

HOUSE BILL REPORT

HB 1131

As Reported by House Committee On: Public Safety

Title: An act relating to adding persons who serve legal process to assault in the third degree provisions.

Brief Description: Adding persons who serve legal process to assault in the third degree provisions.

Sponsors: Representatives Takko, Klippert, Moscoso, Pettigrew, Goodman and Ryu.

Brief History:

Committee Activity:

Public Safety: 1/24/13, 1/30/13 [DP].

Brief Summary of Bill

- Makes assault of a legal process server an Assault in the third degree offense.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Appleton, Hope, Moscoso, Pettigrew, Ross and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Hayes, Assistant Ranking Minority Member; Holy.

Staff: Yvonne Walker (786-7841).

Background:

Process servers perform a variety of tasks such as filing court papers, serving legal documents and document retrieval. Their principal job is to deliver or serve notifications, summons, and other relevant legal documents to a person involved in a court matter. Usually, notice is furnished by delivering a set of court documents (process) to the person being served.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person who serves legal process for a fee in the State of Washington is generally required to be 18 years of age or older, a resident of the State of Washington, and must register as a process server with the auditor of the county in which the process server resides or operates his or her principal place of business.

Assault. Generally, a person commits Assault if he or she: (a) attempts, with unlawful force, to inflict bodily injury upon another; (b) unlawfully touches another person with criminal intent; or (c) puts another person in apprehension of harm.

The crime is divided into four degrees depending on the manner in which it was committed or the amount of harm caused to the victim. For instance, an assault that would normally be considered Assault in the fourth degree (a gross misdemeanor offense), may be elevated to Assault in the third degree (a seriousness level III, class C felony offense), if the assault was committed against a certain class of persons. For example, an assault against a firefighter performing his or her official duties at the time of the assault is automatically Assault in the third degree. Similar provisions exist for assaults against transit operators, school bus drivers, law enforcement officers, health care providers, and court-related employees.

An offender convicted of Assault in the third degree may receive a maximum sentence of five years in prison, a maximum fine of \$10,000, or both imprisonment and a fine for the class C felony offense. Assault in the fourth degree is a gross misdemeanor offense punishable by a sentence of up to 364 days in jail or a maximum fine of \$5,000, or both imprisonment and a fine.

Summary of Bill:

An assault that would normally be Assault in the fourth degree may be elevated to Assault in the third degree, if the assault offense was committed against a person in the act of serving legal process.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Court employees are already covered under current statute and they are also protected by metal detectors located in many of the court houses. However, process servers are in a different class and are part of the court system even though they are not paid directly by the courts. There are thousands of process servers that are serving documents on a daily

basis. Just in the past five years, there has been a huge increase of violence against process servers. Many of these employees have been assaulted, threatened with guns, shot at with water hoses, set upon and attacked by dogs, hit with golf clubs and bats, and even hit with cattle prods, just to name a few.

Process servers are widely misunderstood as the bad guys when in fact they are defenders of a citizen's constitutional right to due process and notice. Process servers are there to serve the community just as they are to serve the judicial system. Many states have already added process servers to their penal code as they understand that process serving is often a dangerous job. The need for this bill is tremendous.

(Opposed) None.

Persons Testifying: Representative Takko, prime sponsor; Steve Lindstrom, Eric Vennes, and Robin Mullins, Washington State Process Servers Association; Gary Crowe, National Association of Professional Process Servers; Scott Gogan, South Sound Legal Support; Keith Ellis; Michael Anderson, Anderson Investigations; and Cathryn Bowen, Process Servers Association.

Persons Signed In To Testify But Not Testifying: None.