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H.B. 372*
136th General Assembly

Bill Analysis

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Version: As Reported by House Judiciary

Primary Sponsors: Reps. Abrams and Plummer

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SUMMARY

- Modifies the class of victims for aggravated murder to include peace officers, corrections officers, and prosecutors.
- Modifies the class of victims for a specification of aggravating circumstances to include peace officers, corrections officers, and prosecutors.
- Includes an additional class of victims for a specification of aggravating circumstances to include first responders and military members.
- Subject to certain exceptions, requires the court to impose the death penalty or life without the possibility of parole if the victim of aggravated murder is a peace officer, corrections officer, prosecutor, first responder, or military member.
- Names the bill's provisions the "Larry Henderson Act."

DETAILED ANALYSIS

Aggravated murder

Peace officers, corrections officers, and prosecutors

The bill modifies the class of victims for aggravated murder to include peace officers, corrections officers, and prosecutors. Under the bill, the offense of "aggravated murder" prohibits a person from purposely causing the death of a "peace officer," "corrections officer," or "prosecutor" whom the offender knows or has reasonable cause to know is a peace officer, corrections officer, or prosecutor when either of the following applies: (1) the peace officer,

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

corrections officer, or prosecutor, at the time of the commission of the offense, was engaged in the peace officer's, corrections officer's, or prosecutor's duties, or (2) the offender's specific purpose is to kill a peace officer, corrections officer, or prosecutor. Under current law, the offense applies to a "law enforcement officer."[1]

First responders and military members

The bill retains the class of victims for aggravated murder that includes first responders and military members. Under current law, the offense of "aggravated murder" also prohibits a person from purposely causing the death of a first responder or military member when it is the offender's specific purpose to kill a first responder or military member.[2]

Penalty for aggravated murder

Specification of aggravating circumstances

Subject to certain exceptions, the death penalty may be imposed if an indictment or count in an indictment charges the defendant with aggravated murder and contains one or more specifications of aggravating circumstances that is proved beyond a reasonable doubt.[3]

The bill modifies the class of victims for a specification of aggravating circumstances to include peace officers, corrections officers, and prosecutors. Under the bill, the specification applies if the victim of the offense was a peace officer, corrections officer, or prosecutor whom the offender had reasonable cause to know or knew to be a peace officer, corrections officer, or prosecutor and either the peace officer, corrections officer, or prosecutor, at the time of the commission of the offense, was engaged in the peace officer's, corrections officer's, or prosecutor's duties, or it was the offender's specific purpose to kill a peace officer, corrections officer, or prosecutor. Under current law, the specification applies to a law enforcement officer.[4]

The bill adds a class of victims for a specification of aggravating circumstances to include first responders and military members. Under the bill, the specification applies if the victim of the offense was a first responder or a military member whom the offender had reasonable cause to know or knew to be a first responder or military member, and it was the offender's specific purpose to kill a first responder or military member.[5]

Death or life imprisonment without parole

If the offender is found guilty of both the aggravated murder and one of the specifications of aggravating circumstances described above in which the victim of the offense is a peace officer,

[1] R.C. 2903.01(E).

[2] R.C. 2903.01(F).

[3] R.C. 2929.04(A).

[4] R.C. 2929.04(A)(6).

[5] R.C. 2929.04(A)(11).

corrections officer, prosecutor, first responder, or military member, the offender must be sentenced to life imprisonment without the possibility of parole or death.[6]

Under continuing law, when the death penalty may be imposed, the court, upon request of the defendant, must require a pre-sentence investigation and mental examination. Copies of any reports must be furnished to the court, jury, prosecutor, and offender. The court and jury must consider any report furnished to it and any evidence raised at trial that is relevant to the aggravating circumstances the offender was found guilty of committing or any factors in mitigation of the imposition of death. The defendant must be given great latitude in the presentation of any factors in mitigation of the imposition of death.[7]

