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ENGROSSED SUBSTITUTE SENATE BILL 5299

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State of Washington

68th Legislature

2023 Regular Session

**By** Senate Law & Justice (originally sponsored by Senators Braun, Rolfes, Conway, Holy, Mullet, Torres, Wagoner, Warnick, C. Wilson, and L. Wilson)

READ FIRST TIME 02/07/23.

1 AN ACT Relating to law enforcement officer protection; amending  
2 RCW 9A.36.031, 9.94A.831, and 10.118.030; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 9A.36.031 and 2013 c 256 s 1 are each amended to  
5 read as follows:

6 (1) A person is guilty of assault in the third degree if he or  
7 she, under circumstances not amounting to assault in the first or  
8 second degree:

9 (a) With intent to prevent or resist the execution of any lawful  
10 process or mandate of any court officer or the lawful apprehension or  
11 detention of himself, herself, or another person, assaults another;  
12 or

13 (b) Assaults a person employed as a transit operator or driver,  
14 the immediate supervisor of a transit operator or driver, a mechanic,  
15 or a security officer, by a public or private transit company or a  
16 contracted transit service provider, while that person is performing  
17 his or her official duties at the time of the assault; or

18 (c) Assaults a school bus driver, the immediate supervisor of a  
19 driver, a mechanic, or a security officer, employed by a school  
20 district transportation service or a private company under contract  
21 for transportation services with a school district, while the person

1 is performing his or her official duties at the time of the assault;  
2 or

3 (d) With criminal negligence, causes bodily harm to another  
4 person by means of a weapon or other instrument or thing likely to  
5 produce bodily harm; or

6 (e) Assaults a firefighter or other employee of a fire  
7 department, county fire marshal's office, county fire prevention  
8 bureau, or fire protection district who was performing his or her  
9 official duties at the time of the assault; or

10 (f) With criminal negligence, causes bodily harm accompanied by  
11 substantial pain that extends for a period sufficient to cause  
12 considerable suffering; or

13 (g) Assaults a law enforcement officer or other employee of a law  
14 enforcement agency who was performing his or her official duties at  
15 the time of the assault; or

16 (h) Assaults a law enforcement officer or other employee of a law  
17 enforcement agency who was off duty at the time of the assault, but  
18 the assault was committed with the intent to specifically target the  
19 person due to their employment as a law enforcement professional; or

20 (i) Assaults a peace officer with a projectile stun gun; or

21 ~~((+i))~~ (j) Assaults a nurse, physician, or health care provider  
22 who was performing his or her nursing or health care duties at the  
23 time of the assault. For purposes of this subsection: "Nurse" means a  
24 person licensed under chapter 18.79 RCW; "physician" means a person  
25 licensed under chapter 18.57 or 18.71 RCW; and "health care provider"  
26 means a person certified under chapter 18.71 or 18.73 RCW who  
27 performs emergency medical services or a person regulated under Title  
28 18 RCW and employed by, or contracting with, a hospital licensed  
29 under chapter 70.41 RCW; or

30 ~~((+j))~~ (k) Assaults a judicial officer, court-related employee,  
31 county clerk, or county clerk's employee, while that person is  
32 performing his or her official duties at the time of the assault or  
33 as a result of that person's employment within the judicial system.  
34 For purposes of this subsection, "court-related employee" includes  
35 bailiffs, court reporters, judicial assistants, court managers, court  
36 managers' employees, and any other employee, regardless of title, who  
37 is engaged in equivalent functions; or

38 ~~((+k))~~ (l) Assaults a person located in a courtroom, jury room,  
39 judge's chamber, or any waiting area or corridor immediately adjacent  
40 to a courtroom, jury room, or judge's chamber. This section shall

1 apply only: (i) During the times when a courtroom, jury room, or  
2 judge's chamber is being used for judicial purposes during court  
3 proceedings; and (ii) if signage was posted in compliance with RCW  
4 2.28.200 at the time of the assault.

5 (2) Assault in the third degree is a class C felony.

6 **Sec. 2.** RCW 9.94A.831 and 2009 c 141 s 1 are each amended to  
7 read as follows:

8 In a criminal case where:

9 (1) The defendant has been convicted of assaulting a law  
10 enforcement officer or other employee of a law enforcement agency who  
11 was performing his or her official duties at the time of the assault  
12 as provided under RCW 9A.36.031; and

13 (2) There has been a special allegation pleaded and proven beyond  
14 a reasonable doubt that the defendant intentionally committed the  
15 assault with what appears to be a (~~firearm~~) deadly weapon as  
16 defined in RCW 9A.04.110;

17 the court shall make a finding of fact of the special allegation, or  
18 if a jury trial is had, the jury shall, if it finds the defendant  
19 guilty, also find a special verdict as to the special allegation.

