

# HOUSE BILL ANALYSIS

## HB 1882

---

**Title:** An act relating to assaults upon persons performing public service.

**Brief Description:** Amending definition of third degree assault.

**Sponsors:** Representatives Lambert, Edwards and Carrell.

---

### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**Staff:** Jean Ann Quinn (786-7310).

**Background:**

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. The statute simply provides that a person commits fourth degree assault if he or she assaults another under circumstances not amounting to first, second, or third degree assault « and the term assault– itself is undefined. The courts, however, have drawn on the common law to recognize the following three definitions of the term assault–:

- (1) an intentional offensive touching or striking of another, regardless of whether any actual physical harm is done to the victim;
- (2) an attempt, with unlawful force, to inflict bodily injury upon another; and
- (3) an act, with unlawful force, done with the intent to create in another apprehension and fear of bodily injury, and which, in fact, does create a reasonable apprehension and imminent fear of bodily injury, whether or not the actor actually intends to inflict bodily injury.

*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:*

- *to resist lawful detention or apprehension, the execution of lawful process, or court order;*
- *against a person employed as a transit operator or driver by a public or private transit company;*
- *against a public or private school bus driver;*
- *against a firefighter or other person employed by a fire department;*
- *against a law enforcement employee; or*
- *against a nurse, physician, or health care provider, licensed or certified by statute.*

*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:**

All special circumstances for when fourth degree assault becomes felony third degree assault are removed and replaced with the following:

Fourth degree assault becomes felony third degree assault if committed against:

- (1) any employee of a public entity, or a private entity under contract with a public entity to provide a public service, while the employee is performing his or her official duties;
- (2) any person employed to provide medical or health care service, treatment, or care, while the person is performing his or her official duties.

**Fiscal Note:** Requested on February 17, 1999.

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

Office of Program Research