

# SENATE BILL REPORT

## HB 1096

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As of March 23, 1999

**Title:** An act relating to assault.

**Brief Description:** Making assault of a school employee or sports official an aggravating factor for sentencing.

**Sponsors:** Representatives Cairnes, O'Brien, Schindler, Constantine, Lovick, D. Schmidt, Alexander, Romero, Barlean, Keiser, Morris, Carlson, Cooper, Kessler, Esser and Fortunato.

**Brief History:** Passed House 3/9/99, 75-22.

**Committee Activity:** Judiciary: 3/26/99.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dick Armstrong (786-7460)

**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."

In sentencing a defendant who is convicted of a misdemeanor or gross misdemeanor, the court generally has complete leeway to impose any sentence up to the maximum allowed by law. Under the Sentencing Reform Act (SRA), however, presumptive— sentence ranges are statutorily prescribed. The court may sentence outside of such a presumptive range (but not beyond the statutorily set maximum sentence) if there are sufficient mitigating— or aggravating— factors.

**Summary of Bill:** Assaulting a school employee or a sports official is made an aggravating sentencing factor for all degrees of assault. The same provision is made for both felony and nonfelony sentencing.

School employees are defined to include employees of public or private schools, from kindergarten through college. School employees are covered by this provision while performing employment duties and are covered before or after performing those duties if the assault occurs in the vicinity of the school.

Sports officials are defined as referees, umpires, linesmen, or similar officials who are registered with an organization that provides education and training to sports officials. Sports officials are covered by this provision while officiating an event, or after officiating an event if the assault occurs within, or in the immediate vicinity of, the facility in which the event was held.

**Appropriation:** None.

**Fiscal Note:** Available.

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