

# HOUSE BILL REPORT

## HB 1096

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### As Passed House:

March 9, 1999

**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, O'Brien, Schindler, Constantine, Lovick, D. Schmidt, Alexander, Romero, Barlean, Keiser, Morris, Carlson, Cooper, Kessler, Esser and Fortunato.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 1/26/99, 1/27/99 [DP].

#### Floor Activity:

Passed House: 3/9/99, 75-22.

### Brief Summary of Bill

- Provides explicit authority for the court to consider assault against a school employee or sports official as an aggravating factor when sentencing a person convicted of assault.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine and Kagi.

**Staff:** Jean Ann Quinn (786-7310).

### Background:

*Assault:* The criminal code divides the crime of assault into four degrees, and some specific 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. Assault in the first degree is a class A felony; assault in the second degree is a class B felony; assault in the third degree is a class C felony; and assault in the fourth degree is a gross misdemeanor.

*Sentencing for Felony Assault:* An adult offender who commits a felony on or after July 1, 1994 is subject to the provisions of the Sentencing Reform Act. In sentencing such an offender, the court generally must impose a sentence within the standard sentence range for the offense as provided in the Sentencing Reform Act. However, the court may impose a sentence outside the standard range if there are substantial and compelling reasons justifying an exceptional sentence. Sentences that depart from the standard range must meet certain requirements and may be appealed by either the defendant or the state. The Sentencing Reform Act lists a number of illustrative factors « both mitigating and aggravating « that the court may consider in determining whether an offender should receive an exceptional sentence.

*Sentencing for Gross Misdemeanor Assault:* An adult offender convicted of a gross misdemeanor is subject to a term of imprisonment in the county jail of not more than one year or a fine of not more than \$5,000, or both, as determined by the court.

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### **Summary of Bill:**

*Sentencing for Felony Assault:* The fact that an assault was against a school employee or sports official is added to the illustrative list of aggravating factors the court may consider when deciding whether to impose an exceptional sentence for an offender convicted of first, second, or third degree assault. If the assault was against a school employee, he or she must have been performing his or her employment duties at the time of the assault, or the assault must have occurred either before or after the employee performed his or her duties and in the vicinity of the school or location where these duties are performed. If the assault was against a sports official, he or she must have been performing his or her sports official duties at the time of the assault, or the assault must have occurred after the official performed his or her duties and within or in the immediate vicinity of the athletic facility where the event occurred.

*Sentencing for Gross Misdemeanor Assault:* In determining the sentence for an offender convicted of fourth degree assault, the court must consider, as an aggravating factor, the fact that the offender assaulted a school employee or sports official under the same circumstances as described in the paragraph above.

*Definitions:* (1) School employee is defined to mean an employee of a public or private school, grades kindergarten through 12, or a public or private vocational school, community college, or college or university; (2) Sports official is defined to mean an individual who serves as a referee, umpire, or linesman, or in a similar capacity, and

who is registered with, or a member of, a local, state, regional, or national organization engaged in providing education and training to sports officials.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Incidents of violence against sports officials are increasing in both number and severity. Kids see this behavior occurring unpunished at the highest level of sports and think that it is acceptable behavior. School employees are also very vulnerable to increased violence and need to be assured of a safe environment in which to work. Creating the ability to impose harsher penalties is one step that can be taken.

**Testimony Against:** People should be treated equally under the law. Four individuals could be assaulted at the same time and receive identical injuries « but the penalty would be different with respect to each assault. If there is a problem with assault, increase the penalties across the board, but don't create special categories of victims.

**Testified:** (In support) Bob West, sports official; John Olson, Washington Interscholastic Athletic Association; and Bob Maier, Washington Education Association.

(Opposed) Merton Cooper.