Upon consideration of the relevant evidence raised at trial, the testimony, other evidence, statement of the offender, arguments of counsel, and reports, the court or jury must determine whether the aggravating circumstances the offender was found guilty of committing are sufficient to outweigh the mitigating factors present in the case. If the jury unanimously finds, by proof beyond a reasonable doubt, that the aggravating circumstances the offender was found guilty of committing outweigh the mitigating factors, the jury must recommend to the court that the sentence of death be imposed on the offender.[8]

Absent such a finding, the bill requires that if the offender is found guilty of both aggravated murder and one of the specifications of aggravating circumstances described above in which the victim of aggravated murder was a peace officer, corrections officer, prosecutor, first responder, or military member, the jury must recommend that the offender be sentenced to life imprisonment without parole. Upon a jury's recommendation of life imprisonment without parole, the court must impose the sentence upon the offender.[9]

Exceptions to death or life imprisonment without parole

Juvenile

Under continuing law, if the indictment or count in the indictment charges the defendant with aggravated murder and contains one or more specifications of aggravating circumstances, if the offender is found guilty of both the aggravated murder and one or more of the specifications, and if the offender was not found to be 18 years old or older at the time of the commission of the offense, the court must generally impose one of the following sentences on the offender: (1) life imprisonment with parole eligibility after serving 25 full years of imprisonment, (2) life imprisonment with parole eligibility after serving 30 full years of imprisonment, and (3) in specified circumstances in which the victim was less than 13 years old,

[6] R.C. 2929.03(C)(2)(a)(i), (ii), (iii), and (iv).

[7] R.C. 2929.03(D)(1) and 2929.04(B) and (C).

[8] R.C. 2929.03(D)(2).

[9] R.C. 2929.03(D)(2)(d) and (3)(c).

an indefinite term consisting of a minimum term of 30 years and a maximum term of life imprisonment.[10]

Serious mental illness

Under continuing law, if the indictment or count in the indictment charges the defendant with aggravated murder and contains one or more specifications of aggravating circumstances, if the offender is found guilty of both the aggravated murder and one or more of the specifications, and if the offender was found to have had a serious mental illness at the time of the commission of the offense, the court or panel of three judges must impose life imprisonment without parole.[11]

Name of the act

The name of the bill's provisions is the "Larry Henderson Act."[12]

Cross references

The bill makes a cross-reference change.[13]

Definitions

Under the bill, a "**peace officer**," "**corrections officer**," and a "**prosecutor**" [14] are a class of victims for aggravated murder. Under current law, a "**law enforcement officer**"[15] is a class of victims for aggravated murder. The following table shows the differences between the classes of victims under the bill (peace officer, corrections officer, and prosecutor) and under current law (law enforcement officer).

It is important to note that the definition of "law enforcement officer" includes the following "catch-all" provision:

> An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority.

This provision likely includes many of the individuals in the table below, without expressly naming those individuals within the statutory definition of "law enforcement officer." Boxes marked with an "X" reflect individuals who are expressly named within the statutory definition of one or more of those three terms. Boxes marked with "Probably" are individuals who likely

[10] R.C. 2929.03(D)(1), (E)(1)(a) and (H), and 2929.02(A), not in the bill.

[11] R.C. 2929.03(D)(1), (F) and (H), and 2929.02(A), not in the bill.

[12] Section 3.

[13] R.C. 2941.14.

[14] R.C. 2903.01(H)(2), (5), and (6), by reference to R.C. 2935.01, not in the bill.

[15] R.C. 2903.01(H)(2), by reference to R.C. 2901.01 and 2911.01, not in the bill.

meet the general catch-all provision within the definition of "law enforcement officer" but who are not expressly named in the statute.

Type of officer or prosecutor	Class of victim for aggravated murder under current law	Class of victim for aggravated murder under the bill
Sheriff	X	X
Deputy sheriff	X	X
Constable / Police constable of any township	X	X
Police officer of a township or joint district	X	X
Marshal	X	X
Deputy marshal	X	X
Municipal police officer	X	X
Member of police force employed by metropolitan housing authority[16]	X	X
State Highway Patrol superintendent and troopers	X	X
Officer, agent, or employee of Ohio or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority	X	
Mayor, in that mayor's capacity as chief conservator of the peace within the mayor's municipal corporation	X	
Member of the auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission	X	

[16] R.C. 3735.31, not in the bill.

