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H.B. 44*
134th 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 misdemeanor offense of “assault” 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.

DETAILED ANALYSIS

Increased penalties for assault of a sports official

Misdemeanor offense

The bill requires a mandatory \$1,500 penalty and 40 hours of community service to be imposed, in addition to the sentence for a first degree misdemeanor under continuing law, for the offense of “assault” when the victim of the assault is a sports official and the assault relates in a specified manner to the victim acting in that capacity. Specifically, the bill requires those additional penalties if either of the following applies:¹

* This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the legislative history may be incomplete.

¹ R.C. 2903.13(C)(11).

1. The victim of the assault is a “sports official” (a defined term) and the assault occurs while the victim is engaged in the victim’s official duties at a “sports event” (a defined term) 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 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 previously has been convicted of or pleaded guilty to assault of a sports official under the circumstances specified in the bill.² A fifth degree felony offense under this provision is considered by the bill to be a “qualifying assault offense”³ and, under continuing law, a court sentencing an offender convicted of a qualifying assault offense generally must sentence the offender to community control 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 court has discretion under continuing law to impose a prison term on an offender who is convicted of or pleads guilty to a fifth degree felony that is a qualifying assault offense 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.
- The offender violated a term or condition 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.

² R.C. 2903.13(C)(4)(e) and (f).

³ R.C. 2929.13(K)(4).

⁴ R.C. 2929.13(B)(1)(a).

⁵ R.C. 2929.13(B)(1)(b).

- 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.

Felonious assault and aggravated assault

The bill specifies that nothing in the bill’s provisions requiring enhanced misdemeanor penalties for assault involving 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

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: (a) 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, (b) any organized athletic activity, including an organized athletic activity sponsored by a community, business, or nonprofit organization, or (c) 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 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

⁶ R.C. 2903.13(D).

⁷ R.C. 2903.13(E)(21) and (22).

⁸ R.C. 2903.13(A) and (B).

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 | 02-03-21 |
| Reported, H. Criminal Justice | --- |

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⁹ R.C. 2903.13(C).