



MEMORANDUM

TO: Pennsylvania House Judiciary Committee

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: May 4, 2020

RE: OPPOSITION TO SENATE BILL 351 P.N. 341 (J. WARD)

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[SB 351](#) (PN 341) would amend Pennsylvania's aggravated assault statute ([Title 18 § 2702](#)) to add "health practitioner or technician" to the list of officers or employees against whom causing or attempting to cause bodily injury, attempting by physical menace to cause fear of immediate and serious bodily injury, or using teargas or a taser on, while the officer or employee is engaged in their employment, would be considered aggravated assault.

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, we respectfully urge you to oppose Senate Bill 351.

Aggravated assault statutes are designed to impose tougher penalties for actions that cause greater harm, injury, or risk of death. Pennsylvania law primarily distinguishes simple assault from aggravated assault based on intent and severity of the injury. Simple assault ([Title 18 § 2701](#)) is charged when someone inflicts bodily injury on another due to intentional or reckless conduct, negligence in the use of a deadly weapon, or attempts to inflict such injury or by physical menace makes a person fear that they will suffer imminent injury. Aggravated assault ([Title 18 § 2702](#)) is charged when someone causes or attempts to cause *serious* bodily injury to another person and shows an extreme indifference to human life.

Pennsylvania's aggravated assault statute has been expanded to impose tougher penalties for cases of simple assault when the assault was committed against a class of persons defined by their occupation. Originally, these protected classes of employment included police officers, firefighters, and parole officers. Since then, the list of protected classes has ballooned to 38 different types of employees ([Title 18 § 2702 \(c\)](#)). It now includes nearly all classes of law enforcement as well as judges, members of the general assembly, the Governor and other elected officials. It also includes private detectives, waterways conservation officers, psychiatric aides, parking enforcement officers, liquor control enforcement agents, public utility employees, employees of the Department of Environmental Protection, among others. In the 2019-2020 session alone, over ten bills have been filed to add new categories of employees to this list, such as public transportation employees, youth shelter workers, government officials, code enforcement officers, and school crossing guards.

Continuing to add categories of protected classes of employment to this subsection undermines the fundamental distinctions between types of assault, distinctions that are intended to determine the severity and reasonableness of the punishment imposed. SB 351 and bills like it would impose disproportionate and excessively punitive penalties for offenses which committed against anyone else, are graded as second-degree misdemeanors, punishable by up to 2 years in prison and \$5,000 in fines.

But for those protected employment classes under this subsection, causing or attempting to cause serious bodily injury to any persons on this list while performing their duties is graded as a first-degree felony, punishable by up to 20 years in prison and \$5,000 in fines. And causing or attempting to cause bodily injury or making a person fear they will suffer serious bodily injury are both graded as second-degree felonies, punishable by up to 10 years in prison and \$25,000 in fines.

Ceaselessly expanding this list would all but render the offense of simple assault meaningless. It metes out greater punishment based not on the intent or severity of the assault, but rather on the employment status of the victim.