

House Engrossed

~~aggravated assault; ambush; police; classification~~  
(now: ambush; police; sentencing enhancement)

State of Arizona  
House of Representatives  
Fifty-sixth Legislature  
First Regular Session  
2023

# HOUSE BILL 2485

AN ACT

AMENDING SECTION 13-1204, ARIZONA REVISED STATUTES; RELATING TO AGGRAVATED ASSAULT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-1204, Arizona Revised Statutes, is amended to  
3 read:

4 13-1204. Aggravated assault; classification; definitions

5 A. A person commits aggravated assault if the person commits  
6 assault as prescribed by section 13-1203 under any of the following  
7 circumstances:

8 1. If the person causes serious physical injury to another.

9 2. If the person uses a deadly weapon or dangerous instrument.

10 3. If the person commits the assault by any means of force that  
11 causes temporary but substantial disfigurement, temporary but substantial  
12 loss or impairment of any body organ or part or a fracture of any body  
13 part.

14 4. If the person commits the assault while the victim is bound or  
15 otherwise physically restrained or while the victim's capacity to resist  
16 is substantially impaired.

17 5. If the person commits the assault after entering the private  
18 home of another with the intent to commit the assault.

19 6. If the person is eighteen years of age or older and commits the  
20 assault on a minor under fifteen years of age.

21 7. If the person commits assault as prescribed by section 13-1203,  
22 subsection A, paragraph 1 or 3 and the person is in violation of an order  
23 of protection issued against the person pursuant to section 13-3602 or  
24 13-3624.

25 8. If the person commits the assault knowing or having reason to  
26 know that the victim is any of the following:

27 (a) A peace officer or a person summoned and directed by the  
28 officer.

29 (b) A constable or a person summoned and directed by the constable  
30 while engaged in the execution of any official duties or if the assault  
31 results from the execution of the constable's official duties.

32 (c) A firefighter, fire investigator, fire inspector, emergency  
33 medical technician or paramedic engaged in the execution of any official  
34 duties or a person summoned and directed by such individual while engaged  
35 in the execution of any official duties or if the assault results from the  
36 execution of the official duties of the firefighter, fire investigator,  
37 fire inspector, emergency medical technician or paramedic.

38 (d) A teacher or other person employed by any school and the  
39 teacher or other employee is on the grounds of a school or grounds  
40 adjacent to the school or is in any part of a building or vehicle used for  
41 school purposes, any teacher or school nurse visiting a private home in  
42 the course of the teacher's or nurse's professional duties or any teacher  
43 engaged in any authorized and organized classroom activity held on other  
44 than school grounds.

1 (e) A health care worker while engaged in the health care worker's  
2 work duties or a health care practitioner who is certified or licensed  
3 pursuant to title 32, chapter 13, 14, 15, 17 or 25, or a person summoned  
4 and directed by the licensed health care practitioner while engaged in the  
5 person's professional duties. This subdivision does not apply if the  
6 person who commits the assault does not have the ability to form the  
7 culpable mental state because of a mental disability or because the person  
8 is seriously mentally ill, as defined in section 36-550.

9 (f) A prosecutor while engaged in the execution of any official  
10 duties or if the assault results from the execution of the prosecutor's  
11 official duties.

12 (g) A code enforcement officer as defined in section 39-123 while  
13 engaged in the execution of any official duties or if the assault results  
14 from the execution of the code enforcement officer's official duties.

15 (h) A state or municipal park ranger while engaged in the execution  
16 of any official duties or if the assault results from the execution of the  
17 park ranger's official duties.

18 (i) A public defender while engaged in the execution of any  
19 official duties or if the assault results from the execution of the public  
20 defender's official duties.

21 (j) A judicial officer while engaged in the execution of any  
22 official duties or if the assault results from the execution of the  
23 judicial officer's official duties.

24 9. If the person knowingly takes or attempts to exercise control  
25 over any of the following:

26 (a) A peace officer's or other officer's firearm and the person  
27 knows or has reason to know that the victim is a peace officer or other  
28 officer employed by one of the agencies listed in paragraph 10,  
29 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

30 (b) Any weapon other than a firearm that is being used by a peace  
31 officer or other officer or that the officer is attempting to use, and the  
32 person knows or has reason to know that the victim is a peace officer or  
33 other officer employed by one of the agencies listed in paragraph 10,  
34 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection.

35 (c) Any implement that is being used by a peace officer or other  
36 officer or that the officer is attempting to use, and the person knows or  
37 has reason to know that the victim is a peace officer or other officer  
38 employed by one of the agencies listed in paragraph 10, subdivision (a),  
39 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes  
40 of this subdivision, "implement" means an object that is designed for or  
41 that is capable of restraining or injuring an individual. Implement does  
42 not include handcuffs.

