

# HOUSE BILL ANALYSIS

## HB 1096

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**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.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**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.

**Summary:**

**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.

**Fiscal Note:** Requested on January 19, 1999.

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

