

HOUSE BILL ANALYSIS

HB 2602

Brief Description: Enhancing the penalties for crimes against law enforcement officers.

Sponsors: Representatives Morris and Cooper.

Hearing: January 25, 2000

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

BACKGROUND:

Aggravating Factor. The standard range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act provides illustrative mitigating and aggravating factors as examples of the kinds of factors a court may use to justify an exceptional sentence outside of the presumptive range. Among the illustrative aggravating factors provided by the Sentencing Reform Act are deliberate cruelty by a defendant, vulnerability of a victim, sexual motivation on the part of the defendant, and multiple incidents of abuse to a victim.

Assault. Third degree assault occurs when someone negligently harms a person with a weapon or negligently causes bodily harm that causes considerable suffering. Third degree assault includes assaults against such persons as those employed as a transit operator or driver, school bus driver, school security officer, transit or school mechanic, fire fighter, nurse, physician, or law enforcement officer, who were performing his or her official duties at the time of the assault. Third degree assault is a class C felony and punishable by a maximum of five years in prison, a fine of \$10,000, or by both.

Fourth degree assault includes all other kinds of assault not amounting to first degree assault (intentionally inflicting great bodily harm upon a person), second degree assault

(recklessly inflicting great bodily harm upon a person), or third degree assault (negligently inflicting bodily harm upon a person). Fourth degree assault is a gross misdemeanor. Gross misdemeanors are punishable by imprisonment in a county jail for a maximum of one year, or by a fine of not more than \$5,000, or by both.

Malicious Mischief. A person is guilty of malicious mischief in the first degree, if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious mischief in the second degree is a class B felony, punishable by a maximum of 10 years in prison, or by a maximum fine of \$20,000, or by both.

A person is guilty of malicious mischief in the second degree, if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$250 but not more than \$1,500. Malicious mischief in the second degree is a class C felony, punishable by a maximum of five years in prison, or by a maximum fine of \$10,000, or by both.

A person is guilty of malicious mischief in the third degree, if he or she knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree. Third degree malicious mischief is a gross misdemeanor, punishable by a maximum of one year in county jail, or by a maximum fine of \$5,000, or by both.

SUMMARY OF BILL:

Penalties are increased for offenders, who commit crimes against a person, knowing the person is a law enforcement officer.

Aggravating Factor. The list of illustrative aggravating factors in the Sentencing Reform Act, is expanded to include those crimes that are committed where the defendant knew the victim of the current offense was a law enforcement officer. This new illustrative aggravating circumstance is an example of the kind of factor a court may use to justify an exceptional sentence outside of the presumptive range.

Assault. Third degree assault is expanded to include assaults against an off-duty law enforcement officer when the offender knew the victim was a police officer.

Malicious Mischief. A person is guilty of malicious mischief in the first degree, if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500, except if the victim is a law enforcement officer. A person

causing physical damage to the property of another person, knowing that person is a law enforcement officer, in an amount exceeding \$250, is guilty of first degree malicious mischief, a class B felony.

A person is guilty of malicious mischief in the second degree, if the offender knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$250 but not more than \$1,500, except if the victim is a law enforcement officer. A person causing physical damage to the property of another person, knowing that person is a law enforcement officer, in an amount less than \$250, is guilty of second degree malicious mischief, a class C felony.

FISCAL NOTE: Requested on January 19, 2000.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.