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H.B. 139
135th General Assembly

Bill Analysis

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Version: As Reported by House Criminal Justice

Primary Sponsors: Reps. Roemer and J. Miller

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SUMMARY

- Requires a mandatory fine and community service for the offense of “assault” when it is a misdemeanor, if the victim is a sports official and the assault is committed during or immediately before or after a sports event or in retaliation for the official’s actions as a sports official.
- Increases the penalty for “assault” to a fifth degree felony if the victim is a sports official, the assault is committed during or immediately before or after a sports event or in retaliation for the official’s actions as a sports official, and the offender has previously been convicted of an assault offense under those circumstances.
- Applies the existing fourth and fifth degree felony community control sanction presumption to “assault” when it is a fifth degree felony under the provision described in the preceding dot point.

DETAILED ANALYSIS

Currently, the offense of “assault” generally is a first degree misdemeanor, but it is a fourth or fifth degree felony when it is committed in certain specified circumstances, and a mandatory jail or prison term is required when the offender also is convicted of a specification charging that the victim was a woman whom the offender knew was pregnant. The bill modifies the penalty for the offense when the victim is a “sports official” and other specified criteria apply – it makes the offense a felony in specified circumstances when the victim is a sports official, and it enacts a mandatory fine and community service in specified circumstances when the offense remains a misdemeanor. The bill defines “sports official” and the related term “sports event” for purposes of its provisions (see “**Definition of “sports official” and “sports event”**,” below).

Increased penalties for assault of a sports official

Misdemeanor offense

The bill provides that when the offense of assault is committed against a sports official and it is a first degree misdemeanor, the sentencing court must impose a mandatory \$1,500 fine and 40 hours of community service, in addition to the sentence for that misdemeanor under continuing law, if either of the following applies:¹

1. The victim of the assault is a “sports official” and the assault occurs while the victim is engaged in the victim’s official duties at a “sports event” or immediately before or after the event.
2. The victim of the assault is a sports official and the assault is committed in retaliation for an action taken by the victim while the victim was engaged in the victim’s official duties at a sports event.

Fifth degree felony for subsequent offenses

The bill also elevates the offense of assault to a fifth degree felony if: (1) the victim is a “sports official,” (2) the assault is committed while the victim is engaged in the victim’s official duties at a “sports event” or immediately before or after a sports event or it is committed in retaliation for an action taken by the victim while engaged in the victim’s official duties at a sports event, and (3) the offender previously has been convicted of or pleaded guilty to assault of a sports official under either set of circumstances specified in clause (2) of this sentence.²

A fifth degree felony offense under this provision is included by the bill within the definition of a “qualifying assault offense” that applies regarding a provision of the Criminal Sentencing Law.³ Under that provision, continued by the bill, a court sentencing an offender convicted of a fourth or fifth degree felony that is a qualifying assault offense (or that is not an offense of violence) generally must sentence the offender to one or more community control sanctions (i.e., community residential sanctions, nonresidential sanctions, or financial sanctions) if the offender previously has not been convicted of or pleaded guilty to a felony offense, the most serious charge against the offender is a felony of the fourth or fifth degree, and the offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence committed within two years prior to the offense for which sentence is being imposed.⁴ But the general requirement described in the preceding sentence does not apply regarding a fourth or fifth degree felony that is an offense of violence and that is not a “qualifying assault offense,” and when the general requirement does apply, the court has discretion under continuing law to impose a prison term on an offender who is convicted of or pleads guilty to a

¹ R.C. 2903.13(C)(1) and (11).

² R.C. 2903.13(C)(1), (4)(e), and (4)(f).

³ R.C. 2929.13(K)(4).

⁴ R.C. 2929.13(B)(1)(a).

fourth or fifth degree felony that is a qualifying assault offense (or that is not an offense of violence) if any of the following applies to the offender:⁵

- The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.
- The offender caused serious physical harm to another person while committing the offense if the offense is a qualifying assault offense (if it is not such an offense, the offender caused physical harm to another person while committing it).
- The offender violated a term of the conditions of bond set by the court.
- In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.
- In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person and the offender previously was convicted of an offense that caused physical harm to a person.
- The offender held a public office or position of trust, and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.
- The offender committed the offense for hire or as part of an organized criminal activity.
- The offender was serving a prison term at the time of the offense or had previously served a prison term.
- The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.
- With respect to offenses that are not a qualifying assault offense, the offense is a fourth or fifth degree felony sex offense.

Felonious assault and aggravated assault

The bill specifies that nothing in its provisions described above requiring fifth degree felony penalties for assault against a sports official prevents an individual from being prosecuted for felonious assault or aggravated assault if the elements of those offenses are present, the victim of the offense is a sports official, and the offense occurs while the victim is engaged in the victim's official duties at a sports event or immediately before or after the sports event.⁶

⁵ R.C. 2929.13(B)(1)(b).

⁶ R.C. 2903.13(E).

Definition of “sports official” and “sports event”

The bill specifies that, as used in its assault penalty provisions described above:⁷

“**Sports official**” means any person who is paid or volunteers to enforce the rules of a sports event as a referee, umpire, linesperson, timer, scorekeeper, or in a similar capacity.

“**Sports event**” includes: (1) any interscholastic or intramural athletic event or athletic activity at an elementary or secondary school, college, or university or in which such a school, college, or university participates, (2) any organized athletic activity, including an organized athletic activity sponsored by a community, business, or nonprofit organization, or (3) any athletic activity that is a professional or semiprofessional event.

Elements of assault offense, and current penalties

The prohibitions under the existing offense of “assault,” unchanged by the bill, prohibit a person from knowingly causing or attempting to cause physical harm to another or to another’s unborn, or recklessly causing serious physical harm to another or to another’s unborn.⁸

The offense generally is a first degree misdemeanor, but increased penalties, to a third, fourth, or fifth degree felony, are provided when the assault is committed: (1) by a caretaker against a functionally impaired person under the caretaker’s care, (2) by an incarcerated person or person in custody, in specified circumstances, (3) against a school teacher, administrator, or a bus operator, in specified circumstances, (4) against a peace officer, BCII investigator, firefighter, or person performing emergency medical services, in specified circumstances, (5) against an officer or employee of a public children services agency or a private child placing agency, in specified circumstances, (6) against a hospital health care professional, health care worker, or security officer, in specified circumstances, or (7) against a judge, magistrate, prosecutor, or court official or employee, in specified circumstances. When the offender also was convicted of a specification charging that the victim was a woman whom the offender knew was pregnant, a mandatory jail or prison term is required.⁹

HISTORY

Action	Date
Introduced	03-28-23
Reported, H. Criminal Justice	10-18-23

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⁷ R.C. 2903.13(F)(27) and (28).

⁸ R.C. 2903.13(A) and (B).

⁹ R.C. 2903.13(C).