



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Dennis M. Papp

### **S.B. 207**

132nd General Assembly  
(As Introduced)

**Sens.** Kunze, Bacon, Hite, Hottinger, Terhar, Tavares, Beagle

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### **BILL SUMMARY**

- Expands the offense of felonious assault to also include knowingly causing or attempting to cause physical harm to another person by means of strangulation or suffocation.
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### **CONTENT AND OPERATION**

#### **Addition of strangulation/suffocation prohibition under felonious assault**

##### **Prohibition and affirmative defense**

The bill adds a new prohibition under the offense of felonious assault that prohibits a person from knowingly causing or attempting to cause "physical harm" to another person by means of "strangulation" or "suffocation" (see "**Relevant definitions**," below, for definitions of the terms in quotation marks). It is an affirmative defense to a charge under this prohibition that the act was performed as part of a necessary medical procedure to aid or benefit the victim or was an otherwise lawful action taken by law enforcement personnel during the course of their duties.<sup>1</sup>

##### **Penalties**

The existing penalties for a felonious assault conviction apply with respect to a violation of the strangulation or suffocation prohibition added by the bill. Under those penalties:

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<sup>1</sup> R.C. 2903.11(A)(3) and (E).

(1) Except as otherwise described in paragraph (2) or (3), below, felonious assault committed in violation of the new prohibition is a second degree felony.<sup>2</sup>

(2) If the victim of the violation is a "peace officer" or a Bureau of Criminal Identification and Investigation (BCII) "investigator" (see "**Relevant definitions**," below, for definitions of the terms in quotation marks), felonious assault committed in violation of the new prohibition is a first degree felony.<sup>3</sup>

(3) Regardless of whether the felonious assault committed in violation of the new prohibition is a first or second degree felony under paragraph (1) or (2), if the offender also is convicted of a "pregnant victim specification" that was included in the charging document, except as otherwise described in this paragraph or unless a longer prison term is required under any other provision of law, the court is required to sentence the offender to a specified mandatory prison term. If the offense is a second degree felony, the mandatory prison term must be six months or two, three, four, five, six, seven, or eight years, and if it is a first degree felony, the mandatory prison term must be six months or three, four, five, six, seven, eight, nine, ten, or eleven years. A "pregnant victim specification" charges that the victim of the offense was a woman whom the offender knew was pregnant at the time of the offense. If the victim of the offense is a peace officer or a BCII investigator, and if the victim suffered serious physical harm as a result of the commission of the offense, felonious assault is a first degree felony, and the court is required to impose a mandatory prison term of three, four, five, six, seven, eight, nine, ten, or eleven years.<sup>4</sup>

### **Relevant definitions**

As used in the bill's provisions:<sup>5</sup>

**"Physical harm to persons"** means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

**"Strangulation"** means applying external pressure to a person's neck that impedes the person's air flow or blood flow.

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<sup>2</sup> R.C. 2903.11(D)(1)(a).

<sup>3</sup> R.C. 2903.11(D)(1)(a).

<sup>4</sup> R.C. 2903.11(D)(1)(b); also, R.C. 2929.13(F)(4) and (18), 2929.14(B)(8), and 2941.1423, not in the bill.

<sup>5</sup> R.C. 2903.11(F); also R.C. 109.541 and 2935.01, not in the bill, by reference, and R.C. 2901.01, not in the bill.



**"Suffocation"** means the act of blocking or restricting a person's air flow by covering the person's nose and mouth simultaneously or by impeding normal movement of the person's chest and abdomen against a person's will.

**"Investigator"** means a BCII officer or employee described in R.C. 109.54, which generally describes possible investigative activities of BCII.

**"Peace officer"** includes: a sheriff or deputy sheriff; marshal or deputy marshal; member of an organized municipal police department, including a member of such a department in an adjoining state serving in Ohio under a contract; metropolitan housing authority or regional transit authority police officer; state university law enforcement officer; designated Department of Public Safety enforcement agent; Department of Taxation investigator; Department of Natural Resources natural resources law enforcement staff officer, forest-fire investigator, natural resources officer, or wildlife officer; individual designated to perform law enforcement duties under R.C. 511.232, 1545.13, or 6101.75; veterans' home police officer; port authority special police officer; township police constable, police officer, or joint police district police officer; municipal airport or other municipal air navigation facility special police officer; House of Representatives Sergeant at Arms if granted arrest authority; assistant House of Representatives Sergeant at Arms; Senate Sergeant at Arms or assistant; BCII officer or employee in specified circumstances; state fire marshal law enforcement officer; and State Highway Patrol Superintendent and troopers in specified circumstances.

### **Existing prohibitions under felonious assault**

Currently, the prohibitions under the offense of felonious assault, unchanged by the bill, prohibit a person from doing any of the following:<sup>6</sup>

- (1) Knowingly causing serious physical harm to another or to another's unborn;
- (2) Knowingly causing or attempting to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance;
- (3) With knowledge that the person has tested positive as a carrier of an AIDS virus, knowingly engaging in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct, knowingly engaging in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of such a virus, or

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<sup>6</sup> R.C. 2903.11(A) and (B).

knowingly engaging in sexual conduct with a person under age 18 who is not the offender's spouse.

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## HISTORY

ACTION	DATE
Introduced	10-03-17

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