

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2485

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

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 assault  
6 as prescribed by section 13-1203 under any of the following circumstances:

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

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

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

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

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

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

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

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

3           (a) A peace officer or a person summoned and directed by the  
4 officer.

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

8           (c) A firefighter, fire investigator, fire inspector, emergency  
9 medical technician or paramedic engaged in the execution of any official  
10 duties or a person summoned and directed by such individual while engaged  
11 in the execution of any official duties or if the assault results from the  
12 execution of the official duties of the firefighter, fire investigator,  
13 fire inspector, emergency medical technician or paramedic.

14           (d) A teacher or other person employed by any school and the teacher  
15 or other employee is on the grounds of a school or grounds adjacent to the  
16 school or is in any part of a building or vehicle used for school purposes,  
17 any teacher or school nurse visiting a private home in the course of the  
18 teacher's or nurse's professional duties or any teacher engaged in any  
19 authorized and organized classroom activity held on other than school  
20 grounds.

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

29           (f) A prosecutor while engaged in the execution of any official  
30 duties or if the assault results from the execution of the prosecutor's  
31 official duties.

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

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

7 (i) A public defender while engaged in the execution of any official  
8 duties or if the assault results from the execution of the public  
9 defender's official duties.

10 (j) A judicial officer while engaged in the execution of any  
11 official duties or if the assault results from the execution of the  
12 judicial officer's official duties.

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

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

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

24 (c) Any implement that is being used by a peace officer or other  
25 officer or that the officer is attempting to use, and the person knows or  
26 has reason to know that the victim is a peace officer or other officer  
27 employed by one of the agencies listed in paragraph 10, subdivision (a),  
28 item (i), (ii), (iii), (iv) or (v) of this subsection. For the purposes of  
29 this subdivision, "implement" means an object that is designed for or that  
30 is capable of restraining or injuring an individual. Implement does not  
31 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 assault  
19 by either intentionally, knowingly or recklessly causing any physical  
20 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 to  
26 the throat or neck or by obstructing the nose and mouth either manually or  
27 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.

1 C. A person who is convicted of intentionally or knowingly  
2 committing aggravated assault on a peace officer pursuant to subsection A,  
3 paragraph 1 or 2 of this section shall be sentenced to imprisonment for not  
4 less than the presumptive sentence authorized under chapter 7 of this title  
5 and is not eligible for suspension of sentence, commutation or release on  
6 any basis until the sentence imposed is served.

7 D. IF A PERSON IS CONVICTED OF COMMITTING AGGRAVATED ASSAULT ON A  
8 PEACE OFFICER PURSUANT TO THIS SECTION AND THE TRIER OF FACT DETERMINES  
9 THAT SECTION 13-701, SUBSECTION D, PARAGRAPH 17 APPLIES, THE PERSON SHALL  
10 BE SENTENCED TO TWO YEARS MORE THAN THE PRESUMPTIVE SENTENCE AUTHORIZED  
11 UNDER CHAPTER 7 OF THIS TITLE AND IS NOT ELIGIBLE FOR SUSPENSION OF  
12 SENTENCE, COMMUTATION OR RELEASE ON ANY BASIS UNTIL THE SENTENCE IMPOSED IS  
13 SERVED.

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

17 ~~E.~~ F. Except pursuant to subsections ~~F~~ G and ~~G~~ H of this section,  
18 aggravated assault pursuant to subsection A, paragraph 1 or 2, paragraph 9,  
19 subdivision (a) or paragraph 11 of this section is a class 3 felony except  
20 if the aggravated assault is a violation of subsection A, paragraph 1 or 2  
21 of this section and the victim is under fifteen years of age it is a class  
22 2 felony punishable pursuant to section 13-705. Aggravated assault pursuant  
23 to subsection A, paragraph 3 or subsection B of this section is a class 4  
24 felony. Aggravated assault pursuant to subsection A, paragraph 9,  
25 subdivision (b) or paragraph 10 of this section is a class 5 felony.  
26 Aggravated assault pursuant to subsection A, paragraph 4, 5, 6, 7 or 8 or  
27 paragraph 9, subdivision (c) of this section is a class 6 felony.

28 ~~F.~~ G. Aggravated assault pursuant to subsection A, paragraph 1 or 2  
29 of this section committed on a peace officer is a class 2 felony.  
30 Aggravated assault pursuant to subsection A, paragraph 3 of this section  
31 committed on a peace officer is a class 3 felony. Aggravated assault

1 pursuant to subsection A, paragraph 8, subdivision (a) of this section  
2 committed on a peace officer is a class 5 felony unless the assault results  
3 in any physical injury to the peace officer, in which case it is a class 4  
4 felony.

5 ~~G.~~ H. Aggravated assault pursuant to:

6 1. Subsection A, paragraph 1 or 2 of this section is a class 2  
7 felony if committed on a prosecutor.

8 2. Subsection A, paragraph 3 of this section is a class 3 felony if  
9 committed on a prosecutor.

10 3. Subsection A, paragraph 8, subdivision (f) of this section is a  
11 class 5 felony if the assault results in physical injury to a prosecutor.

12 ~~H.~~ I. For the purposes of this section:

13 1. "Health care worker" means:

14 (a) A person who is employed by or contracted to work at a health  
15 care institution that is licensed pursuant to title 36.

16 (b) A person who is employed or contracted to provide health care or  
17 related services in a fieldwork setting, including:

18 (i) Home health care, home-based hospice and home-based social work,  
19 unless the worker is employed or contracted by an individual who privately  
20 employs, in the individual's residence, the worker to perform covered  
21 services for the individual or a family member of the individual.

22 (ii) Any emergency services and transport, including the services  
23 provided by firefighters and emergency responders.

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

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

1           4. "Prosecutor" means a county attorney, a municipal prosecutor or  
2           the attorney general and includes an assistant or deputy county attorney,  
3           municipal prosecutor or attorney general."  
4 Amend title to conform

KEVIN PAYNE

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