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**H.B. 236**  
**133<sup>rd</sup> General Assembly**

## Bill Analysis

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**Version:** As Reported by Senate Judiciary

**Primary Sponsors:** Reps. T. Smith and Plummer

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### SUMMARY

- Increases the penalties for the offenses of felonious assault, aggravated assault, and assault if the victim is a hospital police officer or a special police officer.
- Expands the definition of “peace officer” that generally applies throughout the Revised Code to also include gaming agents of the Casino Control Commission.

### DETAILED ANALYSIS

#### Hospital police officer definition

The bill defines “hospital police officer,” for purposes of its assault offense-related provisions described below, as a police officer who is both of the following:

1. Employed by a hospital that employs and maintains its own proprietary police department or security department; and
2. Appointed and commissioned by the Secretary of State.<sup>1</sup>

#### Special police officer definition

The bill defines “special police officer,” for purposes of its assault offense-related provisions described below, as a special police officer designated by the State Highway Patrol’s Superintendent, with the approval of the Director of Public Safety, to preserve the peace and enforce the laws of Ohio with respect to persons and property under the patrol’s jurisdiction

<sup>1</sup> R.C. 2903.11(E), 2903.12(C), and 2903.13(D).

and control pursuant to the existing statute authorizing such a designation.<sup>2</sup> An officer appointed under the existing statute has the same powers of arrest as police officers under the general statutory arrest law when exercising the officer's responsibilities on lands owned by the Ohio Expositions Commission and on state properties and institutions owned or leased by the state where the officers are assigned by the Superintendent, and is required to complete peace officer basic training for the position to which appointed as required by the Ohio Peace Officer Training Commission and to take an oath of office, wear the badge of office, and provide a bond to the state for the proper performance of the officer's duties.<sup>3</sup>

## **Expansion of peace officer definition to include casino gaming agents**

The bill expands the current definition of peace officer that applies throughout the Revised Code to also include "gaming agents" of the Casino Control Commission.<sup>4</sup> As defined in the Casino Control Commission Law, and applicable to the bill's provision, a "gaming agent" is a peace officer employed by the Commission who is vested with duties to enforce the Casino Control Commission Law and conduct other investigations into the conduct of the casino gaming and the maintenance of the equipment that the Commission considers necessary and proper and is in compliance with R.C. 109.77, which contains training requirements for gaming agents and other law enforcement personnel.

The term "peace officer" that the bill amends is used in at least 93 Revised Code sections, including the three assault offenses included in the bill, several provisions related to arrest or the issuance and execution of warrants, and many other criminal law-related provisions. With respect to the three assault offenses included in the bill, the effect of the bill's expansion of the definition is to make the current penalty increases that apply when the victim of one of the offenses is a peace officer apply when the victim is a gaming agent.

## **Felonious assault**

The bill increases the penalty for felonious assault<sup>5</sup> to a first degree felony if the victim is a hospital police officer or special police officer. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory minimum prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years.

The current penalty for the offense is generally a second degree felony, but it is increased to a first degree felony if the victim is a peace officer or a Bureau of Criminal Identification and Investigation (BCII) investigator. Current law requires a mandatory prison

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<sup>2</sup> R.C. 2903.11(E)(8), 2903.12(C), and 2903.13(D).

<sup>3</sup> R.C. 5503.09, not in the bill.

<sup>4</sup> R.C. 2935.01, by reference to R.C. 3772.01, not in the bill.

<sup>5</sup> The offense of felonious assault prohibits a person from knowingly causing serious physical harm to another, or causing (or attempting to cause) physical harm to another with a deadly weapon or dangerous ordnance. R.C. 2903.11(A).

term, of the length described in the preceding paragraph, if the victim is a peace officer or BCII investigator and the victim suffered serious physical harm.

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory prison term if the victim of the felonious assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for felonious assault to a first degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this “pregnant victim” mandatory term to a mandatory minimum prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years if the victim is such an officer, regardless of the extent of the injury suffered by the officer.<sup>6</sup>

## **Aggravated assault**

The bill increases the penalty for aggravated assault<sup>7</sup> to a third degree felony if the victim is a hospital police officer or special police officer. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory prison term of 9, 12, 18, 24, 30, or 36 months.

The current penalty for the offense is generally a fourth degree felony, but it is increased to a third degree felony if the victim is a peace officer or a BCII investigator. Current law requires a mandatory prison term, of the length described in the preceding paragraph, if the victim is a peace officer or BCII investigator and the victim suffered serious physical harm.

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory prison term if the victim of the aggravated assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for aggravated assault to a third degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this “pregnant victim” mandatory term to a mandatory prison term of 9, 12, 18, 24, 30, or 36 months if the victim is such an officer, regardless of the extent of the injury suffered by the officer.<sup>8</sup>

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<sup>6</sup> R.C. 2903.11(D)(1), 2923.13(F), not in the bill, and 2929.14(A)(1)(a) and (B)(8), not in the bill.

<sup>7</sup> The offense of aggravated assault prohibits a person, while under the influence of sudden passion or in a sudden fit of rage – either of which is brought on by serious provocation by the victim that is reasonably sufficient to incite the person into using deadly force – from knowingly causing serious physical harm to another, or causing (or attempting to cause) physical harm to another with a deadly weapon or dangerous ordnance. R.C. 2903.12(A).

<sup>8</sup> R.C. 2903.12(B), 2929.13(F), not in the bill, and 2929.14(A)(3)(b) and (B)(8), not in the bill.

## Assault

The bill increases the penalty for assault<sup>9</sup> to a fourth degree felony if the victim is a hospital police officer or special police officer who is in the performance of the officer's official duties. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory prison term of 12, 13, 14, 15, 16, 17, or 18 months.

The current penalty for the offense is generally a first degree misdemeanor, but it is increased to a felony of the third, fourth, or fifth degree felony in certain specified circumstances. Currently, if the victim is a peace officer or a BCII investigator, the penalty is increased to a fourth degree felony, and if the officer or investigator suffered serious physical harm, a mandatory prison term, of the length described in the preceding paragraph, is required.

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory jail term or prison term if the victim of the assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for assault to a fourth degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this "pregnant victim" mandatory term to a mandatory minimum prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months, regardless of the extent of the injury suffered by the officer.<sup>10</sup>

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## HISTORY

Action	Date
Introduced	05-06-19
Reported, H. Transportation and Public Safety	06-19-19
Passed House (79-17)	06-26-19
Reported, S. Judiciary	02-06-20

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<sup>9</sup> The offense of assault prohibits a person from knowingly causing (or attempting to cause) physical harm to another, or recklessly causing serious physical harm to another. R.C. 2903.13(A) and (B).

<sup>10</sup> R.C. 2903.13(C)(5), (6), and (10), 2929.13(F), not in the bill, and 2929.14(A)(4) and (B)(8), not in the bill.