
Public Safety Committee

ESB 5484

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

Sponsors: Senators Kline, Frockt, Ranker, Rolfes, Padden, Fain and Kohl-Welles; by request of Attorney General.

Brief Summary of Engrossed Bill

- Makes an Assault offense that is committed in any area used in connection with court proceedings an Assault in the third degree offense, when the assault occurs during any time the building is being used for judicial purposes.
- Adds to the list of statutory aggravating factors giving the court grounds to exceed the standard sentencing range, "felony crimes against persons," except for certain assault in the third degree offenses.

Hearing Date: 3/26/13

Staff: Yvonne Walker (786-7841).

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

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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 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 occurs in any area of a building that is used in connection with court proceedings. This includes: 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 used in connection with court proceedings. Where a building or part of a building is used at certain times for judicial purposes and at other times for other governmental purposes, this assault in the third degree offense only applies during times when it is being used for judicial purposes.

Aggravating Circumstances.

The list of aggravating circumstances that a jury may consider when imposing an exceptional sentence above the range is expanded to include a felony crime against persons when that crime occurs in a 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, court-related employee, county clerk, county clerk's employee, or any person located in an area of a building that is used in connection with court proceedings.

Appropriation: None.

Fiscal Note: Available.

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