

Senate Engrossed House Bill

FILED

**MICHELE REAGAN
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

CHAPTER 109

HOUSE BILL 2304

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; definition

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 causes
10 temporary but substantial disfigurement, temporary but substantial loss or
11 impairment of any body organ or part or a fracture of any body part.

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

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

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

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

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

24 (a) A peace officer, or a person summoned and directed by the officer
25 while engaged in the execution of any official duties.

26 (b) A constable, or a person summoned and directed by the constable
27 while engaged in the execution of any official duties.

28 (c) A firefighter, fire investigator, fire inspector, emergency
29 medical technician or paramedic engaged in the execution of any official
30 duties, or a person summoned and directed by such individual while engaged in
31 the execution of any official duties.

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

39 (e) A health care practitioner who is certified or licensed pursuant
40 to title 32, chapter 13, 15, 17 or 25, or a person summoned and directed by
41 the licensed health care practitioner while engaged in the person's
42 professional duties. This subdivision does not apply if the person who
43 commits the assault is seriously mentally ill, as defined in section 36-550,
44 or is afflicted with alzheimer's disease or related dementia.

- 1 (f) A prosecutor.
- 2 (g) A code enforcement officer as defined in section 39-123.
- 3 (h) A state or municipal park ranger.
- 4 (i) A public defender.
- 5 9. If the person knowingly takes or attempts to exercise control over
- 6 any of the following:
- 7 (a) A peace officer's or other officer's firearm and the person knows
- 8 or has reason to know that the victim is a peace officer or other officer
- 9 employed by one of the agencies listed in paragraph 10, subdivision (a), item
- 10 (i), (ii), (iii), (iv) or (v) of this subsection and is engaged in the
- 11 execution of any official duties.
- 12 (b) Any weapon other than a firearm that is being used by a peace
- 13 officer or other officer or that the officer is attempting to use, and the
- 14 person knows or has reason to know that the victim is a peace officer or
- 15 other officer employed by one of the agencies listed in paragraph 10,
- 16 subdivision (a), item (i), (ii), (iii), (iv) or (v) of this subsection and is
- 17 engaged in the execution of any official duties.
- 18 (c) Any implement that is being used by a peace officer or other
- 19 officer or that the officer is attempting to use, and the person knows or has
- 20 reason to know that the victim is a peace officer or other officer employed
- 21 by one of the agencies listed in paragraph 10, subdivision (a), item (i),
- 22 (ii), (iii), (iv) or (v) of this subsection and is engaged in the execution
- 23 of any official duties. For the purposes of this subdivision, "implement"
- 24 means an object that is designed for or that is capable of restraining or
- 25 injuring an individual. Implement does not include handcuffs.
- 26 10. If the person meets both of the following conditions:
- 27 (a) Is imprisoned or otherwise subject to the custody of any of the
- 28 following:
- 29 (i) The state department of corrections.
- 30 (ii) The department of juvenile corrections.
- 31 (iii) A law enforcement agency.
- 32 (iv) A county or city jail or an adult or juvenile detention facility
- 33 of a city or county.
- 34 (v) Any other entity that is contracting with the state department of
- 35 corrections, the department of juvenile corrections, a law enforcement
- 36 agency, another state, any private correctional facility, a county, a city or
- 37 the federal bureau of prisons or other federal agency that has responsibility
- 38 for sentenced or unsentenced prisoners.
- 39 (b) Commits an assault knowing or having reason to know that the
- 40 victim is acting in an official capacity as an employee of any of the
- 41 entities listed in subdivision (a) of this paragraph.
- 42 11. IF THE PERSON USES A SIMULATED DEADLY WEAPON.

1 B. A person commits aggravated assault if the person commits assault
2 by either intentionally, knowingly or recklessly causing any physical injury
3 to another person, intentionally placing another person in reasonable
4 apprehension of imminent physical injury or knowingly touching another person
5 with the intent to injure the person, and both of the following occur:

6 1. The person intentionally or knowingly impedes the normal breathing
7 or circulation of blood of another person by applying pressure to the throat
8 or neck or by obstructing the nose and mouth either manually or through the
9 use of an instrument.

10 2. Any of the circumstances exists that are set forth in section
11 13-3601, subsection A, paragraph 1, 2, 3, 4, 5 or 6.

12 C. A person who is convicted of intentionally or knowingly committing
13 aggravated assault on a peace officer while the officer is engaged in the
14 execution of any official duties pursuant to subsection A, paragraph 1 or 2
15 of this section shall be sentenced to imprisonment for not less than the
16 presumptive sentence authorized under chapter 7 of this title and is not
17 eligible for suspension of sentence, commutation or release on any basis
18 until the sentence imposed is served.

19 D. Except pursuant to subsections E and F of this section, aggravated
20 assault pursuant to subsection A, paragraph 1 or 2, ~~or~~ paragraph 9,
21 subdivision (a) OR PARAGRAPH 11 of this section is a class 3 felony except if
22 THE AGGRAVATED ASSAULT IS A VIOLATION OF SUBSECTION A, PARAGRAPH 1 OR 2 OR
23 PARAGRAPH 9, SUBDIVISION (a) OF THIS SECTION AND the victim is under fifteen
24 years of age ~~in which case~~ it is a class 2 felony punishable pursuant to
25 section 13-705. Aggravated assault pursuant to subsection A, paragraph 3 or
26 subsection B of this section is a class 4 felony. Aggravated assault
27 pursuant to subsection A, paragraph 9, subdivision (b) or paragraph 10 of
28 this section is a class 5 felony. Aggravated assault pursuant to subsection
29 A, paragraph 4, 5, 6, 7 or 8 or paragraph 9, subdivision (c) of this section
30 is a class 6 felony.

31 E. Aggravated assault pursuant to subsection A, paragraph 1 or 2 of
32 this section committed on a peace officer while the officer is engaged in the
33 execution of any official duties is a class 2 felony. Aggravated assault
34 pursuant to subsection A, paragraph 3 of this section committed on a peace
35 officer while the officer is engaged in the execution of any official duties
36 is a class 3 felony. Aggravated assault pursuant to subsection A, paragraph
37 8, subdivision (a) of this section committed on a peace officer while the
38 officer is engaged in the execution of any official duties is a class 5
39 felony unless the assault results in any physical injury to the peace officer
40 while the officer is engaged in the execution of any official duties, in
41 which case it is a class 4 felony.

42 F. Aggravated assault pursuant to:

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

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

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

5 G. For the purposes of this section, "prosecutor" means a county
6 attorney, a municipal prosecutor or the attorney general and includes an
7 assistant or deputy county attorney, municipal prosecutor or attorney
8 general.

APPROVED BY THE GOVERNOR MARCH 30, 2015.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2015.

Passed the House February 25, 2015

Passed the Senate March 23, 2015

by the following vote: 55 Ayes,

by the following vote: 24 Ayes,

4 Nays, 1 Not Voting

4 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2304

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 24, 2015,

by the following vote: 50 Ayes,

5 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
25th day of March, 2015,

at 3:31 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 30th day of

March, 2015,

at 1:32 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2304

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 31st day of March, 2015,

at 10:00 o'clock A M.

[Signature]
Secretary of State