

# HOUSE BILL REPORT

## HB 1398

---

---

### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to enhancing the penalties for crimes against law enforcement officers.

**Brief Description:** Enhancing the penalties for retaliatory crimes against law enforcement officers.

**Sponsors:** Representatives Morris, Barlean, Lovick, O'Brien, Conway, Keiser, Roach, Bush, Simpson, Esser, Rockefeller and Kessler.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/7/01, 2/14/01 [DPS].

#### Brief Summary of Substitute Bill

- Retaliatory crimes against law enforcement officers are added to the illustrative list of aggravating factors in the Sentencing Reform Act.
- Expands third degree assault to include retaliatory assaults against off-duty law enforcement officers.
- Penalties resulting from malicious mischief are increased for offenders who commit retaliatory crimes against law enforcement officers.

---

### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

**Staff:** Yvonne Walker (786-7841).

### Background:

*Aggravating Factor.* The standard range is presumed to be appropriate for the typical

felony case. However, the law provides that in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act (SRA) provides a list of illustrative factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range. Some of the illustrative aggravating factors provided by the SRA include: behavior that manifested into deliberate cruelty to a victim; vulnerability of a victim; sexual motivation on the part of the defendant; and an ongoing pattern of multiple incidents of abuse to a victim.

Assault in the third degree. Third degree assault occurs when someone negligently harms a person with a weapon or negligently causes bodily harm that causes considerable suffering. Third degree assault includes assaults against such persons as those employed as a transit operator or driver, school bus driver, school security officer, transit or school mechanic, fire fighter, nurse, physician, or a law enforcement officer who was performing his or her official duties at the time of the assault. Third degree assault is a seriousness level III, class C felony and is punishable by a maximum term of five years in prison, a \$10,000 fine, or both.

Malicious Mischief. A person is guilty of malicious mischief in the first degree if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious mischief in the first degree is a class B felony, punishable by a maximum term of 10 years in prison, a \$20,000 fine, or both.

A person is guilty of malicious mischief in the second degree if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$250, but less than \$1,500. Malicious mischief in the second degree is a class C felony, punishable by a maximum term of five years in prison, or by a \$10,000 fine, or both.

A person is guilty of malicious mischief in the third degree, if he or she knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree. Third degree malicious mischief is a gross misdemeanor, punishable by a maximum of one year in jail, or by a \$5,000 fine, or both.

---

### **Summary of Substitute Bill:**

Penalties are increased for an offender who commits a retaliatory crime against a person knowing that the person is a law enforcement officer.

Aggravating Factor. The list of illustrative aggravating factors in the SRA includes those retaliatory crimes that are committed where the defendant knew the victim of the offense

was a law enforcement officer. In addition, these crimes were specifically committed to retaliate against a particular law enforcement officer for an act the officer performed during a previous contact with the defendant while performing his or her official duties.

Assault in the third degree. Third degree assault includes retaliatory assaults committed against an off-duty law enforcement officer when the offender knew the victim was a police officer. In addition, the assault crime was specifically committed to retaliate against the particular law enforcement officer for an act the officer performed during a previous contact with the defendant while performing his or her official duties.

Malicious Mischief. A person is guilty of malicious mischief in the first degree if the defendant knowingly and maliciously caused physical damage to the property of a victim in an amount exceeding \$1,500; or

- 1.) the defendant knowingly and maliciously caused physical damage to the property of a victim in an amount exceeding \$250;
- 2.) the defendant knew that the victim was a law enforcement officer; and
- 3.) the crime was committed in retaliation against that particular officer for an act the officer performed during a previous contact with the defendant.

A person is guilty of malicious mischief in the second degree if the defendant knowingly and maliciously caused physical damage to the property of a victim in an amount exceeding \$250 but less than \$1,500; or

- 1) the defendant knowingly and maliciously caused physical damage to the property of a victim in an amount equal to or less than \$250;
- 2) the defendant knew that the victim was a law enforcement officer; and
- 3) the crime was committed in retaliation against that particular officer for an act the officer performed during a previous contact with the defendant.

Law enforcement officers include all general authority Washington peace officers, specially commissioned Washington peace officers, and limited authority Washington peace officers.

### **Substitute Bill Compared to Original Bill:**

The definition of law enforcement officer is clarified to include all general authority Washington peace officers, specially commissioned Washington peace officers, and limited authority Washington peace officers.

---

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill

is passed.

**Testimony For:** Police officers, by their nature, are susceptible to retaliatory actions on a daily basis. This bill allows a judge to take into account and more severely punish a person when a criminal action against a police officer is done for purely retaliatory means.

In addition, language should be included in the bill that delineates how a law enforcement officer is defined.

**Testimony Against:** None.

**Testified:** Representative Morris, prime sponsor; and Officer William Storie, Sedro-Woolley Police Department.