

HOUSE BILL REPORT

HB 1653

As Reported by House Committee On: Public Safety

Title: An act relating to assault in the third degree occurring in areas used in connection with court proceedings.

Brief Description: Concerning assault in the third degree occurring in areas used in connection with court proceedings.

Sponsors: Representatives Goodman, Hope, Pettigrew, Dahlquist, Pedersen, Van De Wege, Ryu and Moscoso; by request of Attorney General.

Brief History:

Committee Activity:

Public Safety: 2/12/13, 2/14/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Makes an Assault offense that is committed in any area used in connection with court proceedings an Assault in the third degree offense.
- Adds a felony "crime against persons" to the list of aggravating circumstances when it occurs in any building that is used in connection with court proceedings.
- Requires courts to develop procedures for notifying the public that an assault offense occurring on the grounds of a court proceeding is a class C felony.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Hope, Moscoso, Pettigrew, Ross and Takko.

Minority Report: Do not pass. Signed by 2 members: Representatives Appleton and Holy.

Staff: Yvonne Walker (786-7841).

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.

Background:

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.

Aggravating Circumstances.

Generally, the standard sentencing 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 an illustrative, but nonexclusive, list of mitigating circumstances which the court may consider with regard to imposing an exceptional sentence below the standard range. The statute also provides an exclusive list of aggravating circumstances which the court may consider an aggravating circumstance or which a jury may consider in imposing an exceptional sentence above the standard range.

Crimes Against Persons. The standards for prosecutorial discretion in the SRA contain a list of "crimes against persons." Some of the crimes on this list include: Aggravated Murder; Murder one, two, and three; Manslaughter one and two; Kidnapping one and two; Rape one, two, and three; Robbery one and two; Arson one; Burglary one; and Assault one, two, and three. If a crime is designated as a crime against persons additional restrictions may be imposed on the convicted person at sentencing. Such restrictions include that the convicted person cannot have his or her record of conviction cleared, may be subject to a mandatory term of community custody, and his or her earned release may be limited.

Summary of Substitute Bill:

Assault.

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 any area of a building that is used in connection with court proceedings. The crime also includes other areas in the vicinity of court proceedings which include: courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The covered areas also include common areas of ingress and egress to the building that is not used in connection with court proceedings.

Courts must develop procedures for notifying the public that an assault offense occurring on the grounds of a court proceeding is a class C felony. Such information must be displayed at the main entrance of each building.

Aggravating Circumstances.

The list of aggravating circumstances that a jury may consider when imposing an exceptional sentence above the range includes any felony crime against persons when that crime occurs in any building that is used in connection with court proceedings. The aggravating factor does not include an Assault in the third degree offense when the assault occurs against a judicial officer or other court-related employee or when the assault occurs in any area of a building that is used in connection with court proceedings.

Substitute Bill Compared to Original Bill:

The amendment requires courts to develop procedures for notifying the public that an Assault offense occurring on the grounds of a court proceeding is a class C felony. The information must be displayed at the main entrance of each building.

Appropriation: None.

Fiscal Note: Available. Preliminary fiscal note available on the substitute.

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

Staff Summary of Public Testimony:

(In support) We are a nation of laws and the courthouse is where those laws are dispensed. Every day thousands of people go to our courthouses seeking to avail themselves of laws. The rise in violence in our courthouses is a real phenomenon and courthouses are very dangerous places. Courthouses are in a very unique situation where accused criminals come face to face with individuals who access the courthouse for a variety of reasons. In 2011 the Legislature passed a bill to make it a felony to assault a judicial officer or a court-related employee. All citizens should have equal protection as they access our courts. This bill extends that protection to all visitors of courthouses. It increases the penalty for a misdemeanor Assault in or around a courthouse to a felony Assault, regardless of the victim.

It also makes a felony around a courthouse an aggravating factor for a judge to consider during sentencing regardless of the victim.

The original Assault three statute was created to protect law enforcement because they are often asked to step into the middle of a fight. The statute was meant to stop the fighting when an officer steps in, otherwise you will be penalized. Over the years, more and more groups have been added to Assault three. There is one group that works in the courthouse that is not included and those are the deputy prosecuting attorneys. They have always agreed that an assault against a deputy prosecutor is not above an assault against a citizen. This bill charges people for an Assault offense based on where the assault was committed and not based on who the assault was committed against.

If the court officers are worthy of protection then everyone is worthy of that protection too. Protecting victims of domestic violence and holding offenders accountable are equally important. Victims should feel safe and should be able to safely participate in criminal and civil cases. Survivors of abuse are often scared to go to court and abusers often target others who are at the court to support victims. Abusers should face increased penalties for assaulting victims who seek help from the court. A victim's safety should be a top priority and a message should be sent that abuse in our courthouses will not be tolerated.

(Opposed) Public defenders represent some of society's most dangerous criminals. Many offenders blame their attorneys when they end up in jail. Some defendants have significant mental health issues and it does not matter how many warning signs are posted. Courts are an emotional place. The ground you stand on should not determine what the crime is or the level of the crime. A crime should be based upon the harm committed to a victim.

Persons Testifying: (In support) Bob Ferguson and Brian Moran, Office of the Attorney General; Tom McBride, Washington Association of Prosecuting Attorneys; Rick Jensen, Washington State Patrol Troopers Association; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; and Mette Earlywine, Washington State Coalition Against Domestic Violence.

(Opposed) Larry Jefferson, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.