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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 690
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Young and A. White

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SUMMARY

- Authorizes a school crossing guard, while performing official duties, to direct, stop, or otherwise control traffic to ensure the safety of a pedestrian using a crosswalk.
- Creates two new offenses related to interactions with school crossing guards performing official duties by:
 - Prohibiting a person from knowingly failing to obey a lawful order by a school crossing guard; and
 - Prohibiting a person from knowingly harassing, threatening, intimidating, or interfering with a school crossing guard.
- Makes both offenses a first degree misdemeanor, in addition to imposing other related penalties.
- Grants civil immunity for a school crossing guard under certain conditions.
- Adds a school crossing guard to the list of protected victims under Ohio's Assault Law, thus enhancing the penalty for assaulting a school crossing guard.
- Creates a new aggravated vehicular homicide and vehicular assault offense by prohibiting causing the death or serious physical harm to another person or another's unborn as the proximate result of violating the new school crossing guard offenses.

DETAILED ANALYSIS

School crossing guard authority

The bill authorizes a school crossing guard, while performing official duties, to direct, stop, or otherwise control traffic to ensure the safety of a pedestrian using a crosswalk. A school crossing guard is a person formally designated by a school district, municipality, township, or law enforcement agency to direct traffic through a crosswalk while pedestrians are going to or leaving

school during the opening or closing hours. A school crossing guard's "official duties" are the actions taken by the guard while wearing or displaying high-visibility apparel or using a stop paddle, a whistle, or specific hand movements to clearly direct traffic in or near a crosswalk.¹ While some local governments may have ordinances or resolutions governing their local school crossing guards, current state law does not address school crossing guards or expressly authorize them to control traffic.

Interfering with or failing to obey a school crossing guard

The bill creates two new offenses related to interactions with school crossing guards who are performing official duties. Specifically, it prohibits a person from:

1. Knowingly failing to obey a lawful order given by a school crossing guard; and
2. Knowingly harassing, threatening, intimidating, or interfering with a school crossing guard.²

A lawful order, for purposes of school crossing guards, is a command given within the scope of the guard's statutory authority while the guard is performing official duties.³

Penalties

The bill makes the two offenses discussed above each a first degree misdemeanor. The penalties for a first degree misdemeanor include a jail term of up to 180 days and a fine of up to \$1,000.⁴ Additionally, if the offender was, at the time of the violation, in a school zone during the hours in which the school zone speed limit was in effect, a court must impose a fine that is two times the usual amount. The bill also requires that points be assessed against the offender's driver's license in accordance with the statutory requirements for moving violations.⁵

Civil immunity

The bill grants a school crossing guard immunity from damages allegedly resulting from an act or omission related to a power, duty, responsibility, or authorization of the school crossing guard. However, this civil immunity does not apply if:

1. The school crossing guard's act or omission was manifestly outside the scope of the guard's official duties;
2. The school crossing guard's act or omission was malicious, in bad faith, or wanton or reckless; or

¹ R.C. 4511.461(A) and (B).

² R.C. 4511.461(C).

³ R.C. 4511.461(A)(4).

⁴ R.C. 4511.461(D); R.C. 2929.24 and 2929.28, not in the bill.

⁵ R.C. 4511.461(E) and (F); R.C. 4510.036, not in the bill.

3. Liability for the act or omission is expressly imposed by another provision of the Revised Code.⁶

Assault of a school crossing guard

The bill adds a school crossing guard to the list of protected victims under Ohio's Assault Law. Current law prohibits a person from knowingly causing or attempting to cause physical harm to another or to another's unborn or recklessly causing serious physical harm to another or to another's unborn ("assault"). Generally, assault is a first degree misdemeanor. However, assault committed against certain individuals at specified locations (e.g. assault against a schoolteacher, administrator, or school bus operator in a school, school building, school bus, or on school premises) may increase the penalty to a fifth degree felony.⁷

The bill specifies that assault of a school crossing guard who is performing official duties in a crosswalk or sidewalk that is in or adjacent to a school zone is a fifth degree felony. A fifth degree felony is punishable by a definite prison term of six to 12 months and up to a \$2,500 fine.⁸

Vehicular homicide and assault

The bill creates a new aggravated vehicular homicide offense and a new vehicular assault offense. Specifically, the bill makes causing the death another person or another's unborn as the proximate result of knowingly failing to obey a lawful order given by a school crossing guard or knowingly harassing, threatening, intimidating, or interfering with a school crossing guard a third degree felony, generally. If at the time of the offense the offender was driving under a suspended driver's license, was driving without a valid driver's license, or previously has been convicted of or pleaded guilty to a vehicular homicide offense or any traffic-related homicide, manslaughter, or assault offense, the offense is enhanced to a second degree felony.⁹

Similarly, the bill also makes causing serious physical harm to another person or another's unborn as the proximate result of knowingly failing to obey a lawful order given by a school crossing guard or knowingly harassing, threatening, intimidating, or interfering with a school crossing guard a fourth degree felony, generally. If at the time of the offense the offender was driving under a suspended driver's license, previously has been convicted of or pleaded guilty to a vehicular assault offense or any traffic-related homicide, manslaughter, or assault offense, or fled the scene of the accident, the offense is enhanced to a third degree felony.¹⁰

⁶ R.C. 4511.461(G).

⁷ R.C. 2903.13(A), (B), (C)(1), and (C)(4).

⁸ R.C. 2903.13(C)(4)(d); R.C. 2929.14 and 2929.18, not in the bill.

⁹ R.C. 2903.06(A)(2)(c) and (B)(3).

¹⁰ R.C. 2903.08(A)(2)(c) and (C)(2).

The penalty implications of the bill's new offenses are listed in the table below.

Penalties for vehicular homicide and vehicular assault related to school crossing guard offenses¹¹		
Type of penalty	Base offense	Enhanced offense
Aggravated vehicular homicide		
Degree of offense	Third degree felony	Second degree felony
Financial sanctions	Up to \$10,000 fine	Up to \$15,000 fine
Confinement	Definite prison term between 12 to 60 months	Mandatory minimum term between two to eight years
Driver's license suspension	Class 2 suspension (3 years to life)	Class 1 suspension (lifetime)
Vehicular assault		
Degree of offense	Fourth degree felony	Third degree felony
Financial sanctions	Up to \$5,000 fine	Up to \$10,000 fine
Confinement	Definite prison term between six to 18 months	Definite prison term between 12 to 60 months
Driver's license suspension	Class 4 suspension (one to five years)	Class 3 suspension (two to ten years)

HISTORY

Action	Date
Introduced	02-10-26

ANHB690IN-136/ts

¹¹ R.C. 2929.14, 2929.18, and 4510.02, not in the bill.