powers 309
and functions. 310

(18) "Prosecutor" has the same meaning as in section 2935.01 311
of the Revised Code. 312

(19)(a) "Hospital" means, subject to division (D)(19)(b) of 313
this section, an institution classified as a hospital under 314
section 3701.01 of the Revised Code in which are provided to 315
patients diagnostic, medical, surgical, obstetrical, psychiatric, 316
or rehabilitation care or a hospital operated by a health 317
maintenance organization. 318

(b) "Hospital" does not include any of the following: 319

(i) A facility licensed under Chapter 3721. of the Revised 320
Code, a health care facility operated by the department of mental 321
health or the department of developmental disabilities, a health 322
maintenance organization that does not operate a hospital, or the 323
office of any private, licensed health care professional, whether 324
organized for individual or group practice; 325

(ii) An institution for the sick that is operated exclusively 326
for patients who use spiritual means for healing and for whom the 327
acceptance of medical care is inconsistent with their religious 328
beliefs, accredited by a national accrediting organization, exempt 329
from federal income taxation under section 501 of the "Internal 330
Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, 331

and providing twenty-four-hour nursing care pursuant to the 332
exemption in division (E) of section 4723.32 of the Revised Code 333
from the licensing requirements of Chapter 4723. of the Revised 334
Code. 335

(20) "Health maintenance organization" has the same meaning 336
as in section 3727.01 of the Revised Code. 337

(21) "Ohio transit system bus" means a motor vehicle of an 338
Ohio transit system that is designed for carrying more than nine 339
passengers and used for the transportation of persons but does not 340
mean any school bus. 341

(22) "Ohio transit system rail car" means a street rail car, 342
tramline car, subway car, monorail car, or rapid transit car 343
within a ground transportation system having as its primary 344
purpose the regularly scheduled mass movement of passengers 345
between locations within the territorial boundaries of an Ohio 346
transit system. 347

(23) "Ohio transit system" has the same meaning as in section 348
2305.33 of the Revised Code. 349

(24) "Motor vehicle" has the same meaning as in section 350
4511.01 of the Revised Code. 351

(25) "Assault or homicide offense committed against an 352
operator of an Ohio transit system bus or Ohio transit system rail 353
car, a maintenance worker of an Ohio transit system, or a 354
contracted employee providing any of these services to an Ohio 355
transit system" means a violation of this section or of section 356
2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 357
2903.14 of the Revised Code committed in circumstances in which 358
all of the following apply: 359

(a) The victim of the offense was an operator of an Ohio 360
transit system bus or Ohio transit system rail car, a maintenance 361
worker of an Ohio transit system, or a contracted employee 362

providing any of these services to an Ohio transit system. 363

(b) The offender knew or had reasonable cause to know that 364
the victim was an operator of an Ohio transit system bus or Ohio 365
transit system rail car, a maintenance worker of an Ohio transit 366
system, or a contracted employee providing any of these services 367
to an Ohio transit system. 368

(c) The victim was engaged in the performance of the victim's 369
duties. 370

Sec. 2917.41. (A) No person shall evade the payment of the 371
known fares of a public transportation system. 372

(B) No person shall alter any transfer, pass, ticket, or 373
token of a public transportation system with the purpose of 374
evading the payment of fares or of defrauding the system. 375

(C) No person shall do any of the following while in any 376
facility or on any vehicle of a public transportation system: 377

(1) Play sound equipment without the proper use of a private 378
earphone; 379

(2) Smoke, eat, or drink in any area where the activity is 380
clearly marked as being prohibited; 381

(3) Expectorate upon a person, facility, or vehicle. 382

(D) No person shall write, deface, draw, or otherwise mark on 383
any facility or vehicle of a public transportation system. 384

(E) No person shall fail to comply with a lawful order of a 385
public transportation system police officer, and no person shall 386
resist, obstruct, or abuse a public transportation police officer 387
in the performance of the officer's duties. 388

(F) Whoever violates this section is guilty of misconduct 389
involving a public transportation system. 390

(1) Violation of division (A), ~~(B)~~, or ~~(E)~~ of this section is 391

a misdemeanor of the ~~fourth~~ second degree. 392

(2) Violation of division (B) or (E) of this section is a 393
misdemeanor of the fourth degree. 394

(3) Violation of division (C) of this section is a minor 395
misdemeanor on a first offense. If a person previously has been 396
convicted of or pleaded guilty to a violation of any division of 397
this section or of a municipal ordinance that is substantially 398
similar to any division of this section, violation of division (C) 399
of this section is a misdemeanor of the fourth degree. 400

~~(3)~~(4) Violation of division (D) of this section is a 401
misdemeanor of the third degree. 402

(G) Notwithstanding any other provision of law, seventy-five 403
per cent of each fine paid to satisfy a sentence imposed for a 404
violation of this section shall be deposited into the treasury of 405
the county in which the violation occurred and twenty-five per 406
cent shall be deposited with the county transit board, regional 407
transit authority, or regional transit commission that operates 408
the public transportation system involved in the violation, unless 409
the board of county commissioners operates the public 410
transportation system, in which case one hundred per cent of each 411
fine shall be deposited into the treasury of the county. 412

(H) As used in this section, "public transportation system" 413
means a county transit system operated in accordance with sections 414
306.01 to 306.13 of the Revised Code, a regional transit authority 415
operated in accordance with sections 306.30 to 306.71 of the 416
Revised Code, or a regional transit commission operated in 417
accordance with sections 306.80 to 306.90 of the Revised Code. 418

Section 2. That existing sections 2903.13 and 2917.41 of the 419
Revised Code are hereby repealed. 420