

# SENATE BILL REPORT

## SB 5058

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As of February 26, 2013

**Title:** An act relating to assault of a corrections officer, law enforcement officer, or other employee of a law enforcement agency.

**Brief Description:** Concerning assault of a corrections officer, law enforcement officer, or other employee of a law enforcement agency.

**Sponsors:** Senators Carrell, Hewitt, Pearson, Roach, Delvin, Benton, Shin and Kohl-Welles.

**Brief History:**

**Committee Activity:** Law & Justice: 1/23/13, 2/04/13, 2/21/13 [DPS-WM].

**Ways & Means:**

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5058 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; Carrell, Vice Chair; Kline, Ranking Member; Kohl-Welles, Pearson and Roach.

**Staff:** Sharon Swanson (786-7447)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Carma Matti-Jackson (786-7454)

**Background:** A person commits the crime of assault in the first degree if the individual, with intent to inflict great bodily harm:

- assaults another with a firearm, any deadly weapon, by any force or means likely to produce great bodily harm or death;
- administers, exposes, transmits to, or causes to be taken by another, poison, HIV, or any other destructive or noxious substance; or
- assaults another and inflicts great bodily harm.

Great bodily harm is defined as bodily injury which creates a probability of death, causes significant serious permanent disfigurement, or causes a significant permanent loss or impairment of the function of any bodily part or organ.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Assault in the first degree is a class A felony.

A person commits the crime of assault in the second degree if the individual:

- intentionally assaults another and thereby recklessly inflicts substantial bodily harm;
- intentionally and unlawfully causes substantial bodily harm to an unborn child by intentionally and unlawfully inflicting any injury upon the mother of said child;
- assaults another with a deadly weapon;
- with intent to inflict bodily harm, administers or causes to be taken by another, poison or any other destructive or noxious substance;
- with intent to commit a felony, assaults another;
- knowingly inflicts bodily harm which by design causes pain or agony as to be the equivalent of that produced by torture; or
- assaults another by strangulation or suffocation.

Substantial bodily harm is defined as bodily harm which involves a temporary but substantial disfigurement, causes a temporary but substantial loss or impairment of the function of any bodily part or organ, or causes a fracture of any bodily part.

Assault in the second degree is a class B felony, unless there is a finding of sexual motivation. Assault in the second degree with sexual motivation is a class A felony.

**Summary of Bill (Recommended Substitute):** A person commits the crime of assault in the first degree when the person assaults, with a deadly weapon: a corrections officer, law enforcement officer, community corrections officer, or an employee responsible for the supervision of a sentenced offender in a detention facility who was performing their official duties at the time and the person knew or had reason to know that the victim was a corrections officer, law enforcement officer, community corrections officer, or an employee responsible for the supervision of a sentenced offender in a detention facility.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):** Removes from the bill the provision that an assault with criminal negligence, causing bodily harm to a correction officer, law enforcement officer, or other employee of a law enforcement agency performing official duties at the time of the assault is an assault in the second degree.

Removes "other employee of a law enforcement agency," but adds "community correction officers."

Adds employees responsible for the supervision of a sentenced offender in a detention facility to the bill.

Adds a requirement that the person knew or should have known that the victim was a corrections officer, law enforcement officer, or community corrections officer.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill (Law & Justice):** PRO: We need to do anything we can to help protect our corrections staff. We are coming up on the two-year anniversary of a corrections officer's murder. It was not too long ago that four law enforcement officers were assassinated. The focus on law enforcement staff is important. The message from this bill is people who hurt law enforcement or corrections officers will face serious penalties. The only concern from the department is whether or not we can broaden the definition to cover all staff, including teachers, nurses, etc.

OTHER: This bill creates good public policy. The concerns are with section 2 of the bill. Where do the provisions related to assault in the second degree leave our current law related to assault in the third degree? It seems a person could have lesser intent than an assault in the third degree requires but actually, under the bill, be charged with an assault in the second degree. Is that the intended consequence?

**Persons Testifying (Law & Justice):** PRO: Senator Carrell, prime sponsor; Bernie Warner, Secretary, Dept. of Corrections.

OTHER: Russ Hague, Kitsap County Prosecuting Attorney; Tom McBride, WA Assn. of Prosecuting Attorneys.