

# SENATE BILL REPORT

## ESB 5484

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As Amended by House, April 9, 2013

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

**Brief History:**

**Committee Activity:** Law & Justice: 2/15/13, 2/21/13 [DP].

Passed Senate: 3/13/13, 40-9.

Passed House: 4/09/13, 83-10.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Darneille, Kohl-Welles, Pearson and Roach.

**Staff:** Sharon Swanson (786-7447)

**Background:** Generally, a person commits assault if the person: attempts, with unlawful force, to inflict bodily injury upon another; unlawfully touches another person with criminal intent; or puts another person in apprehension of harm. The crime of assault is divided into four degrees depending on the manner in which it was committed or the amount of harm caused to the victim.

Examples of assault in the third degree include, but are not limited to the following: if a person, with criminal negligence, causes bodily harm to another person using a weapon or other instrument or thing likely to produce bodily harm; with criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable pain; or with intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of themselves or another person, assaults another. Additionally, if a person assaults any of the following persons who were performing their official duties, it is an assault in the third degree:

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- a transit operator, driver, mechanic, or security officer;
- a school bus driver, immediate supervisor, mechanic, or security officer;
- a firefighter or other employee of a fire department;
- a law enforcement officer or other employee of a law enforcement agency;
- a peace officer with the use of a stun gun;
- a nurse, physician, or health care provider; or
- a judicial officer, court related employee, county clerk, or county clerk employee.

Assault in the third degree is ranked at level III on the sentencing grid, punishable by a standard range of one to three months for a first offense. In specific instances, the court may exceed the standard sentencing range for an offense if statutory aggravating factors exist. 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.

**Summary of Engrossed Bill:** A person is guilty of assault in the third degree when that person assaults a person located in any area of a building that is used in connection with court proceedings, including courtrooms, jury rooms, a judge's chamber, 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 section shall apply only during the times when it is being used for judicial purposes.

Adds to the list of statutory aggravating factors giving the court grounds to exceed the standard sentencing range: a felony crime against persons, except for an assault against a judicial officer, court related employee, county clerk or county clerk's employee, or an assault of a person located in an area of a building that is used in connection with court proceedings.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: A courthouse is a place where people freely go, and are at times compelled to go, to solve their problems. People should expect to be safe in a courthouse. While emotions run high at times, this bill sends a message that violence in a courthouse will not be tolerated. If you harm someone in a court setting, you should face a very serious charge and this bill sends that message. There need to be strong disincentives for people to act recklessly or violently in a courthouse. All citizens should have equal protections and equal status as they access our courts. Regardless of the identity of the victim, assaults in a courthouse setting should not be tolerated.

CON: This bill elevates a misdemeanor assault to the level of a felony simply based on where the assault takes place. This bill would make a person who throws a cup of water on a person a felon. A parent who shoves a defendant would be a felon under this bill. Prosecution for a fourth degree assault can already result in a jail sentence of 364 days. A felony conviction for the same incident, under this bill, results in less time because of the sentencing guidelines but a felony conviction can lead to life long consequences. It is already against the law to assault someone in a courthouse. There is no evidence that this bill would increase public safety or make courthouses safer.

**Persons Testifying:** PRO: Lana Weinmann, Attorney General's Office; Grace Huang, WA State Coalition Against Domestic Violence; Tom McBride, WA Assn. of Prosecuting Attorneys.

CON: Patricia Fulton, WA Assn. of Criminal Defense Lawyers.

**House Amendment(s):** In order for an assault to be punishable as an assault 3 or a crime against persons to be used as an aggravating factor for an exceptional sentence, the offense must specifically take place in a courtroom, jury room, judge's chamber, or any waiting area or corridor immediately adjacent to a courtroom, jury room, or judge's chamber. Additionally, the offense must occur during times when the courtroom, jury room, or judge's chamber is being used for judicial purposes during court proceedings, and signs notifying the public about the enhanced penalties must be posted at the time the offense takes place. The amendment restores the provision that allows the court to consider an assault against a judicial officer, court-related employee, or county clerk as an aggravating factor for purposes of sentencing. The administrator of the courts must develop a standard sign to notify the public of the possible enhanced penalties.