

As Introduced

132nd General Assembly

Regular Session

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S. B. No. 207

Senator Kunze

Cosponsors: Senators Bacon, Hite, Hottinger, Terhar, Tavares, Beagle

A BILL

To amend section 2903.11 of the Revised Code to 1
expand the offense of felonious assault to 2
include knowingly causing or attempting to cause 3
physical harm to another person by means of 4
strangulation or suffocation. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2903.11 of the Revised Code be 6
amended to read as follows: 7

Sec. 2903.11. (A) No person shall knowingly do ~~either~~any 8
of the following: 9

(1) Cause serious physical harm to another or to another's 10
unborn; 11

(2) Cause or attempt to cause physical harm to another or 12
to another's unborn by means of a deadly weapon or dangerous 13
ordnance; 14

(3) Cause or attempt to cause physical harm to another 15
person by means of strangulation or suffocation. 16

(B) No person, with knowledge that the person has tested 17

positive as a carrier of a virus that causes acquired 18
immunodeficiency syndrome, shall knowingly do any of the 19
following: 20

(1) Engage in sexual conduct with another person without 21
disclosing that knowledge to the other person prior to engaging 22
in the sexual conduct; 23

(2) Engage in sexual conduct with a person whom the 24
offender knows or has reasonable cause to believe lacks the 25
mental capacity to appreciate the significance of the knowledge 26
that the offender has tested positive as a carrier of a virus 27
that causes acquired immunodeficiency syndrome; 28

(3) Engage in sexual conduct with a person under eighteen 29
years of age who is not the spouse of the offender. 30

(C) The prosecution of a person under this section does 31
not preclude prosecution of that person under section 2907.02 of 32
the Revised Code. 33

(D) (1) (a) Whoever violates this section is guilty of 34
felonious assault. Except as otherwise provided in this division 35
or division (D) (1) (b) of this section, felonious assault is a 36
felony of the second degree. If the victim of a violation of 37
division (A) of this section is a peace officer or an 38
investigator of the bureau of criminal identification and 39
investigation, felonious assault is a felony of the first 40
degree. 41

(b) Regardless of whether the felonious assault is a 42
felony of the first or second degree under division (D) (1) (a) of 43
this section, if the offender also is convicted of or pleads 44
guilty to a specification as described in section 2941.1423 of 45
the Revised Code that was included in the indictment, count in 46

the indictment, or information charging the offense, except as 47
otherwise provided in this division or unless a longer prison 48
term is required under any other provision of law, the court 49
shall sentence the offender to a mandatory prison term as 50
provided in division (B) (8) of section 2929.14 of the Revised 51
Code. If the victim of the offense is a peace officer or an 52
investigator of the bureau of criminal identification and 53
investigation, and if the victim suffered serious physical harm 54
as a result of the commission of the offense, felonious assault 55
is a felony of the first degree, and the court, pursuant to 56
division (F) of section 2929.13 of the Revised Code, shall 57
impose as a mandatory prison term one of the prison terms 58
prescribed for a felony of the first degree. 59

(2) In addition to any other sanctions imposed pursuant to 60
division (D) (1) of this section for felonious assault committed 61
in violation of division (A) (2) of this section, if the deadly 62
weapon used in the commission of the violation is a motor 63
vehicle, the court shall impose upon the offender a class two 64
suspension of the offender's driver's license, commercial 65
driver's license, temporary instruction permit, probationary 66
license, or nonresident operating privilege as specified in 67
division (A) (2) of section 4510.02 of the Revised Code. 68

(E) It is an affirmative defense to a charge under 69
division (A) (3) of this section that the act was performed as 70
part of a necessary medical procedure to aid or benefit the 71
victim or was an otherwise lawful action taken by law 72
enforcement personnel during the course of their duties. 73

(F) As used in this section: 74

(1) "Deadly weapon" and "dangerous ordnance" have the same 75
meanings as in section 2923.11 of the Revised Code. 76

(2) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.	77 78
(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.	79 80
(4) "Sexual conduct" has the same meaning as in section 2907.01 of the Revised Code, except that, as used in this section, it does not include the insertion of an instrument, apparatus, or other object that is not a part of the body into the vaginal or anal opening of another, unless the offender knew at the time of the insertion that the instrument, apparatus, or other object carried the offender's bodily fluid.	81 82 83 84 85 86 87
(5) "Investigator of the bureau of criminal identification and investigation" means an investigator of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers pursuant to authority granted under section 109.541 of the Revised Code.	88 89 90 91 92 93 94
(6) "Investigator" has the same meaning as in section 109.541 of the Revised Code.	95 96
<u>(7) "Strangulation" means applying external pressure to a person's neck that impedes the person's air flow or blood flow.</u>	97 98
<u>(8) "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.</u>	99 100 101 102
Section 2. That existing section 2903.11 of the Revised Code is hereby repealed.	103 104