



# Ohio Legislative Service Commission

## Bill Analysis

Bill Rowland

### H.B. 265

128th General Assembly  
(As Introduced)

**Reps.** Driehaus, Stewart, Mallory, Murray, Bolan, Yuko

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## BILL SUMMARY

- Provides that the penalties for felonious assault, aggravated assault, and assault committed against a participant in a uniformed police volunteer program are the same as the penalties for felonious assault, aggravated assault, and assault committed against a peace officer or a BCII investigator.

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## CONTENT AND OPERATION

### **Penalty for committing felonious assault, aggravated assault, or assault against a participant in a citizens on patrol program**

Under current law, if a person commits felonious assault, aggravated assault, or assault<sup>1</sup> and the victim of the assault is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation (BCII), the penalty for the offense is elevated: in the case of felonious assault the penalty is raised from a felony of the second degree to a felony of the first degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the first degree if the peace officer or BCII investigator victim suffers serious physical harm; in the case of aggravated assault, the penalty is raised from a felony of the fourth degree to a felony of the third degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer or BCII investigator victim suffers serious physical harm; and in the case of assault, the penalty is raised from a misdemeanor of the first degree to a felony of the fourth degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the fourth degree that is at least 12 months in

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<sup>1</sup> See "**Background: felonious assault, aggravated assault, and assault,**" below for an explanation of these offenses.

duration if the peace officer or BCII investigator victim suffers serious physical harm (R.C. 2903.11(D)(1), 2903.12(B), and 2903.13(C)(3) and (4)).

The bill imposes the same criminal penalties for assaulting a readily available "participant" in a "uniformed police volunteer program" (defined in "**Definitions**," below) as are imposed for assaulting a peace officer or BCII investigator. Thus, felonious assault committed against a readily identifiable participant in a uniformed police volunteer program is a felony of the first degree under the bill, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the first degree if the participant suffers serious physical harm. Aggravated assault committed against a readily identifiable participant in a uniformed police volunteer program is a felony of the third degree under the bill, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the participant suffers serious physical harm. Assault committed against a readily identifiable participant in a uniformed police volunteer program is a felony of the fourth degree under the bill, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the fourth degree that is at least 12 months in duration if the participant suffers serious physical harm. (R.C. 2903.11(D)(1), 2903.12(B), and 2903.13(C)(3) and (4).)

### **Definitions**

The bill defines "uniformed police volunteer program" as meaning a law enforcement volunteer program that is registered with the Volunteers in Police Service Program that is administered by the International Association of Chiefs of Police on behalf of the U.S. Department of Justice and that is formed in affiliation or association with, and trained by, a law enforcement agency to observe activities within a neighborhood, to report the volunteer's observations to the law enforcement agency, and to take other actions intended to reduce crime in the neighborhood. (R.C. 2903.11(E)(7) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11).)

"Participant in a uniformed police volunteer program" is defined by the bill as meaning a person engaged in or traveling to or from a meeting, neighborhood patrol, or other scheduled activity of a uniformed police volunteer program (R.C. 2903.11(E)(9) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11)).

Finally, the bill defines "law enforcement agency" as having the same meaning as in R.C. 109.573 of the Revised Code while also including the office of any village marshal, any police force of a metropolitan housing authority, any state university law

enforcement department, and the office of any township constable (R.C. 2903.11(E)(8) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11)).<sup>2</sup>

## **Background: felonious assault, aggravated assault, and assault**

### **Felonious assault**

A person commits the offense of felonious assault if a person knowingly does either of the following (R.C. 2903.11(A)):

- (1) Causes serious physical harm to another or to another's unborn;
- (2) Causes or attempts to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

A person also commits the offense of felonious assault if the person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, knowingly does any of the following (R.C. 2903.11(B)):

- (1) Engages in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct;
- (2) Engages in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome;
- (3) Engages in sexual conduct with a person under 18 years of age who is not the spouse of the offender.

The penalty for felonious assault generally is a felony of the second degree. If the victim is a peace officer or BCII investigator, felonious assault is a felony of the first degree, with a mandatory prison term equal to one of the prison terms prescribed for a felony of the first degree if the peace officer or BCII investigator suffers serious physical harm. If the offender is convicted of a specification charging that the victim was a woman whom the offender knew was pregnant, the court must impose a mandatory prison term of six months or one of the prison terms prescribed for the degree of offense involved. (R.C. 2903.11(D)(1).)

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<sup>2</sup> R.C. 109.573(A)(8) defines "law enforcement agency" as meaning a police department, the office of a sheriff, the state highway patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.

## Aggravated assault

A person commits the offense of aggravated assault if the person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, knowingly does either of the following (R.C. 2903.12(A)):

- (1) Causes serious physical harm to another or to another's unborn;
- (2) Causes or attempts to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance.

The penalty for aggravated assault generally is a felony of the fourth degree. If the victim is a peace officer or BCII investigator, felonious assault is a felony of the third degree, and the court must impose a mandatory prison term equal to one of the prison terms prescribed for a felony of the third degree if the peace officer or BCII investigator victim suffers serious physical harm. If the offender is convicted of a specification charging that the victim was a woman whom the offender knew was pregnant, the court must impose a mandatory prison term of six months or one of the prison terms prescribed for the degree of offense involved. (R.C. 2903.12(B).)

## Assault

A person commits the offense of assault if the person either knowingly causes or attempts to cause physical harm to another or to another's unborn or recklessly causes serious physical harm to another or to another's unborn. The penalty for assault ranges from a misdemeanor of the first degree to a felony of the third degree depending on where the offense was committed and the status of the victim. (R.C. 2903.13.)

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## HISTORY

ACTION	DATE
Introduced	08-06-09

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