



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Jeff Hobday

### **H.B. 38**

132nd General Assembly  
(As Introduced)

**Reps.** Greenspan, Anielski, Barnes, Goodman, Keller, Kick, Lipps, Patton, Perales, Riedel, Retherford, Sprague, Thompson, Wiggam, Young

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### **BILL SUMMARY**

- Expands the offense of aggravated murder to include purposely causing the death of a first responder or military member when the victim was engaged in official duties or the offender's specific purpose was to kill a first responder or military member.
  - Increases the penalty for felonious assault against a first responder or military member from a second degree felony, absent any specification, to a first degree felony.
  - Requires a mandatory prison term of three to 11 years for felonious assault if the victim was a peace officer, BCII investigator, first responder, or military member and the offender knew or had reasonable cause to know the victim's profession.
  - Requires the mandatory prison term described above to be served consecutively to any prison term imposed for offenses committed at the same time, as part of a common scheme or plan, or as part of a course of conduct connected to the assault.
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### **CONTENT AND OPERATION**

#### **Aggravated murder**

The bill expands the offense of aggravated murder to prohibit purposely causing the death of a first responder or military member whom the offender knows or has reasonable cause to know is a first responder or military member if either of the following applies:<sup>1</sup>

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<sup>1</sup> R.C. 2903.01(E).

(1) The victim, at the time of the offense, was engaged in the victim's duties;

(2) The offender's specific purpose was to kill a first responder or military member.

Existing law prohibits the same form of aggravated murder when the victim is a law enforcement officer and either the officer was on duty or the offender's specific purpose was to kill a law enforcement officer. However, the bill expands that prohibition by adding to the definition of "law enforcement officer" any federal law enforcement officer and anyone who has previously served as a federal or state law enforcement officer.<sup>2</sup>

Under existing law, unchanged by the bill, aggravated murder is a capital offense, punishable by death or life imprisonment.<sup>3</sup>

### **Felonious assault**

The bill increases the penalty for felonious assault when the victim is a first responder or military member from a second degree felony, absent any specification, to a first degree felony. The bill also expands the circumstances under which an offender is subject to a mandatory prison term of three to 11 years for committing felonious assault. Under existing law, the mandatory prison term only applies when the victim is a peace officer or BCII investigator and the victim suffered serious physical harm as a result of the assault. The bill eliminates the requirement that the victim must suffer serious physical harm as a result of the assault and, instead, requires the offender to have known the victim's profession. The bill also expands the types of victims that trigger the mandatory prison term to include first responders and military members.<sup>4</sup>

In addition to requiring a mandatory prison term in the circumstances described above, the bill requires the offender to serve the prison term imposed for felonious assault consecutively to any prison term imposed for one or more offenses committed at the same time, as part of a common scheme or plan, or as part of a course of criminal conduct connected to the felonious assault.<sup>5</sup>

The bill expands the definition of "peace officer" to include any federal law enforcement officer and anyone who has previously served as a federal or state law

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<sup>2</sup> R.C. 2903.01(E) and (G)(2).

<sup>3</sup> R.C. 2903.01(F) and 2929.02(A), not in the bill.

<sup>4</sup> R.C. 2903.11(D)(1)(a) and (c).

<sup>5</sup> R.C. 2903.11(D)(1)(c) and 2929.14(C)(6).

enforcement officer. This change to the definition expands the applicability of increased penalties for felonious assault of a peace officer under the bill.<sup>6</sup>

## Definitions

As defined in the bill:

"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.<sup>7</sup>

"Military member" means a member of the U.S. armed forces, reserves, or Ohio National Guard, a participant in ROTC or Junior ROTC, or anyone who has previously served in the military.<sup>8</sup>

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## HISTORY

ACTION	DATE
Introduced	02-07-17

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<sup>6</sup> R.C. 2903.11(E)(3).

<sup>7</sup> R.C. 2903.01(G)(3) and 2903.11(E)(7).

<sup>8</sup> R.C. 2903.01(G)(4) and 2903.11(E)(8).

