



MEMORANDUM

TO: The Pennsylvania House of Representatives

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: May 18, 2020

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

Bill summary: [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 a simple assault would automatically be charged as an aggravated assault.

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

Aggravated assault offenses 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—a distinction intended to ensure that the punishment fits the crime:

- **Simple assault**¹ is [intentionally, knowingly, or recklessly](#)² inflicting [bodily injury](#)³ on another person. Bodily injury is any physical impairment, including physical pain, and typically results in minor, non-permanent injuries like bruises or scratches. Simple assault is a **second-degree misdemeanor**, punishable by up to 2 years incarceration and \$5,000 in fines.
- **Aggravated assault**⁴ is [intentionally, knowingly, or recklessly causing](#)—or attempting to cause—[serious bodily injury](#) to another person that causes serious, permanent disfigurement, protracted loss or impairment of a bodily function, or creates a substantial risk of death. An aggravated assault that causes, or attempts to cause, **serious bodily injury** is graded as a **first-degree felony**, punishable by up to 20 years in prison and \$25,000 in fines. In special cases, aggravated assault that **does not involve** serious bodily injury is a **second-degree felony**, punishable by up to 10 years in prison and \$25,000 in fines.

SB 351 would expand the definition of aggravated assault by eliminating the requirement to cause serious bodily injury to trigger a felony charge.

Pennsylvania's aggravated assault statute has been repeatedly expanded to impose tougher penalties for cases of *simple assault* when the assault was committed against special classes of employment. Originally, these protected classes were limited to police officers, firefighters, and parole officers. Since then, the list has ballooned to **39 different types of employees**. 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, and employees of the Department of Environmental Protection, among others.

¹ [18 Pa.C.S. § 2701. Simple assault.](#)

² [18 Pa.C.S. § 302. General requirements of culpability.](#)

³ [18 Pa.C.S. § 2301. Definitions.](#)

⁴ [18 Pa.C.S. § 2702. Aggravated assault.](#)

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. SB 351 is the latest bill, which proposes to add “health practitioner or technician” to the list of protected job categories.

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 reasonableness and severity of the punishment imposed. SB 351 (and bills like it) propose arbitrary and overly punitive penalties for offenses that if committed against anyone else, are punished far less severely. In other words, SB 351 would automatically treat a *simple assault* against a health practitioner or technician as *aggravated*—increasing the penalty from a maximum of 2 years incarceration for a second-degree misdemeanor to up to 10 years in prison for a second-degree felony—**an additional 8 years in prison.**

Serially expanding the aggravated assault statute renders 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*.

For these reasons, we urge you to oppose Senate Bill 351.