



*Dennis M. Papp*

*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 132**

126th General Assembly  
(As Introduced)

**Sens. Coughlin, Clancy, Goodman**

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### **BILL SUMMARY**

- Provides that the offense of "assault" is a felony of the fifth degree when the victim is a sports official and the offense occurs at a location, or a parking area associated with a location, at which is conducted a sport or athletic game or contest that the sports official expects to officiate, is officiating, or has officiated.
- Defines "sports official" for purposes of the penalty provision described in the preceding dot point as a person who acts or expects to act as an umpire, referee, or judge in, or otherwise officiates or expects to officiate at, a professional, amateur, recreational, interscholastic, or intercollegiate sport or athletic game or contest viewed by the public.
- Provides that the offense of "assault" is a felony of the fourth degree when the victim is a health care professional or health care worker who is providing health care services in a health care facility or location, and incorporates existing definitions of "health care professional," "health care worker," and "health care facility or location" for purposes of this penalty provision.

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### **CONTENT AND OPERATION**

The bill increases the penalty for the offense of "assault" when it is committed against a sports official in specified circumstances or against a health care professional or health care worker providing health care services in a health care facility or location.

## Existing law

### Offense of assault--prohibitions

Existing law prohibits a person from: (1) knowingly causing or attempting to cause physical harm to another or to another's unborn, or (2) recklessly causing serious physical harm to another or to another's unborn. A violation of either prohibition is the offense of "assault." (R.C. 2903.13(A) and (B).)

### Offense of assault--penalties

Under existing law, assault is a misdemeanor of the first degree, except that the penalty is increased as specified if any of the following applies (R.C. 2903.13(C)):

(1) If the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, assault is: (a) a felony of the fourth degree, or (b) if the offender previously has been convicted of or pleaded guilty to assault, "felonious assault," "knowingly failing to provide for a functionally impaired person," or "recklessly failing to provide for a functionally impaired person" 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, a felony of the third degree.

(2) Assault if a felony of the fifth degree if it is committed in any of the following circumstances: (a) it occurs in or on the grounds of a state correctional institution or a Department of Youth Services (DYS) institution, the victim is an employee of the Department of Rehabilitation and Correction (DRC), DYS, or a probation department or is on the premises of the institution for business purposes or as a visitor, and it is committed by a person incarcerated or institutionalized in the institution, by a parolee, or by an offender under transitional control, a community control sanction, an escorted visit, post-release control, or any other type of supervision by a government agency, (b) it occurs in or on the grounds of a local correctional facility, the victim is an employee of the facility or a probation department or is on the premises for business purposes or as a visitor, and it is committed by a person under custody in the facility, (c) it occurs off the grounds of a state correctional institution and off the grounds of a DYS institution, the victim is an employee of DRC, DYS, or a probation department, it occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and it is committed by a person incarcerated or institutionalized in a state correctional institution or in DYS who temporarily is outside of the institution for any purpose, by a parolee, or by an offender under transitional control, a community control sanction, an escorted visit, post-release control, or any other type of supervision by a government agency, (d) it occurs off

the grounds of a local correctional facility, the victim is an employee of the local correctional facility or a probation department, it occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and it is committed by a person under custody in the facility who temporarily is outside of the facility for any purpose, by a parolee, or by an offender under transitional control, a community control sanction, an escorted visit, post-release control, or any other type of supervision by a government agency, (e) the victim is a school teacher or administrator or a school bus operator, and it 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 as a teacher, administrator, or school bus operator.

(3) Assault is a felony of the fourth degree if the victim is a peace officer, a firefighter, or a person performing emergency medical service, while in the performance of their official duties; additionally, if the victim is a peace officer and the victim suffered serious physical harm as a result of the commission of the offense, the court must impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least 12 months in duration.

(4) If 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 or employee's performance or anticipated performance of official responsibilities or duties, assault is: (a) a felony of the fifth degree, or (b) if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony of the fourth degree.

Applying the existing penalties to a person convicted of assault when the victim of the assault is a sports official, a health care professional, or a health care worker, unless the circumstances are such that the sports official is within one of the school-related provisions or state institution or local correctional facility provisions described above in (2), or the health care professional or health care worker is within one of the caretaker-related provisions, school-related provisions, state institution or local correctional facility provisions, emergency medical service provisions, or public children services agency provisions described above in (1), (2), (3), or (4), the assault is a misdemeanor of the first degree.