20 **Sec. 3.** RCW 10.118.030 and 2021 c 326 s 4 are each amended to  
21 read as follows:

22 (1) Each law enforcement agency in the state is required to  
23 report each incident where a law enforcement officer employed by the  
24 agency used force and:

25 (a) A fatality occurred in connection with the use of force;

26 (b) Great bodily harm occurred in connection with the use of  
27 force;

28 (c) Substantial bodily harm occurred in connection with the use  
29 of force; or

30 (d) A law enforcement officer:

31 (i) Discharged a firearm at or in the direction of a person;

32 (ii) Pointed a firearm at a person;

33 (iii) Used a chokehold or vascular neck restraint;

34 (iv) Used an electronic control weapon including, but not limited  
35 to, a taser, against a person;

36 (v) Used oleoresin capsicum spray against a person;

37 (vi) Discharged a less lethal shotgun or other impact munitions  
38 at or in the direction of a person;

1 (vii) Struck a person using an impact weapon or instrument  
2 including, but not limited to, a club, baton, or flashlight;

3 (viii) Used any part of their body to physically strike a person  
4 including, but not limited to, punching, kicking, slapping, or using  
5 closed fists or feet;

6 (ix) Used a vehicle to intentionally strike a person or vehicle;  
7 or

8 (x) Deployed a canine by releasing it from the physical control  
9 of the law enforcement officer or had under the law enforcement  
10 officer's control a canine that bites a person.

11 (2) Each report required in subsection (1) of this section must  
12 include the following information:

13 (a) The date and time of the incident;

14 (b) The location of the incident;

15 (c) The agency or agencies employing the law enforcement  
16 officers;

17 (d) The type of force used by the law enforcement officer;

18 (e) The type of injury to the person against whom force was used,  
19 if any;

20 (f) The type of injury to the law enforcement officer, if any;

21 (g) Whether the person against whom force was used was armed or  
22 unarmed;

23 (h) Whether the person against whom force was used was believed  
24 to be armed;

25 (i) The type of weapon the person against whom force was used was  
26 armed with, if any;

27 (j) The age, gender, race, and ethnicity of the person against  
28 whom force was used, if known;

29 (k) The tribal affiliation of the person against whom force was  
30 used, if applicable and known;

31 (l) Whether the person against whom force was used exhibited any  
32 signs associated with a potential mental health condition or use of a  
33 controlled substance or alcohol based on the observation of the law  
34 enforcement officer;

35 (m) The name, age, gender, race, and ethnicity of the law  
36 enforcement officer, if known;

37 (n) The law enforcement officer's years of service;

38 (o) The reason for the initial contact between the person against  
39 whom force was used and the law enforcement officer;

1 (p) Whether any minors were present at the scene of the incident,  
2 if known;

3 (q) The entity conducting the independent investigation of the  
4 incident, if applicable;

5 (r) Whether dashboard or body worn camera footage was recorded  
6 for an incident;

7 (s) The number of officers who were present when force was used;  
8 and

9 (t) The number of suspects who were present when force was used.

10 (3) Each law enforcement agency must also report any additional  
11 incidents and data required by the statewide use of force data  
12 program developed in section 3, chapter 326, Laws of 2021.

13 (4) Each law enforcement agency in the state must also report  
14 each incident where a law enforcement officer employed by the agency  
15 is physically harmed by a citizen while performing duties within the  
16 scope of their employment including:

17 (a) Details regarding the physical harm committed and the means  
18 of committing the physical harm;

19 (b) Whether or not subsequent charges were filed against the  
20 citizen;

21 (c) If charges were filed against the civilian, the ultimate  
22 disposition of the case;

23 (d) Reasoning if charges were not filed against the civilian; and

24 (e) The age, gender, race, and ethnicity of the individual who  
25 assaulted the officer.

26 (5) All law enforcement agencies shall submit the reports  
27 required by this section in accordance with the requirements of the  
28 statewide use of force data program no later than three months after  
29 the office of the attorney general determines that the system  
30 procured in RCW 10.118.040 can accept law enforcement agency reports.  
31 Reports must be made in the format and time frame established in the  
32 statewide use of force data program.

33 ~~((5))~~ (6) A law enforcement agency has satisfied its reporting  
34 obligations pursuant to chapter 326, Laws of 2021 by submitting the  
35 reports and data required under this section. The contractor shall  
36 provide technical assistance to any law enforcement agency in  
37 gathering, compiling, and submitting the required reports and data  
38 for each incident.

1        NEW SECTION.    **Sec. 4.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

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