

HOUSE BILL REPORT

2SSB 5002

As Reported By House Committee On:

Law & Justice

Title: An act relating to assault.

Brief Description: Making the assault of a nurse a felony.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Smith, Haugen, Winsley, McCaslin, Wojahn, C. Anderson, Rasmussen, Moyer, Prentice, Rinehart, Long, Quigley, McAuliffe and Kohl).

Brief History:

Committee Activity:

Law & Justice: 2/14/96, 2/21/96 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Robertson; Smith; Sterk and Veloria.

Staff: Bill Perry (786-7123).

Background: An assault, in its simplest form, has been defined by case law as any intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim. An act of assault may range from spitting on someone to inflicting a permanently disabling or disfiguring injury. The criminal code divides the crime of assault into four degrees, and into some specific separate crimes. The various crimes are distinguished by the state of mind of the offender, the extent of injury done to the victim, whether or not a weapon was used, and who the victim was.

Fourth-degree assault, sometimes called "simple assault," is a gross misdemeanor. Any assault that does not fall within the definition of one of the other degrees or definitions of the crime is fourth-degree assault. Third-degree assault, the lowest level of felony assault, is a class C felony. Generally, in order to amount to third-degree assault, an assault must involve causing some bodily harm with a weapon, or

must involve otherwise causing bodily harm that is "accompanied by substantial pain that extends for a period sufficient to cause considerable suffering."

However, the Legislature has also provided that with respect to certain victims, an assault that would otherwise be a gross misdemeanor will be a felony. That is, with respect to these victims, there is no need to show bodily harm caused by a weapon, or accompanied by substantial pain, in order for the crime to be a felony. A fourth-degree assault becomes a class C felony if committed against

- a public or private transit vehicle driver;
- a public or private school bus driver;
- a firefighter;
- a law enforcement officer;
- personnel or volunteers at a juvenile corrections facility;
- personnel or volunteers at an adult corrections facility; and
- personnel or volunteers involved in community corrections.

An otherwise misdemeanor assault against one of these victims becomes a felony only if the victim is engaged in his or her job related duties at the time of the assault.

Summary of Amended Bill: What would otherwise be a misdemeanor fourth-degree assault becomes a felony third-degree assault if committed against certain persons who are performing fire protection duties or who are performing nursing or health care duties at the time of the assault. Those persons are

- an employee of a county fire marshal's office or county fire protection bureau;
- a licensed physician, licensed osteopathic physician, registered nurse, nurse practitioner, or licensed practical nurse;
- a person certified to perform emergency medical services; and
- any person who is regulated under the business and professions code and who is employed by or contracting with a licensed hospital.

Amended Bill Compared to Second Substitute Bill: The amendment removes a requirement that physicians work in hospitals before assaults of them are covered. It clarifies the definition of emergency medical personnel and removes a requirement that they be employed by a public entity. It also expands coverage to persons working for a hospital who are "regulated," not just "licensed," under the business and professions code.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Nurses and other health care workers are regularly assaulted. The bill will cause this problem to be taken more seriously.

Testimony Against: Often patients or family members are frightened, confused, or in pain when they strike out. They should not be subject to felony punishments.

Testified: Nick Federici, Washington State Nurses Association (pro); Sharon Ness, Nurses Union (pro); Ellie Meneies and Teresa Dielensnyder, District 1199 Northwest Nurses Union (pro); Jim Rudd, Washington State Council of Fire Fighters (pro); Janet Griffith, Department of Health (pro, with amendments); Susie Tracy, Washington Ambulance Association and Washington State Medical Association (pro on concept, with amendments); Dr. Juris Macs, Governor's Emergency Medical Services and Trauma Care Steering Committee (pro, with suggestions); David Lord, Washington Protection and Advocacy System (with concerns and amendments); Ed Hidano, Department of Social and Health Services (with concerns); Stacie Larson, Alliance for Mentally Ill of Washington State (con); Keith Eggan, Alliance for Mentally Ill of Thurston County (con); and Sherry Storms, Mental Health Ombudsman Service of King County (con).