

HOUSE BILL REPORT

HB 1091

As Passed House

March 17, 1997

Title: An act relating to third degree assault of health care personnel.

Brief Description: Penalizing assault of health care personnel.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Sterk, Cody, Backlund, Kenney, D. Sommers, Hatfield, Dunn, O'Brien, Lantz, Kessler, Murray, Costa, Quall, Anderson and Conway).

Brief History:

Committee Activity:

Law & Justice: 2/5/97, 2/14/97 [DP].

Floor Activity:

Passed House: 3/17/97, 90-8.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 10 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lantz and Sherstad.

Minority Report: Do not pass. Signed by 1 member: Representative Lambert.

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

- 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.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Health care professionals put themselves in harm's way to help others and shouldn't have to suffer assaults from angry or irrational people. The current misdemeanor crime is not viewed as significant enough for prosecution.

Testimony Against: Increasing the penalty for simple assault will unfairly punish some patients who are in pain or badly confused. The current law is sufficient. The problem is with lack of enforcement.

Testified: Representative Sterk, prime sponsor; Sharon Ness, nurse and Local 141, UFCW (pro); Sandy Halusek, nurse (pro); Herb Larsen, State of Washington Alliance for the Mentally Ill (concerns); Patricia DeBoer, Thurston County Alliance for the Mentally Ill (con); Pat Lashaway, Department of Social and Health Services (con); and Danny Bilson, State of Washington Alliance for the Mentally Ill (con).