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S.B. 72
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Bill Analysis

Version: As Introduced

Primary Sponsor: Sens. Williams and Thomas

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SUMMARY

- Enacts the offense of “assault by a law enforcement officer.”

DETAILED ANALYSIS

Offense of “assault by a law enforcement officer”

Prohibition and penalties

The bill enacts the offense of “assault by a law enforcement officer.” The prohibition under the offense prohibits a “law enforcement officer” from knowingly causing “serious physical harm” to another in any of three specified manners (see “**Definitions**,” below for the meaning of the terms in quotation marks). The specified manners of causing the serious physical harm under the prohibition, and the penalties for a violation of the prohibition involving the manners are as follows¹ (see **COMMENT**):

- Knowingly causing the serious physical harm to the other person by impeding the normal breathing or circulation of the blood of the other person by applying pressure to the throat or neck, or by blocking the nose or mouth, of the other person. A violation of the prohibition committed in such a manner is a first degree misdemeanor.
- Knowingly causing the serious physical harm to the other person by using “less than lethal force” (see “**Definitions**,” below) against the other person unless the form of less than lethal force is necessary to arrest the other person or to prevent physical harm to the officer or another person. A violation of the prohibition committed in such a manner is a fifth degree felony.

¹ R.C. 2903.17(B) and (C).

3. Knowingly causing the serious physical harm to the other person by using “lethal force” (see “**Definitions**,” below) against the other person unless the form of lethal force is necessary to prevent death or serious physical harm to the officer or another person. A violation of the prohibition committed in such a manner is a first degree felony.

Definitions

Enacted in the bill

The bill defines the following terms for purposes of the new offense:²

“**Law enforcement officer**” means any of the following who is employed, commissioned, disposed, appointed, or elected in a capacity specified in clause (1), (2), or (3) for the state, a political subdivision of the state, or an agency, department, or instrumentality of the state or a political subdivision of the state: (1) any law enforcement officer, as defined in R.C. 2901.01, (2) any peace officer, as defined in R.C. 2935.01, or (3) any person employed in the state who is authorized to carry firearms and who is subject to and in compliance with the firearms requalification requirements of R.C. 109.801 (see “**Cumulative definition under existing law**,” below, regarding the persons covered by clauses (1) to (3)).

“**Less than lethal force**” means any degree of force that is not lethal force.

“**Lethal force**” means any degree of force that creates a substantial risk of causing death or serious physical harm to another.

“**Physical harm**” means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

“**Serious physical harm**” means any: (1) mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment, (2) physical harm that carries a substantial risk of death, (3) physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity, (4) physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement, or (5) physical harm that involves acute pain of such duration as to result in substantial suffering or that involves any degree of prolonged or intractable pain.

Cumulative definition under existing law

Under the three existing definitions that comprise the meaning of “**law enforcement officer**” for purposes of the bill’s new offense, the term means any of the following:³

1. A sheriff, deputy sheriff, township constable, township or joint police district police officer, marshal, deputy marshal, municipal police officer (including a municipal police officer from an adjoining state serving in Ohio under a contract), metropolitan housing

² R.C. 2903.17(A); and by reference to R.C. 9.69, not in the bill.

³ R.C. 109.801, 2901.01, and 2935.01, not in the bill.

authority police officer, regional transit authority police officer, or State Highway Patrol trooper;

2. A state university law enforcement officer;
3. A Department of Public Safety enforcement agent;
4. A Department of Taxation employee with delegated investigation powers;
5. A Department of Natural Resources natural resources law enforcement staff officer, forest-fire investigator, natural resources officer, or wildlife officer;
6. A specified park officer with law enforcement duties;
7. A veterans' home police officer or port authority special police officer;
8. An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, who has a statutory duty to conserve the peace or to enforce all or certain laws and authority to arrest violators, within the limits of that statutory duty and authority;
9. A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;
10. A member of a county, township, or municipal law enforcement auxiliary police force, within the scope of the member's appointment or commission;
11. A person lawfully called to aid a sheriff in keeping the peace, for the purposes and during the time when so called;
12. A person appointed by a mayor as a special patrolling officer during riot or emergency, for the purposes and during the time when so appointed;
13. A member of the organized militia of the state or the U.S. Armed Forces, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
14. A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;
15. The House of Representatives sergeant at arms, if given arrest authority, and an assistant House of Representatives sergeant at arms;
16. The Senate sergeant at arms and an assistant Senate sergeant at arms;
17. A municipal special police officer employed at a municipal airport, or other municipal air navigation facility, in specified circumstances;
18. A Bureau of Criminal Identification and Investigation official who has completed peace officer basic training and is providing assistance upon request to a law enforcement officer or peace officer;
19. A state fire marshal law enforcement officer;
20. The State Highway Patrol Superintendent for certain specified purposes or if in compliance with the firearms requalification requirements of R.C. 109.801; or

21. A municipal or township chief of police, university or college police department chief, parole or probation officer who carries a firearm in the course of official duties, corrections officer of a multicounty correctional center or municipal-county or multicounty-municipal correctional center who carries a firearm in the course of official duties, tactical medical professional, or Department of Youth Services employee authorized to carry a firearm while on duty, if the person listed in this paragraph is in compliance with the R.C. 109.801 firearms requalification requirements.

COMMENT

The prohibition under the bill's new offense of "assault by a law enforcement officer" appears to overlap to an extent with some of the prohibitions under the existing offenses of "felonious assault," "aggravated assault," "assault," and "domestic violence."⁴ The penalties under the existing offenses for conduct similar to conduct prohibited under the bill's new offense range from a first degree misdemeanor to a first degree felony, depending on the circumstances of the conduct constituting the offense.

HISTORY

Action	Date
Introduced	02-23-21

S0072-I-134/ts

⁴ R.C. 2903.11, 2903.12, 2903.13, and 2919.25, not in the bill.