



Ohio Legislative Service Commission

Bill Analysis

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H.B. 90

129th General Assembly
(As Introduced)

Reps. Driehaus, Murray, Yuko, Pillich, Mallory

BILL SUMMARY

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

CONTENT AND OPERATION

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

Increased penalties

The bill imposes the same elevated criminal penalties for assaulting a readily identifiable "participant in a uniformed law enforcement volunteer program" (defined in "**Definitions**," below) as are imposed for assaulting a peace officer or BCII investigator.¹ Thus, felonious assault committed against a readily identifiable participant in a uniformed law enforcement volunteer program is a first degree felony under the bill. If the participant suffers serious physical harm, a court must impose a mandatory prison term equal to one of the prison terms prescribed for a first degree felony. Aggravated assault committed against a readily identifiable participant in a uniformed law enforcement volunteer program is a third degree felony under the bill. If the participant suffers serious physical harm, a court must impose a mandatory prison term equal to one of the prison terms prescribed for a third degree felony. Assault committed against a readily identifiable participant in a uniformed law

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

enforcement volunteer program is a fourth degree felony under the bill. If the participant suffers serious physical harm, a court must impose a mandatory prison term equal to one of the prison terms prescribed for a fourth degree felony that is at least 12 months in duration.²

Definitions

The bill defines "uniformed law enforcement volunteer program" as meaning a law enforcement volunteer program that is registered with the Volunteers in Police Service Program administered by the International Association of Chiefs of Police on behalf of the U.S. Department of Justice and 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.³

"Participant in a uniformed law enforcement 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 law enforcement volunteer program.⁴

Finally, the bill defines "law enforcement agency" to mean 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 and to 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.⁵

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:⁶

- (1) Causes serious physical harm to another or to another's unborn;

² R.C. 2903.11(D)(1), 2903.12(B), and 2903.13(C)(3) and (4).

³ R.C. 2903.11(E)(7) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11).

⁴ R.C. 2903.11(E)(9) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11).

⁵ R.C. 109.573(A)(8) (not in the bill); R.C. 2903.11(E)(8) and referenced in R.C. 2903.12(C)(3) and 2903.13(D)(11).

⁶ R.C. 2903.11(A).

(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:⁷

(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 second degree felony. If the victim is a peace officer or BCII investigator, felonious assault is a first degree felony, with a mandatory prison term equal to one of the prison terms prescribed for a first degree felony 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.⁸

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:⁹

(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.

⁷ R.C. 2903.11(B).

⁸ R.C. 2903.11(D)(1).

⁹ R.C. 2903.12(A).

The penalty for aggravated assault generally is a fourth degree felony. If the victim is a peace officer or BCII investigator, felonious assault is a third degree felony, and the court must impose a mandatory prison term equal to one of the prison terms prescribed for a third degree felony 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.¹⁰

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 first degree misdemeanor to a third degree felony depending on where the offense was committed and the status of the victim.¹¹

HISTORY

ACTION	DATE
Introduced	02-08-11

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¹⁰ R.C. 2903.12(B).

¹¹ R.C. 2903.13.