
HOUSE BILL 1733

State of Washington

57th Legislature

2001 Regular Session

By Representative Mulliken

Read first time 02/01/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to fourth degree assault committed in the presence
2 of a minor child; amending RCW 9A.36.041; reenacting and amending RCW
3 9.94A.320; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.36.041 and 1987 c 188 s 2 are each amended to read
6 as follows:

7 (1) A person is guilty of assault in the fourth degree if, under
8 circumstances not amounting to assault in the first, second, or third
9 degree, or custodial assault, he or she assaults another.

10 (2) Except when subsection (3) of this section applies, assault in
11 the fourth degree is a gross misdemeanor.

12 (3) Assault in the fourth degree is a class C felony if the assault
13 takes place in the presence of the person's or the victim's minor child
14 or stepchild, or a minor child residing within the household of the
15 person or victim, and the person is at least eighteen years old.

16 **Sec. 2.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
17 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34	IX	Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Homicide by Watercraft, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 79A.60.050)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Malicious placement of an explosive 2 (RCW
11 70.74.270(2))
12 Over 18 and deliver narcotic from Schedule
13 III, IV, or V or a nonnarcotic, except
14 flunitrazepam or methamphetamine, from
15 Schedule I-V to someone under 18 and 3
16 years junior (RCW 69.50.406)
17 Robbery 1 (RCW 9A.56.200)
18 Sexual Exploitation (RCW 9.68A.040)
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or
21 any drug (RCW 46.61.520)

22 VIII Arson 1 (RCW 9A.48.020)
23 Deliver or possess with intent to deliver
24 m e t h a m p h e t a m i n e (R C W
25 69.50.401(a)(1)(ii))
26 Hit and Run--Death (RCW 46.52.020(4)(a))
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 79A.60.050)
30 Manslaughter 2 (RCW 9A.32.070)
31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(a)(1)(ii))
34 Manufacture, deliver, or possess with
35 intent to deliver heroin or cocaine
36 (RCW 69.50.401(a)(1)(i))
37 Possession of Ephedrine, Pseudoephedrine,
38 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 Selling for profit (controlled or
5 counterfeit) any controlled substance
6 (RCW 69.50.410)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1) (b) and
21 (c))
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Involving a minor in drug dealing (RCW
24 69.50.401(f))
25 Malicious placement of an explosive 3 (RCW
26 70.74.270(3))
27 Sending, bringing into state depictions of
28 minor engaged in sexually explicit
29 conduct (RCW 9.68A.060)
30 Unlawful Possession of a Firearm in the
31 first degree (RCW 9.41.040(1)(a))
32 Use of a Machine Gun in Commission of a
33 Felony (RCW 9.41.225)
34 Vehicular Homicide, by disregard for the
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(2)(a))
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))
2 Intimidating a Judge (RCW 9A.72.160)
3 Intimidating a Juror/Witness (RCW
4 9A.72.110, 9A.72.130)
5 Malicious placement of an imitation device
6 2 (RCW 70.74.272(1)(b))
7 Manufacture, deliver, or possess with
8 intent to deliver narcotics from
9 Schedule I or II (except heroin or
10 cocaine) or flunitrazepam from
11 Schedule IV (RCW 69.50.401(a)(1)(i))
12 Rape of a Child 3 (RCW 9A.44.079)
13 Theft of a Firearm (RCW 9A.56.300)
14 Unlawful Storage of Anhydrous Ammonia (RCW
15 69.55.020)

16 V Abandonment of dependent person 1 (RCW
17 9A.42.060)

18 Advancing money or property for
19 extortionate extension of credit (RCW
20 9A.82.030)

21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))

23 Child Molestation 3 (RCW 9A.44.089)

24 Criminal Mistreatment 1 (RCW 9A.42.020)

25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)

27 Delivery of imitation controlled substance
28 by person eighteen or over to person
29 under eighteen (RCW 69.52.030(2))

30 Domestic Violence Court Order Violation
31 (RCW 10.99.040, 10.99.050, 26.09.300,
32 26.10.220, 26.26.138, 26.50.110,
33 26.52.070, or 74.34.145)

34 Extortion 1 (RCW 9A.56.120)

35 Extortionate Extension of Credit (RCW
36 9A.82.020)

37 Extortionate Means to Collect Extensions of
38 Credit (RCW 9A.82.040)

39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)
2 Perjury 1 (RCW 9A.72.020)
3 Persistent prison misbehavior (RCW
4 9.94.070)
5 Possession of a Stolen Firearm (RCW
6 9A.56.310)
7 Rape 3 (RCW 9A.44.060)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Stalking (RCW 9A.46.110)

15 IV Arson 2 (RCW 9A.48.030)
16 Assault 2 (RCW 9A.36.021)
17 Assault by Watercraft (RCW 79A.60.060)
18 Bribing a Witness/Bribe Received by Witness
19 (RCW 9A.72.090, 9A.72.100)
20 Commercial Bribery (RCW 9A.68.060)
21 Counterfeiting (RCW 9.16.035(4))
22 Escape 1 (RCW 9A.76.110)
23 Hit and Run--Injury (RCW 46.52.020(4)(b))
24 Hit and Run with Vessel--Injury Accident
25 (RCW 79A.60.200(3))
26 Indecent Exposure to Person Under Age
27 Fourteen (subsequent sex offense) (RCW
28 9A.88.010)
29 Influencing Outcome of Sporting Event (RCW
30 9A.82.070)
31 Knowingly Trafficking in Stolen Property
32 (RCW 9A.82.050(2))
33 Malicious Harassment (RCW 9A.36.080)
34 Manufacture, deliver, or possess with
35 intent to deliver narcotics from
36 Schedule III, IV, or V or nonnarcotics
37 from Schedule I-V (except marijuana,
38 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)
2 (iii) through (v))
3 Residential Burglary (RCW 9A.52.025)
4 Robbery 2 (RCW 9A.56.210)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Threats to Bomb (RCW 9.61.160)
7 Use of Proceeds of Criminal Profiteering
8 (RCW 9A.82.080 (1) and (2))
9 Vehicular Assault (RCW 46.61.522)
10 Willful Failure to Return from Furlough
11 (RCW 72.66.060)

