



H.B. 183

127th General Assembly
(As Introduced)

Reps. Setzer, Evans, Webster

BILL SUMMARY

- Makes assault against specified healthcare providers a felony of the fourth degree.
- Makes assault on any school employee a felony of the fifth degree.
- Includes certain persons employed by a county board of mental retardation and developmental disabilities within the definition of "school employee."

CONTENT AND OPERATION

Assault: current law

A person commits the offense of "assault" if the person does either of the following (R.C. 2903.13(A) and (B)):

- (1) Knowingly causes or attempts to cause physical harm to another or to another's unborn;
- (2) Recklessly causes serious physical harm to another or to another's unborn.

A violation of one of these prohibitions ranges from a misdemeanor of the first degree to a felony of the third degree depending on the status of the victim and the circumstances of the offense (R.C. 2903.13(C)).

Assault against a healthcare provider

The bill

The bill provides that assault is a felony of the fourth degree if the victim of the offense is one of the following persons who is engaged in the performance of

the victim's official duties and the offender knows or has reason to believe that the victim is one of the following persons (R.C. 2903.13(C)(6)):

(1) A registered nurse, licensed practical nurse, or advanced practice nurse licensed under R.C. Chapter 4723.;

(2) A pharmacist licensed under R.C. Chapter 4729.;

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

(4) A physician authorized under R.C. Chapter 4731. to practice medicine and surgery or osteopathic medicine and surgery or a podiatrist authorized under R.C. Chapter 4731. to practice podiatric medicine and surgery;

(5) A psychologist licensed under R.C. Chapter 4732.;

(6) A chiropractor licensed under R.C. Chapter 4734.;

(7) A speech-language pathologist, audiologist, speech-language pathology aide, or audiology aide licensed under R.C. Chapter 4753.;

(8) An occupational therapist, occupational therapy assistant, physical therapist, physical therapist assistant, or athletic trainer who is licensed under R.C. Chapter 4755. or has received a permit under R.C. Chapter 4755.;

(9) A professional clinical counselor, professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist licensed under R.C. Chapter 4757. or a social work assistant registered under R.C. Chapter 4757.;

(10) An independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II who is licensed under R.C. Chapter 4758. or a counselor assistant, prevention specialist II, or prevention specialist I who has been issued a certificate pursuant to R.C. Chapter 4758.;

(11) A dietician who is licensed under R.C. Chapter 4759.;

(12) An anesthesiologist assistant who has been issued a certificate under R.C. Chapter 4760.;

(13) A respiratory care professional licensed under R.C. Chapter 4761. or a provider of respiratory care who has been issued a limited permit under R.C. Chapter 4761.;

(14) An acupuncturist issued a certificate under R.C. Chapter 4762.;



(15) A general X-ray machine operator, radiographer, radiation therapy technologist, or nuclear medicine technologist licensed under R.C. Chapter 4773.;

(16) An orthotist, prosthetist, or pedorthist licensed under R.C. Chapter 4779.

Assault against a school employee

Current law

If the victim of assault is a *school teacher or administrator or a 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 as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises, assault is a felony of the fifth degree. (R.C. 2903.13(C)(2)(e).) (See **COMMENT** for other circumstances in which the penalty for assault is elevated.)

Current law defines a "school teacher or administrator" as meaning either of the following (R.C. 2903.13(D)(6)):

(1) A person who is employed in the Ohio public schools 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;

(2) A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards and who is certificated in accordance with R.C. 3301.071.

Operation of the bill

The bill expands the circumstances in which the penalty for assault is increased to a felony of the fifth degree when the victim is school personnel. Under the bill, if the victim of assault is a *school employee* (and not just a teacher, administrator or school bus driver) 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 as a school employee, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises, assault is a felony of the fifth degree. (R.C. 2903.13(C)(2)(e).)

Because of this change from school teacher or administrator to school employee, the bill repeals the definition of "school teacher or administrator" and defines "school employee" as meaning a person who is employed by a city, local, exempted village, joint vocational, or cooperative education school district, an educational service center, a community school, a nonpublic school chartered by the State Board of Education in accordance with R.C. 3301.16, or a county board of mental retardation and developmental disabilities (R.C. 2903.13(D)(6)).

The bill also defines school, school premises, and school building. Under the bill, "school" has the same meaning as in R.C. 2925.01 and also includes an education program for handicapped children established by a county board of mental retardation and developmental disabilities under R.C. Chapter 3323. (R.C. 2903.13(D)(11)).¹

The bill specifies that "school premises" has the same meaning as in R.C. 2901.01 and also includes both of the following (R.C. 2903.13(D)(12)):²

(1) The parcel of real property on which an education program for handicapped children established by a county board of mental retardation and developmental disabilities is situated, whether or not any instruction, extracurricular activities, or training provided by the education program is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a county board of mental retardation and developmental disabilities for use in an education program for handicapped children and on which some of the instruction, extracurricular activities, or training of the education program is conducted,

¹ R.C. 2925.01(Q) defines "school" as meaning any school operated by a board of education or any school for which the State Board of Education prescribes minimum standards under R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

² R.C. 2901.01 states that "school premises" has the same meaning as in R.C. 2925.01 which defines "school premises" as meaning either of the following: (1) the parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed, or (2) any other parcel of real property that is owned or leased by a board of education of a school or the governing body of a school for which the State Board of Education prescribes minimum standards under R.C. 3301.07 and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

whether or not any instruction, extracurricular activities, or training provided by the education program is being conducted on the parcel of real property at the time a criminal offense is committed.

The bill defines "school building" as having the same meaning as in R.C. 2901.01 and also includes any building in which any of the instruction, extracurricular activities, or training provided by an education program for handicapped children established by a county board of mental retardation and developmental disabilities is conducted, whether or not any instruction, extracurricular activities, or training provided by the education program is being conducted in the school building at the same time a criminal offense is committed (R.C. 2903.13(D)(13)).³

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 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)):

³ R.C. 2901.01 states that "school building" has the same meaning as in R.C. 2925.01 which defines "school building" as meaning any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(1) The victim of the offense is a peace officer, BCII investigator, firefighter, or person performing emergency medical service and is performing their official duties.

(2) 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.

(3) The victim is a peace officer or BCII investigator who suffered serious physical harm.⁴

(4) 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)).

HISTORY

ACTION	DATE
Introduced	04-24-07

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⁴ 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).