



## **H.B. 98**

126th General Assembly  
(As Introduced)

**Reps. Setzer, Blessing, Kearns, Ujvagi, Otterman, Carano, Seaver, Uecker, Schaffer**

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### **BILL SUMMARY**

- Changes the definition of "emergency medical service" in the assault statute so that the increased penalty for assault against a person engaged in performing emergency medical service also applies to medical personnel performing emergency services in an emergency facility.

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### **CONTENT AND OPERATION**

#### **Assault against a person performing emergency medical service**

##### **Current law**

Under current law, unchanged by the bill, the offense of "assault" is committed by a person who either knowingly causes or attempts to cause physical harm to another or another's unborn or recklessly causes serious physical harm to another or to another's unborn. Generally, assault is a misdemeanor of the first degree, but depending on the victim or where the offense occurs, the penalty for assault may be a felony of the fifth, fourth, or third degree (see **COMMENT**). (R.C. 2903.13(A), (B), and (C).)

Current law specifies that if the victim of assault is a peace officer, firefighter, or a person performing "emergency medical service," while in the performance of their official duties, assault is a felony of the fourth degree. Current law defines "emergency medical service" as meaning any of the services described in R.C. 4765.35, 4765.37, 4765.38, and 4765.39 that are performed by first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics.<sup>1</sup> "Emergency medical service" includes

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<sup>1</sup> R.C. 4765.35, 4765.37, 4765.38, and 4765.39 list specific emergency medical services a first responder, EMT, and paramedic may perform. For example, a first responder may render emergency medical services in an emergency such as opening and maintaining an

such services performed before or during any transport of a patient, including transports between hospitals and transports to and from helicopters. (R.C. 2903.13(C)(3) and (D)(3), which references R.C. 4765.01(G), *not in the bill.*)

**Operation of the bill**

The bill expands the definition of "emergency medical service" in two ways. First, "emergency medical service" means any of the services described in R.C. 4765.35 to 4765.39 performed by a first responder, EMT-basic, EMT-intermediate, or a paramedic, including those types of services performed before or during any transport of a patient. This component of the definition is similar to the definition of "emergency medical service" in current law except that it also encompasses R.C. 4765.36, which is excluded from current law's definition. By including R.C. 4765.36, the bill increases the penalty for assault to a felony of the fourth degree if the victim is a first responder, EMT-basic, EMT-intermediate, or a paramedic who performs emergency medical services under the direction and supervision of a physician or registered nurse designated by a physician in the hospital's emergency department or while moving a patient between the emergency department and another part of the hospital. (R.C. 2903.13(D)(3)(a).)

Second, "emergency medical service" means any emergency services performed by any of the following individuals in the course of their professions in an emergency facility (R.C. 2903.13(D)(3)(b)):

(1) A physician authorized under R.C. Chapter 4731. to practice medicine and surgery or osteopathic medicine and surgery;

(2) A registered nurse or licensed practical nurse licensed under R.C. Chapter 4723.;

(3) A physician assistant authorized to practice under R.C. Chapter 4730.;

(4) An individual, other than a physician, nurse, or physician assistant, who performs medical or other health-related care or treatment in an emergency facility, including medical technicians, medical assistants, orderlies, aides, or individuals acting in similar capacities.

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*airway, giving mouth to barrier ventilation, chest compressions, electrical interventions with automated defibrillators, controlling of hemorrhage, manual stabilization of fractures, bandaging, assisting in childbirth, and determining triage of trauma victims. EMTs and paramedics may perform these same functions plus additional emergency procedures.*

"Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services (R.C. 2903.13(D)(10) by reference to R.C. 2909.04(C)(3)).

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## COMMENT

Assault is a felony of the fifth degree if one of the following applies (R.C. 2903.13(C)(2) and (5)):

(1) The victim of the offense is a specified corrections officer or is on the premises of a state correctional institution, DYS institution, or local correctional facility for business purposes, and the offender is under some form of supervision by a government agency at the time of the offense.

(2) The offense occurs off the grounds of a local correctional facility, a DRC facility, or DYS facility, the victim of the offense is an employee of one of those facilities or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility and who temporarily is outside of the facility for any purpose or by an offender under any other type of supervision by a government agency.

(3) The victim of the offense is a school teacher, school administrator, or school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus, or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position.

(4) The victim of the offense is an officer or employee of a public children services agency or a private child placing agency, and the offense relates to the officer's performance or anticipated performance of official duties.

Assault is a felony of the fourth degree if one of the following applies (R.C. 2903.13(C)(1), (3), (4), and (5)):

(1) The victim is an officer or employee of a public children services agency or a private child placing agency, and the offense relates to the officer's performance or anticipated performance of official duties, the offender previously has been convicted of an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or a private child placing agency, and that prior offense related to the officer's official duties.

(2) The victim is a peace officer who suffered serious physical harm.<sup>2</sup>

(3) The offense is committed by a caretaker against a functionally impaired person under the caretaker's care.

Assault is a felony of the third degree if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, the offender previously has been convicted of or pleaded guilty to assault, felonious assault, or failing to provide for a functionally impaired person, and in relation to the previous conviction the offender was a caretaker, and the victim was a functionally impaired person under the offender's care (R.C. 2903.13(C)(1)).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-01-05	p. 239

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<sup>2</sup> *In addition to the penalties available for a felony of the fourth degree, a court is required to sentence such an offender to a mandatory prison term of at least 12 months (R.C. 2903.13(C)(4), unchanged by the bill).*