12 III Abandonment of dependent person 2 (RCW
13 9A.42.070)
14 Assault 3 (RCW 9A.36.031)
15 Assault 4 (RCW 9A.36.041(3)) (When
16 committed in the presence of a minor
17 child)
18 Assault of a Child 3 (RCW 9A.36.140)
19 Bail Jumping with class B or C Felony (RCW
20 9A.76.170(2)(c))
21 Burglary 2 (RCW 9A.52.030)
22 Communication with a Minor for Immoral
23 Purposes (RCW 9.68A.090)
24 Criminal Gang Intimidation (RCW 9A.46.120)
25 Criminal Mistreatment 2 (RCW 9A.42.030)
26 Custodial Assault (RCW 9A.36.100)
27 Delivery of a material in lieu of a
28 controlled substance (RCW
29 69.50.401(c))
30 Escape 2 (RCW 9A.76.120)
31 Extortion 2 (RCW 9A.56.130)
32 Harassment (RCW 9A.46.020)
33 Intimidating a Public Servant (RCW
34 9A.76.180)
35 Introducing Contraband 2 (RCW 9A.76.150)
36 Maintaining a Dwelling or Place for
37 Controlled Substances (RCW
38 69.50.402(a)(6))

1 Malicious Injury to Railroad Property (RCW
2 81.60.070)
3 Manufacture, deliver, or possess with
4 intent to deliver marijuana (RCW
5 69.50.401(a)(1)(iii))
6 Manufacture, distribute, or possess with
7 intent to distribute an imitation
8 controlled substance (RCW
9 69.52.030(1))
10 Patronizing a Juvenile Prostitute (RCW
11 9.68A.100)
12 Perjury 2 (RCW 9A.72.030)
13 Possession of Incendiary Device (RCW
14 9.40.120)
15 Possession of Machine Gun or Short-Barreled
16 Shotgun or Rifle (RCW 9.41.190)
17 Promoting Prostitution 2 (RCW 9A.88.080)
18 Recklessly Trafficking in Stolen Property
19 (RCW 9A.82.050(1))
20 Securities Act violation (RCW 21.20.400)
21 Tampering with a Witness (RCW 9A.72.120)
22 Telephone Harassment (subsequent conviction
23 or threat of death) (RCW 9.61.230)
24 Theft of Livestock 2 (RCW 9A.56.080)
25 Unlawful Imprisonment (RCW 9A.40.040)
26 Unlawful possession of firearm in the
27 second degree (RCW 9.41.040(1)(b))
28 Unlawful Use of Building for Drug Purposes
29 (RCW 69.53.010)
30 Willful Failure to Return from Work Release
31 (RCW 72.65.070)
32 II Computer Trespass 1 (RCW 9A.52.110)
33 Counterfeiting (RCW 9.16.035(3))
34 Create, deliver, or possess a counterfeit
35 controlled substance (RCW
36 69.50.401(b))
37 Escape from Community Custody (RCW
38 72.09.310)
39 Health Care False Claims (RCW 48.80.030)

1 Malicious Mischief 1 (RCW 9A.48.070)
2 Possession of controlled substance that is
3 either heroin or narcotics from
4 Schedule I or II or flunitrazepam from
5 Schedule IV (RCW 69.50.401(d))
6 Possession of phencyclidine (PCP) (RCW
7 69.50.401(d))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Theft 1 (RCW 9A.56.030)
11 Theft of Rental, Leased, or Lease-purchased
12 Property (valued at one thousand five
13 hundred dollars or more) (RCW
14 9A.56.096(4))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful Practice of Law (RCW 2.48.180)
18 Unlicensed Practice of a Profession or
19 Business (RCW 18.130.190(7))
20 I Attempting to Elude a Pursuing Police
21 Vehicle (RCW 46.61.024)
22 False Verification for Welfare (RCW
23 74.08.055)
24 Forged Prescription (RCW 69.41.020)
25 Forged Prescription for a Controlled
26 Substance (RCW 69.50.403)
27 Forgery (RCW 9A.60.020)
28 Malicious Mischief 2 (RCW 9A.48.080)
29 Possess Controlled Substance that is a
30 Narcotic from Schedule III, IV, or V
31 or Non-narcotic from Schedule I-V
32 (except phencyclidine or
33 flunitrazepam) (RCW 69.50.401(d))
34 Possession of Stolen Property 2 (RCW
35 9A.56.160)
36 Reckless Burning 1 (RCW 9A.48.040)
37 Taking Motor Vehicle Without Permission
38 (RCW 9A.56.070)
39 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-purchased
2 Property (valued at two hundred fifty
3 dollars or more but less than one
4 thousand five hundred dollars) (RCW
5 9A.56.096(4))
6 Unlawful Issuance of Checks or Drafts (RCW
7 9A.56.060)
8 Unlawful Use of Food Stamps (RCW 9.91.140
9 (2) and (3))
10 Vehicle Prowl 1 (RCW 9A.52.095)

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