

# SENATE BILL REPORT

## SB 5497

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As of February 11, 2013

**Title:** An act relating to assault in the third degree against a school employee.

**Brief Description:** Concerning assault in the third degree against a school employee.

**Sponsors:** Senators Fain, McAuliffe, Litzow, Rolfes, Tom, Rivers, Hill, Fraser, Becker, King and Kohl-Welles.

**Brief History:**

**Committee Activity:** Early Learning & K-12 Education: 2/11/13.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Staff:** Katherine Taylor (786-7434)

**Background:** A person is guilty of assault in the first degree if the person, with intent to inflict great bodily harm:

- assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death;
- administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus, or any other destructive or noxious substance; or
- assaults another and inflicts great bodily harm.

Assault in the first degree is a class A felony and can include a standard range punishment of 93 to 123 months in prison.

A person is guilty of assault in the second degree if the person, under circumstances not amounting to assault in the first degree:

- intentionally assaults another and thereby recklessly inflicts substantial bodily harm;
- intentionally and unlawfully causes substantial bodily harm to an unborn child by intentionally and unlawfully inflicting any injury upon the mother of said child;
- assaults another with a deadly weapon;
- with intent to inflict bodily harm, administers to or causes to be taken by another, poison or any other destructive or noxious substance;
- with intent to commit a felony, assaults another;
- knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture; or

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*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.*

- assaults another by strangulation or suffocation.

Assault in the second degree is a class B felony, except when pertaining to intentionally and unlawfully causing substantial bodily harm to an unborn child by intentionally and unlawfully inflicting any injury upon the mother or said child. Assault in the second degree with a finding of sexual motivation is a class A felony. Assault in the second degree can include a standard range punishment of three to nine months in prison.

Assault is a physical touching that causes harm.

**Summary of Bill:** A person is guilty of assault in the third degree if the person, under circumstances not amounting to assault in the first or second degree, assaults a school employee while the employee is performing their official duties at the time of the assault. Employees include but are not limited to the following:

- teacher;
- instructor;
- administrator;
- staff person;
- teacher aide;
- paraprofessional;
- food service worker; or
- other clerical, custodial, or maintenance personnel employed by a school district,

Assault in the third degree is a class C felony. Assault in the third degree can include a standard range punishment of one to three months in prison.

**Appropriation:** None.

**Fiscal Note:** Requested on February 8, 2013.

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

**Effective Date:** This bill takes effect on August 1, 2013.

**Staff Summary of Public Testimony:** PRO: We believe the intent of the person needs to be taken into account. Some of the at-risk population would not fall under this law. We greatly appreciate that this has been expanded to other school employees. We appreciate this bill.

CON: My daughter is a teacher and has been assaulted multiple times but she would not want to have these kids charged with assault. There are resources for teachers to deal with assault. We need to deal with this in ways other than charging kids with assault. This will harm special education students. A simple assault can become a felony and then there can be an arrest. This is really hard on people with mental disabilities. This creates unintended consequences.

**Persons Testifying:** PRO: Lucinda Young, WA Education Assn.

CON: Diana Stadden, The Arc of WA; David Lord, Disability Rights of WA.