

HOUSE BILL REPORT

SHB 1150

As Passed House:

January 26, 1998

Title: An act relating to assault.

Brief Description: Making assault of a school employee or sports official an aggravating factor for sentencing.

Sponsors: Representatives Cairnes, Cooper, L. Thomas, Sterk, Zellinsky, Radcliff, Wood, Hankins, Clements, Skinner, McMorris, Wensman, D. Schmidt, DeBolt, Keiser, Thompson, Carlson, O'Brien, Quall and Anderson.

Brief History:

Committee Activity:

Law & Justice: 2/5/97, 2/19/97 [DPS].

Floor Activity:

House Passed: 1/26/98, 86-11.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney; Lantz; Radcliff and Skinner.

Minority Report: Do not pass. Signed by 3 members: Representatives Carrell; Lambert and Sherstad.

Staff: Bill Perry (786-7123).

Background: An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or must involve otherwise causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against:

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a firefighter;
- a law enforcement officer;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; and
- personnel or volunteers involved in community corrections.
- certain health care providers.

An otherwise misdemeanor assault against one of these victims becomes a felony only if the victim is engaged in his or her job related duties at the time of the assault. In the case of transit vehicle and bus drivers, it is also necessary for the driver to be operating the vehicle and for there to be at least one passenger on the vehicle.

In sentencing a defendant who is convicted of a misdemeanor or gross misdemeanor, the court generally has complete leeway to impose any sentence up to the maximum allowed by law. Under the Sentencing Reform Act (SRA), however, presumptive-sentence ranges are statutorily prescribed. The court may sentence outside of such a presumptive range (but not beyond the statutorily set maximum sentence) if there are sufficient mitigating- or aggravating- factors. The SRA provides illustrative-mitigating and aggravating factors as examples of the kinds of factors a court may use to justify an exceptional- sentence outside of the presumptive range. Among the illustrative aggravating factors provided by the SRA are deliberate cruelty by a defendant, vulnerability of a victim, sexual motivation on the part of the defendant, and multiple incidents of abuse of a victim.

Summary of Substitute Bill: Assaulting a school employee or a sports official is made an aggravating sentencing factor for all degrees of assault. The same provision is made for both felony and non-felony sentencing.

School employees are defined to include employees of public or private schools, from kindergarten through college. School employees are covered by this provision while performing employment duties, and are covered before or after performing those duties if the assault occurs in the vicinity of the school. However, school employees who are bus drivers are covered by this provision only to the extent that they are not already covered by the current law's provision that turns an otherwise fourth-degree assault into a third-degree assault. That is, if an otherwise simple assault becomes a felony because it is committed against a bus driver while there are passengers on the bus, the fact that the victim was a bus driver cannot also be used to impose an exceptional felony sentence. If, however, a bus driver is the victim of any assault while on duty, but not when operating a bus with a passenger on it, then the aggravating factor may be used.

Sports officials are defined as referees, umpires, linesmen, or similar officials who are registered with an organization that provides education and training to sports officials. Sports officials are covered by this provision while officiating an event, or after officiating an event if the assault occurs within, or in the immediate vicinity of, the facility in which the event was held.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Teachers and other school employees are regularly put in harm's way and cannot avoid the danger. Sports officials are also particularly vulnerable to assaults. It is increasingly hard to find volunteer sports officials because of the danger.

Testimony Against: None.

Testified: Representative Cairnes, prime sponsor; and Bob West, citizen (pro).