1           10. If the person meets both of the following conditions:  
2           (a) Is imprisoned or otherwise subject to the custody of any of the  
3 following:  
4           (i) The state department of corrections.  
5           (ii) The department of juvenile corrections.  
6           (iii) A law enforcement agency.  
7           (iv) A county or city jail or an adult or juvenile detention  
8 facility of a city or county.  
9           (v) Any other entity that is contracting with the state department  
10 of corrections, the department of juvenile corrections, a law enforcement  
11 agency, another state, any private correctional facility, a county, a city  
12 or the federal bureau of prisons or other federal agency that has  
13 responsibility for sentenced or unsentenced prisoners.  
14           (b) Commits an assault knowing or having reason to know that the  
15 victim is acting in an official capacity as an employee of any of the  
16 entities listed in subdivision (a) of this paragraph.  
17           11. If the person uses a simulated deadly weapon.  
18           B. A person commits aggravated assault if the person commits  
19 assault by either intentionally, knowingly or recklessly causing any  
20 physical injury to another person, intentionally placing another person in  
21 reasonable apprehension of imminent physical injury or knowingly touching  
22 another person with the intent to injure the person, and both of the  
23 following occur:  
24           1. The person intentionally or knowingly impedes the normal  
25 breathing or circulation of blood of another person by applying pressure  
26 to the throat or neck or by obstructing the nose and mouth either manually  
27 or through the use of an instrument.  
28           2. Any of the circumstances exists that are set forth in section  
29 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.  
30           C. A person who is convicted of intentionally or knowingly  
31 committing aggravated assault on a peace officer pursuant to subsection A,  
32 paragraph 1 or 2 of this section shall be sentenced to imprisonment for  
33 not less than the presumptive sentence authorized under chapter 7 of this  
34 title and is not eligible for suspension of sentence, commutation or  
35 release on any basis until the sentence imposed is served.  
36           D. IF A PERSON IS CONVICTED OF COMMITTING AGGRAVATED ASSAULT ON A  
37 PEACE OFFICER PURSUANT TO THIS SECTION AND THE TRIER OF FACT DETERMINES  
38 THAT SECTION 13-701, SUBSECTION D, PARAGRAPH 17 APPLIES, THE PERSON SHALL  
39 BE SENTENCED TO TWO YEARS MORE THAN WOULD OTHERWISE BE IMPOSED FOR THE  
40 OFFENSE. THE ADDITIONAL SENTENCE IMPOSED UNDER THIS SUBSECTION IS IN  
41 ADDITION TO ANY ENHANCED PUNISHMENT THAT MAY BE APPLICABLE UNDER THIS  
42 SECTION OR CHAPTER 7 OF THIS TITLE AND IS NOT ELIGIBLE FOR SUSPENSION OF  
43 SENTENCE, COMMUTATION OR RELEASE FROM CONFINEMENT ON ANY BASIS UNTIL THE  
44 SENTENCE IMPOSED IS SERVED, EXCEPT AS SPECIFICALLY AUTHORIZED BY SECTION

1 31-233, SUBSECTION A OR B, THE PERSON IS ELIGIBLE FOR RELEASE PURSUANT TO  
2 SECTION 41-1604.07 OR THE SENTENCE IS COMMUTED.

3 ~~D.~~ E. It is not a defense to a prosecution for assaulting a peace  
4 officer or a mitigating circumstance that the peace officer was not on  
5 duty or engaged in the execution of any official duties.

6 ~~E.~~ F. Except pursuant to subsections ~~F~~ G and ~~G~~ H of this  
7 section, aggravated assault pursuant to subsection A, paragraph 1 or 2,  
8 paragraph 9, subdivision (a) or paragraph 11 of this section is a class 3  
9 felony except if the aggravated assault is a violation of subsection A,  
10 paragraph 1 or 2 of this section and the victim is under fifteen years of  
11 age it is a class 2 felony punishable pursuant to section 13-705.  
12 Aggravated assault pursuant to subsection A, paragraph 3 or subsection B  
13 of this section is a class 4 felony. Aggravated assault pursuant to  
14 subsection A, paragraph 9, subdivision (b) or paragraph 10 of this section  
15 is a class 5 felony. Aggravated assault pursuant to subsection A,  
16 paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of this section  
17 is a class 6 felony.

18 ~~F.~~ G. Aggravated assault pursuant to subsection A, paragraph 1 or  
19 2 of this section committed on a peace officer is a class 2 felony.  
20 Aggravated assault pursuant to subsection A, paragraph 3 of this section  
21 committed on a peace officer is a class 3 felony. Aggravated assault  
22 pursuant to subsection A, paragraph 8, subdivision (a) of this section  
23 committed on a peace officer is a class 5 felony unless the assault  
24 results in any physical injury to the peace officer, in which case it is a  
25 class 4 felony.

26 ~~G.~~ H. Aggravated assault pursuant to:  
27 1. Subsection A, paragraph 1 or 2 of this section is a class 2  
28 felony if committed on a prosecutor.  
29 2. Subsection A, paragraph 3 of this section is a class 3 felony if  
30 committed on a prosecutor.  
31 3. Subsection A, paragraph 8, subdivision (f) of this section is a  
32 class 5 felony if the assault results in physical injury to a prosecutor.

33 ~~H.~~ I. For the purposes of this section:  
34 1. "Health care worker" means:  
35 (a) A person who is employed by or contracted to work at a health  
36 care institution that is licensed pursuant to title 36.  
37 (b) A person who is employed or contracted to provide health care  
38 or related services in a fieldwork setting, including:  
39 (i) Home health care, home-based hospice and home-based social  
40 work, unless the worker is employed or contracted by an individual who  
41 privately employs, in the individual's residence, the worker to perform  
42 covered services for the individual or a family member of the individual.  
43 (ii) Any emergency services and transport, including the services  
44 provided by firefighters and emergency responders.

1           2. "Judicial officer" means a justice of the supreme court, judge,  
2 justice of the peace or magistrate or a commissioner or hearing officer of  
3 a state, county or municipal court.

4           3. "Mental disability" means a disabling neurological condition, or  
5 brain injury, or involuntary impairment as a result of a medication that  
6 is administered by a health care provider or a medical procedure that is  
7 performed at a health care treatment site.

8           4. "Prosecutor" means a county attorney, a municipal prosecutor or  
9 the attorney general and includes an assistant or deputy county attorney,  
10 municipal prosecutor or attorney general.