



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Final Analysis

Dennis M. Papp

### **Am. Sub. H.B. 38** 132nd General Assembly (As Passed by the General Assembly)

- Reps.** Greenspan, Anielski, Barnes, Goodman, Keller, Kick, Lipps, Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young, Manning, Rezabek, Arndt, Brenner, Butler, Carfagna, Dever, Duffey, Edwards, Faber, Gavarone, Ginter, Hambley, Householder, Hughes, T. Johnson, Koehler, Landis, Lanese, LaTourette, O'Brien, Romanchuk, Ryan, Schaffer, Schuring, R. Smith, Stein
- Sens.** Eklund, Bacon, Burke, Dolan, Gardner, Hackett, Hoagland, Hottinger, Kunze, LaRose, Lehner, Manning, McColley, O'Brien, Oelslager, Peterson, Schiavoni, Terhar, Thomas, Uecker, Wilson, Yuko

**Effective date:** March 20, 2019

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## **ACT SUMMARY**

- Expands the offense of aggravated murder to prohibit purposely causing the death of a first responder or military member whom the offender knows or has reasonable cause to know is a first responder or military member if it is the offender's specific purpose to kill a person in that capacity.
  - Expands the offense of aggravated murder based on purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is such an officer to also apply when the victim is a federal law enforcement officer or a person who previously served in either capacity.
  - Requires a mandatory prison term of 3 to 11 years for an attempt to commit aggravated murder of the type described in either of the two preceding dot points.
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## **CONTENT AND OPERATION**

### **Aggravated murder expansion**

The act expands the types of conduct prohibited under the offense of aggravated murder in two ways.

First, it enacts a new prohibition under the offense that prohibits a person from purposely causing the death of a "first responder" or "military member" (see below) whom the offender knows or has reasonable cause to know is a first responder or military member if the offender's specific purpose is to kill a first responder or military member.<sup>1</sup>

Second, it expands a prohibition existing under the offense prior to the act that prohibits a person from purposely causing the death of a law enforcement officer whom the offender knows or has reasonable cause to know is such an officer if either the officer was on duty or the offender's specific purpose was to kill a law enforcement officer. The act expands that prohibition by adding to the applicable definition of "law enforcement officer" any "federal law enforcement officer" (see below) and anyone who has previously served as a law enforcement officer as defined prior to the act or as a federal law enforcement officer. The applicable definition of "law enforcement officer" prior to the act includes any person within a list of persons set forth in R.C. 2911.01, not in the act.<sup>2</sup>

The act does not affect the other types of conduct already prohibited under aggravated murder prior to the act (i.e., purposely causing the death of another or the unlawful termination of another's pregnancy with prior calculation and design or while committing, attempting to commit, or fleeing immediately after committing or attempting to commit, any of a list of specified serious offenses; purposely causing the death of another who is under age 13; or while under detention after a felony conviction or after breaking such detention, purposely causing the death of another).<sup>3</sup>

Under preexisting law, unchanged by the act, aggravated murder is a capital offense, punishable by death or life imprisonment.<sup>4</sup>

### **Attempted aggravated murder penalty**

The act requires a mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years for an attempt to commit aggravated murder of a first responder or military member or an attempt to commit aggravated murder of a law enforcement officer, both as described above. The range of the mandatory term is the preexisting range of prison terms for a first degree felony. Under preexisting law, unchanged by the act, an attempt to commit

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<sup>1</sup> R.C. 2903.01(F).

<sup>2</sup> R.C. 2903.01(E) and (H)(2).

<sup>3</sup> R.C. 2903.01(A) to (D).

<sup>4</sup> R.C. 2903.01(G) and R.C. 2929.02(A) to 2929.06, not in the act.



aggravated murder is a first degree felony. However, except in the circumstance enacted in the act, the prison term is not mandatory.<sup>5</sup>

## Definitions

As used in the act:

"**Federal law enforcement officer**" means an employee of the United States who serves in a position with duties that primarily are the investigation, apprehension, or detention of individuals suspected or convicted of crimes under the U.S. criminal laws.<sup>6</sup>

"**First responder**" means an emergency medical service provider, a firefighter, or any other emergency response personnel, or anyone who has previously served as a first responder.<sup>7</sup>

"**Military member**" means a member of the U.S. armed forces, reserves, or Ohio National Guard, a participant in ROTC, Junior ROTC, or any similar military training program, or anyone who has previously served in the military.<sup>8</sup>

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## HISTORY

ACTION	DATE
Introduced	02-07-17
Reported, H. Criminal Justice	05-17-17
Passed House (96-0)	05-17-17
Reported, S. Judiciary	12-04-18
Passed Senate (31-0)	12-05-18
House concurred in Senate amendments (80-0)	12-06-18

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<sup>5</sup> R.C. 2923.02(E)(1) and (4).

<sup>6</sup> R.C. 2903.01(H)(2), by reference to R.C. 2921.51, not in the act.

<sup>7</sup> R.C. 2903.01(H)(3).

<sup>8</sup> R.C. 2903.01(H)(4).

