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Bill Analysis

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Primary Sponsors: Reps. Frazier and Plummer

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SUMMARY

Immunity for acts of hospital police officers

- Grants a municipal corporation in which a hospital is located or, if the hospital is located in an unincorporated area of a county, a county immunity from civil or criminal liability in an action brought under Ohio law if all of the following apply:
 - The action arises out of the actions of a duly appointed hospital police officer.
 - The actions of the hospital police officer are directly in the discharge of the person's duties as a police officer for the hospital.
 - The actions of the hospital police officer occur on the premises of the hospital or its affiliates or subsidiaries that are within the territory of the municipal corporation or the unincorporated area of the county or elsewhere within the territory of that municipal corporation or within the unincorporated area of that county.

Definition of hospital police officer, special police officer, and peace officer

- Defines "hospital police officer" and "special police officer" to apply to the offenses of felonious assault, aggravated assault, and assault.
- Expands the definition of "peace officer" that generally applies throughout the Revised Code to also include gaming agents of the Casino Control Commission.

Penalty for assault if victim is a hospital police officer or special police officer

- Increases the penalties for the offenses of felonious assault, aggravated assault, and assault if the victim is a hospital police officer or a special police officer.

DETAILED ANALYSIS

Immunity for acts of hospital police officers

The bill grants a municipal corporation in which a hospital is located or, if the hospital is located in an unincorporated area of a county, a county immunity from civil or criminal liability in any action brought under Ohio law if all of the following apply:¹

- The action arises out of the actions of a duly appointed hospital police officer (see **“Appointment of hospital police officers,”** below).
- The actions of the hospital police officer are directly in the discharge of the person’s duties as a police officer for the hospital.
- The actions of the hospital police officer occur on the premises of the hospital or its affiliates or subsidiaries that are within the territory of the municipal corporation served by the chief of police or the unincorporated area of the county served by the sheriff who signed the agreement (see **“Written agreement with local law enforcement,”** below), whichever is applicable, or anywhere else within the territory of that municipal corporation or within the unincorporated area of that county.

Background on hospital police officers

Appointment of hospital police officers

Under current law, upon the application of any hospital that is operated by a public hospital agency or a nonprofit hospital agency and that employs and maintains its own proprietary police department or security department, the Secretary of State may appoint and commission any persons that the hospital designates, or as many persons as the Secretary of State considers proper, to act as hospital police officers. The hospital police officers must hold office for three years, unless, for good cause shown, their commission is revoked by the Secretary of State or by the hospital.²

Requirements for hospital police officers to engage in duties

Under current law, no person who is appointed as a hospital police officer can engage in any duties as a hospital police officer for the hospital or its affiliates and subsidiaries unless all of the following are true: (1) local law enforcement grants approval, (2) the hospital enters into a written agreement with local law enforcement, and (3) the hospital police officer completes training and receives certification from the Ohio Peace Officer Training Commission.³

¹ R.C. 4973.17(D)(4).

² R.C. 4973.17(D)(1) and (3).

³ R.C. 4973.17(D)(1).

Approval from local law enforcement

Current law provides that the chief of police of the municipal corporation in which the hospital is located or, if the hospital is located in the unincorporated area of a county, the sheriff of that county must grant approval to the hospital in order for hospital police officers to engage in those duties or activities.⁴

Written agreement with local law enforcement

Under current law, after the grant of approval described above, the hospital must enter into a written agreement with the chief of police of the municipal corporation in which the hospital is located or, if the hospital is located in an unincorporated area of a county, with the sheriff of that county, that sets forth standards and criteria governing the interaction and cooperation between hospital police officers and local law enforcement officers. These standards and criteria may include provisions governing the following: (1) reporting of offenses discovered by hospital police officers to the local law enforcement agency, (2) investigatory responsibilities relative to offenses committed on hospital property, and (3) processing and confinement of persons arrested for offenses committed on hospital property. The written agreement must be signed by the appointing authority of the hospital and the chief of police or sheriff.⁵

Training and certification

Current law requires a hospital police officer to successfully complete a training program approved by the Ohio Peace Officer Training Commission and to be certified by the Commission before engaging in duties as a police officer. A hospital police officer may complete the training program and receive certification regardless of whether the requirements described above had been met.⁶

Authority to act as hospital police officer

Under current law, if a hospital police officer has been duly appointed and the requirements described above have been met, a hospital police officer is entitled to act as a police officer both on the premises of a hospital and its affiliates and subsidiaries that are within the territory of the municipal corporation served by the chief of police or the unincorporated area of the county served by the sheriff who signed the agreement (see **“Written agreement with local law enforcement,”** above), whichever is applicable, and elsewhere within the territory of a municipal corporation or within the unincorporated area of a county, if the person, when engaging in that activity, is directly in the discharge of the person’s duties as a hospital police officer for the hospital.⁷

⁴ R.C. 4973.17(D)(1)(a).

⁵ R.C. 4973.17(D)(1)(b).

⁶ R.C. 4973.17(D)(1)(c).

⁷ R.C. 4973.17(D)(2).

Definitions

As used in the bill:⁸

- “Public hospital agency” means any county, board of county hospital trustees, county hospital commission, municipal corporation, new community authority, joint township hospital district, state or municipal university or college operating or authorized to operate a hospital facility, or the state.
- “Nonprofit hospital agency” means a not-for-profit corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, that has authority to own or operate a hospital facility or provides or is to provide services to one or more other hospital agencies.

