

December 9, 2022

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Offered by: COUNCILMAN MCKITRICK & COUNCILMAN FUSCO

ORDINANCE NO. 351 -2022 amending and/or supplementing Title 13, Chapter 135 "Offenses Against Persons," Section 135.06 "Menacing" of the Akron Codified Ordinances in order to impose a mandatory minimum jail sentence for incidents of menacing against public employees and utility workers; and declaring an emergency.

WHEREAS, public employees and utility workers provide vital services to the City of Akron and need to be protected while they are performing official responsibilities or duties; and

WHEREAS, increasing the penalty for incidents of menacing against public employees and utility workers will provide additional protection for public employees and utility workers in the performance or attempted performance of their official duties.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 13, Chapter 135 "Offenses Against Persons," Section 135.06 "Menacing" of the Akron Codified Ordinances is hereby amended and/or supplemented to read as follows:

135.06 Menacing.

A. For the purpose of this section:

"Public employee" means any person holding a position by **election**, appointment, or employment in the service of a public employer.

"Utility worker" means an employee of a person or entity whose primary responsibility is the operation or maintenance of a utility.

"Utility" means an entity that provides gas, electric, steam, water, sewage, communication services, or cable and broadband services, whether publicly or privately owned.

B. No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person or member of his immediate family.

C. Except as otherwise provided in this section, whoever violates this section is guilty of menacing, a misdemeanor of the fourth degree. Penalty, see § 130.99. (R.C. § 2903.22)

D. If the victim of the offense is a public employee whom the offender knows or has reason to know is a public employee, and the offense occurred during the public employee's performance or attempted performance of official responsibilities or duties, menacing is a misdemeanor of the first degree. ~~Penalty, see § 130.99.~~

- E. If the victim of the offense is a utility worker who the offender knows or has reason to know is a utility worker, and the offense occurred during the lawful performance or attempted lawful performance of the victim's duties as a utility worker, menacing is a misdemeanor of the first degree. ~~Penalty, see § 130.99.~~
- F. **Any person convicted of an offense covered by parts (D) and (E) of this ordinance shall receive a mandatory jail sentence of at least three (3) days, which shall not be suspended and during which mandatory minimum jail term the defendant shall not be eligible for any form of early release, house arrest, or work release.**
1. **The mandatory minimum shall be served consecutively for each eligible offense unless the eligible offenses were committed in the same course-of-conduct against the same election official.**
 2. **The mandatory minimum may be reduced for time served in jail prior to sentencing. A day of time served credit may not be used to reduce multiple mandatory minimum sentences.**
 3. **The court may impose additional penalties as permitted by § 130.99.**

Section 2. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of public peace, health, safety and welfare for the reason that it is immediately necessary to protect public employees and utility workers in the performance of their official duties, and provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed December 12, 2022

Diana R. Biviano
Clerk of Council

Ray Samuel
President of Council

Approved 12/13, 2022

D. M. H.
MAYOR

2022 DEC -2 AM 11:42

December 2, 2022 AKRON CITY COUNCIL -

Offered by: COUNCILMAN MCKITRICK & COUNCILMAN FUSCO

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C. Except as otherwise provided in this section, whoever violates this section is guilty of menacing, a misdemeanor of the fourth degree. Penalty, see § 130.99. (R.C. § 2903.22)

D. If the victim of the offense is a public employee whom the offender knows or has reason to know is a public employee, and the offense occurred during the public employee’s performance or attempted performance of official responsibilities or duties, menacing is a misdemeanor of the first degree. ~~Penalty, see § 130.99.~~

E. If the victim of the offense is a utility worker who the offender knows or has reason to know is a utility worker, and the offense occurred during the lawful performance or attempted lawful performance of the victim’s duties as a utility worker, menacing is a misdemeanor of the first degree. ~~Penalty, see § 130.99.~~

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Passed _____, 2022

Clerk of Council

President of Council

Approved _____, 2022

MAYOR

Akron City Council - Uniform Council Report (UCR)

PART I – General Information

Subject of Requested Legislation:

Ordinance to increase penalties for intimidation/harassment of public employees

Department/Division: Council/Elected

Requestor: Councilman McKittrick & Councilman Fusco Phone/Ext: 2256

If applicable, previous legislation on this subject (reference by ordinance/resolution number):

O-108-2022

Purpose/Objective of Legislation:

to increase penalties for intimidation/harassment of public employees

PART II – Financial Information

Does this Legislation directly involve the expenditure of funds?

☐ YES

☒ NO

Was this expenditure budgeted for in the current operating budget?

☐ YES

☒ NO

If "YES," describe how the budgeted amount for the project compares to the actual or estimated costs:

City Expenditures

Budgeted Costs	
Amount:	
Fund:	
Org:	
Acct:	

Estimate of Costs	
Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

Amount:	
Fund:	
Org:	
Acct:	

City Receipts

City Receipt of Funds	
Amount:	
Fund:	
Org:	
Acct:	

Other Consideration	

Total expenditure (if applicable): \$ _____

Total receipts (if applicable): \$ _____

PART III – DETAILED INFORMATION:

Attach detailed information/documentation, as described in UCR Instruction Sheet.

Summary of Ordinance No. 351-2022 passed by Akron City Council December 12, 2022 amending and/or supplementing Title 13, Chapter 135 “Offenses Against Persons,” Section 135.06 “Menacing” of the Akron Codified Ordinances in order to impose a mandatory minimum jail sentence for incidents of menacing against public employees and utility workers; and declaring an emergency.

By: Sara Biviano, Clerk of Council

This summary is being published pursuant to Section 38 of the City Charter. The complete text of this legislation is available in the office of the Clerk of Council.

**posted on Akron City Council website 12/15/2022 through 1/3/2023*