

HOUSE BILL REPORT

SHB 1178

As Passed House:
March 6, 2015

Title: An act relating to assault in the third degree.

Brief Description: Expanding assault in the third degree provisions.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Moscoso, Appleton, DeBolt and Haler).

Brief History:

Committee Activity:

Public Safety: 1/28/15, 1/30/15 [DPS].

Floor Activity:

Passed House: 3/6/15, 91-7.

<p style="text-align: center;">Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">• Makes assault of an employee of a utility company an Assault in the third degree offense.
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HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Appleton, Moscoso and Pettigrew.

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

Minority Report: Without recommendation. Signed by 1 member: Representative Griffey.

Staff: Cassie Jones (786-7303).

Background:

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.

Assault is the threat or use of force on another that causes that person to have a reasonable apprehension of imminent harm or offensive contact. The crime of assault is divided into four degrees depending on the manner in which it is committed or the amount of harm caused to the victim. An assault that would otherwise be Assault in the fourth degree (a gross misdemeanor), may be elevated to Assault in the third degree (a class C felony) if the assault:

- was intended to prevent or resist the execution of any lawful process or mandate of any court officer;
- with criminal negligence causes bodily harm: (1) to another person by means of an instrument or weapon likely to produce bodily harm; or (2) accompanied by substantial pain that extends for a period sufficient to cause considerable suffering;
- occurs against a certain class of persons during the course of their official duties, such as transit operators, school bus drivers, law enforcement officers, health care providers, and court-related employees; or
- the assault occurs in a courtroom or area immediately adjacent to a courtroom while it is being used for judicial purposes.

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. 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 Substitute Bill:

An assault that would otherwise be Assault in the fourth degree is elevated to Assault in the third degree (a class C felony) if the assault occurs against an employee of a utility company who is engaged in official duties and unable to leave the premises where the act occurred. It is not a defense to the charge that the worker was on the private property of the person charged if the worker's duties required or allowed entry on such property.

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) Incidents of assault against utility workers is increasing. This bill will not totally prevent assaults against utility workers but it will reduce it over time. This is an issue of public and worker safety. The workers have very dangerous jobs and they work under dangerous conditions. The utility workers wear uniforms and are easily identifiable. They have been threatened with guns, dogs, and have been robbed. The bill will bring awareness to issues the workers face and reduce distractions to those doing their jobs. It would also protect the workers.

It is common for a craftsman to be on a pole with a work order to turn off power and then be subject to threats. The situation is worse for meter readers and collectors. Utility workers

report that individuals have released their dogs on them. Collectors have been robbed at gunpoint. The general public is unaware of these incidents. Workers are instructed to leave if there is a problem but sometimes they are unable to leave a situation prior to a threat or assault. If there is no escape route for the worker then the penalty should be elevated.

When it comes to meter readers and other collection staff, there are also a lot of women working for utility companies who rely on these jobs to take care of their families. They should not be subjected to bullying and violence.

(Opposed) This discussion started with bus drivers, whose backs are to the assailants, but over the years, other professions have been added. The crime is now defined based on the profession of the victim. Regarding utility workers being threatened with a gun, being threatened with a gun is an Assault in the second degree, a more serious crime than Assault in the third degree. Crimes should be defined based on what the action is and not on the profession in which the victim is working. It is a slippery slope, with more categories being added every year.

Persons Testifying: (In support) Representative Moscoso, prime sponsor; Bob Guenther, Shaunie Wheeler, and Don Guillor, IBEW Local 77; and Nicole Grant, Certified Electrical Workers of Washington.

(Opposed) Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.