Type of officer or prosecutor	Class of victim for aggravated murder under current law	Class of victim for aggravated murder under the bill
Person lawfully called to aid a sheriff in keeping the peace for purposes and during the time when the person is called[17]	X	
Person appointed by a mayor as a special patrolling officer during riot or emergency, for purposes and during time when the person is appointed[18]	X	
Member of the organized militia of Ohio or the U.S. armed forces, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence	X	X[19]
Prosecuting attorney and assistant prosecuting attorney	X	Probably
Secret service officer	X	X[20]
Municipal prosecutor, including village solicitor, city law director or similar chief legal officer of a municipal corporation	X	X
County prosecuting attorney and assistant county prosecuting attorney	Probably	X
Veterans' home police officer[21]	X	X
Member of the police force employed by a regional transit authority[22]	X	X
Special police officer employed by a port authority[23]	X	X

[17] R.C. 311.07, not in the bill.

[18] R.C. 737.10, not in the bill.

[19] R.C. 2903.01(H)(4).

[20] R.C. 2903.01(H)(2).

[21] R.C. 5907.02, not in the bill.

[22] R.C. 306.35, not in the bill.

[23] R.C. 4582.04 and 4582.28, not in the bill.

Type of officer or prosecutor	Class of victim for aggravated murder under current law	Class of victim for aggravated murder under the bill
The House of Representative Sergeant-at-Arms if the House of Representative Sergeant-at-Arms has arrest authority and assistant House of Representative Sergeant-at-Arms[24]	X	X
The Senate Sergeant-at-Arms and assistant Senate Sergeant-at-Arms	X	X
Special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation[25]	X	X
Employees of the Department of the Rehabilitation and Correction who are authorized to carry weapons within the course and scope of their duties[26]	X	X
State university law enforcement officer[27]	Probably	X
Enforcement agent of the Department of Public Safety[28]	Probably	X
Employee of the Department of Taxation to whom investigation powers have been delegated[29]	Probably	X
Employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a forest-fire investigator, a natural resources officer, or a wildlife officer[30]	Probably	X

[24] R.C. 101.311, not in the bill.

[25] 14 Code of Federal Regulations (C.F.R.) 119.3 and 49 C.F.R. 1542 and 1544.

[26] R.C. 2911.01, not in the bill.

[27] R.C. 3345.04, not in the bill.

[28] R.C. 5502.14, not in the bill.

[29] R.C. 5743.45, not in the bill.

[30] R.C. 1501.013, 1501.24, 1503.09, and 1531.13, not in the bill.

Type of officer or prosecutor	Class of victim for aggravated murder under current law	Class of victim for aggravated murder under the bill
Individual designated to perform park law enforcement duties[31]		X
Officer or employee of the Bureau of Criminal Identification and Investigation who has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission attesting to the officer's or employee's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who is providing assistance upon request to a law enforcement officer or emergency assistance to a peace officer[32]	Probably	X
State fire marshal law enforcement officer[33]	Probably	X
Gaming agent[34]	Probably	X

The bill uses the following continuing law definitions:

- "**Detention facility**" means any public or private place used for the confinement of a person charged with or convicted of any crime in Ohio, in another state, or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio, in another state, or under the laws of the U. S.[35]
- "**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.[36]

[31] R.C. 511.232, 1545.13, and 6101.75, not in the bill.

[32] R.C. 109.51, 109.54, and 109.541, not in the bill.

[33] R.C. 109.71, not in the bill.

[34] R.C. 3772.01, not in the bill.

[35] R.C. 2903.01(H)(7), by reference to R.C. 2921.01(F), not in the bill.

[36] R.C. 2903.01(H)(3).

- "**Military member**" means a member of the U.S. armed forces, Reserves, or Ohio National Guard, a participant in the ROTC, JROTC, or any similar military training program, or anyone who has previously served in the military.[37]

HISTORY

Action	Date
Introduced	06-23-25
Reported, H. Judiciary	---

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[37] R.C. 2903.01(H)(4).