Definition of hospital police officer, special police officer, and peace officer

Hospital police officer definition

The bill defines “hospital police officer,” for purposes of its assault offense-related provisions described below, as a police officer who is both of the following:

1. Employed by a hospital that employs and maintains its own proprietary police department or security department; and
2. Appointed and commissioned by the Secretary of State.⁹

Special police officer definition

The bill defines “special police officer,” for purposes of its assault offense-related provisions described below, as a special police officer designated by the State Highway Patrol’s Superintendent, with the approval of the Director of Public Safety, to preserve the peace and enforce the laws of Ohio with respect to persons and property under the patrol’s jurisdiction and control pursuant to the existing statute authorizing such a designation.¹⁰ An officer appointed under the existing statute has the same powers of arrest as police officers under the general statutory arrest law when exercising the officer’s responsibilities on lands owned by the Ohio Expositions Commission and on state properties and institutions owned or leased by the state where the officers are assigned by the Superintendent, and is required to complete peace officer basic training for the position to which appointed as required by the Ohio Peace Officer Training Commission and to take an oath of office, wear the badge of office, and provide a bond to the state for the proper performance of the officer’s duties.¹¹

⁸ R.C. 4973.17(D)(5), by reference to R.C. 140.01(B) and (C), not in the bill.

⁹ R.C. 2903.11(E), 2903.12(C), and 2903.13(D).

¹⁰ R.C. 2903.11(E)(8), 2903.12(C), and 2903.13(D).

¹¹ R.C. 5503.09, not in the bill.

Expansion of peace officer definition to include casino gaming agents

The bill includes language that expands the current definition of peace officer that applies throughout the Revised Code to also include “gaming agents” of the Casino Control Commission.¹² Identical language appeared in Am. H.B. 29 of the 134th General Assembly, which was enacted and went into effect on March 23, 2022.

Penalty for assault if victim is a hospital police officer or special police officer

Felonious assault

The bill increases the penalty for felonious assault¹³ to a first degree felony if the victim is a hospital police officer or special police officer. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory minimum prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years.

The current penalty for the offense is generally a second degree felony, but it is increased to a first degree felony if the victim is a peace officer or a Bureau of Criminal Identification and Investigation (BCII) investigator. Current law requires a mandatory prison term, of the length described in the preceding paragraph, if the victim is a peace officer or BCII investigator and the victim suffered serious physical harm.

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory prison term if the victim of the felonious assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for felonious assault to a first degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this “pregnant victim” mandatory term to a mandatory minimum prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years if the victim is such an officer, regardless of the extent of the injury suffered by the officer.¹⁴

¹² R.C. 2935.01, by reference to R.C. 3772.01, not in the bill.

¹³ The offense of felonious assault prohibits a person from knowingly causing serious physical harm to another, or causing (or attempting to cause) physical harm to another with a deadly weapon or dangerous ordnance. R.C. 2903.11(A).

¹⁴ R.C. 2903.11(D)(1), 2923.13(F), not in the bill, and 2929.14(A)(1)(a) and (B)(8), not in the bill.

Aggravated assault

The bill increases the penalty for aggravated assault¹⁵ to a third degree felony if the victim is a hospital police officer or special police officer. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory prison term of 9, 12, 18, 24, 30, or 36 months.

The current penalty for the offense is generally a fourth degree felony, but it is increased to a third degree felony if the victim is a peace officer or a BCII investigator. Current law requires a mandatory prison term, of the length described in the preceding paragraph, if the victim is a peace officer or BCII investigator and the victim suffered serious physical harm.

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory prison term if the victim of the aggravated assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for aggravated assault to a third degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this “pregnant victim” mandatory term to a mandatory prison term of 9, 12, 18, 24, 30, or 36 months if the victim is such an officer, regardless of the extent of the injury suffered by the officer.¹⁶

Assault

The bill increases the penalty for assault¹⁷ to a fourth degree felony if the victim is a hospital police officer or special police officer who is in the performance of the officer’s official duties. If the hospital police officer or special police officer suffered serious physical harm as a result of the commission of the offense, the court must impose a mandatory prison term of 12, 13, 14, 15, 16, 17, or 18 months.

The current penalty for the offense is generally a first degree misdemeanor, but it is increased to a felony of the third, fourth, or fifth degree felony in certain specified circumstances. Currently, if the victim is a peace officer or a BCII investigator, the penalty is increased to a fourth degree felony, and if the officer or investigator suffered serious physical harm, a mandatory prison term, of the length described in the preceding paragraph, is required.

¹⁵ The offense of aggravated assault prohibits a person, while under the influence of sudden passion or in a sudden fit of rage – either of which is brought on by serious provocation by the victim that is reasonably sufficient to incite the person into using deadly force – from knowingly causing serious physical harm to another, or causing (or attempting to cause) physical harm to another with a deadly weapon or dangerous ordnance. R.C. 2903.12(A).

¹⁶ R.C. 2903.12(B), 2929.13(F), not in the bill, and 2929.14(A)(3)(b) and (B)(8), not in the bill.

¹⁷ The offense of assault prohibits a person from knowingly causing (or attempting to cause) physical harm to another, or recklessly causing serious physical harm to another. R.C. 2903.13(A) and (B).

Separately, current law, unchanged by the bill, also requires the imposition of a mandatory jail term or prison term if the victim of the assault was pregnant and the offender also is convicted of a specification charging that the offender knew that fact, regardless of the extent of the injury suffered by the victim, with the length of the mandatory term being determined by the degree of the underlying offense. Since the bill increases the penalty for assault to a fourth degree felony if the victim is a hospital police officer or special police officer, it also has the effect of increasing this “pregnant victim” mandatory term to a mandatory minimum prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months, regardless of the extent of the injury suffered by the officer.¹⁸

HISTORY

Action	Date
Introduced	11-01-21

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¹⁸ R.C. 2903.13(C)(5), (6), and (10), 2929.13(F), not in the bill, and 2929.14(A)(4) and (B)(8), not in the bill.