## **Operation of the bill**

### **Increase in penalty for assault committed against a sports official, health care professional, or health care worker in specified circumstances**

The bill expands the circumstances in which assault is a felony as follows:

(1) Under the bill, assault is a felony of the fifth degree if the victim of the offense is a "sports official," as defined under the bill (see below), and the assault occurs in, on, or within any building, structure, athletic playing field, or playground at which is conducted a sport or athletic game or contest at which the sports official expects to officiate, is officiating, or has officiated, or the offense occurs in or within any parking facility or other area designated for parking at a sport or athletic game or contest at which the sports official expects to officiate, is officiating, or has officiated (R.C. 2903.13(C)(2)(f)).

(2) Under the bill, assault is a felony of the fourth degree if the victim of the offense is a "health care professional" or "health care worker" who is providing health care services in a "health care facility or location" (see below for definitions of the terms in quotation marks) (R.C. 2903.13(C)(3)).

### **Definitions**

As used in the bill:

(1) "Sports official" means any person who acts or expects to act as an umpire, referee, or judge in, or otherwise officiates or expects to officiate at, a professional, amateur, recreational, interscholastic, or intercollegiate sport or athletic game or contest that is viewed by the public (R.C. 2903.13(D)(10)).

(2) "Health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment: (a) physicians authorized under R.C. Chapter 4731. to practice medicine and surgery or osteopathic medicine and surgery, (b) registered nurses and licensed practical nurses licensed under R.C. Chapter 4723. and individuals who hold a certificate of authority issued under that Chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner, (c) physician assistants authorized to practice under R.C. Chapter 4730., (d) dentists and dental hygienists licensed under R.C. Chapter 4715., (e) physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under R.C. Chapter 4755., (f) chiropractors licensed under R.C. Chapter 4734., (g) optometrists licensed under R.C. Chapter 4725., (h) podiatrists authorized under R.C. Chapter 4731. to practice podiatry, (i) dietitians licensed under R.C. Chapter

4759., (j) pharmacists licensed under R.C. Chapter 4729., (k) emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under R.C. Chapter 4765., (l) respiratory care professionals licensed under R.C. Chapter 4761., or (m) speech-language pathologists and audiologists licensed under R.C. Chapter 4753. (R.C. 2903.13(D)(11), by reference to existing R.C. 2305.234--not in the bill).

(3) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities (R.C. 2903.13(D)(11), by reference to existing R.C. 2305.234--not in the bill).

(4) "Health care facility or location" means a hospital, clinic, ambulatory surgical facility, office of a health care professional or associated group of health care professionals, training institution for health care professionals, or any other place where medical, dental, or other health-related diagnosis, care, or treatment is provided to a person (R.C. 2903.13(D)(11), by reference to existing R.C. 2305.234--not in the bill).

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## COMMENT

Existing law, unchanged by the bill, defines the following terms for use in the section containing the offense of "assault" (R.C. 2903.13(D)): (1) "peace officer" has the same meaning as in R.C. 2935.01, (2) "firefighter" has the same meaning as in R.C. 3937.41, (3) "emergency medical service" has the same meaning as in R.C. 4765.01, (4) "local correctional facility" means a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a minimum security jail, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for a crime or delinquent act, persons charged with or convicted of a crime, or persons alleged to be or adjudicated a delinquent child, (5) "employee of a local correctional facility" means a person who is an employee of the political subdivision or any of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in its operation, (6) "school teacher or administrator" means a person employed in the public schools of the state under a contract described in R.C. 3319.08 in a position in which the person is required to have a certificate issued pursuant to R.C. 3319.22 to 3319.311 or a person employed by a nonpublic school for which the state board of education prescribes minimum standards under R.C. 3301.07 who is certificated in accordance with R.C. 3301.071, (7) "community control sanction" has the same meaning as in R.C. 2929.01, (8) "escorted visit" means an escorted visit granted

under R.C. 2967.27, and (9) "post-release control" and "transitional control" have the same meanings as in R.C. 2967.01.

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## **HISTORY**

| ACTION     | DATE     |
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| Introduced | 04-21-05 |

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