

# SENATE BILL REPORT

## HB 1859

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As Reported by Senate Committee On:  
Law & Justice, March 29, 2017

**Title:** An act relating to providing an aggravating circumstance for assault against a utility worker.

**Brief Description:** Providing an aggravating circumstance for assault against a utility worker.

**Sponsors:** Representatives Pellicciotti, Griffey, Pettigrew, Chapman, Goodman and Ormsby.

**Brief History:** Passed House: 3/06/17, 94-4.

**Committee Activity:** Law & Justice: 3/23/17, 3/29/17 [DP].

### Brief Summary of Bill

- Adds assault of a utility worker engaged in official duties to the list of aggravating circumstances supporting an exceptional sentence above the standard sentencing range.
- Applies to employees of any publicly or privately owned utility engaged in official duties.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Angel, Darneille, Frockt and Wilson.

**Staff:** Melissa Burke-Cain (786-7755)

**Background:** When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies and determines a specific sentence range within the statutory maximum. Sentence ranges are calculated using both a statutory severity designation for the offense, or its seriousness level, and the convicted person's offender score, which is based on the offender's criminal history.

In a typical felony case, the standard sentence range is presumed to be appropriate. However, the SRA provides that the court may impose a determinate sentence outside the standard

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sentence range for an offense if it finds that there are substantial and compelling reasons justifying an exceptional sentence. An exceptional sentence may either be (1) below the standard range, with a mitigating circumstance; or (2) above the standard range, with an aggravating circumstance.

The SRA provides an exclusive list of aggravating circumstances that may support a sentence above the standard range. With some exceptions, the facts supporting an aggravating circumstance must be proven to a jury beyond a reasonable doubt.

**Summary of Bill:** Assault against a utility worker engaged in official duties is an aggravating circumstance that, if proved, may support a sentence above the standard range. Official duties include the maintenance or repair of utility poles, lines, conduits, pipes, or other infrastructure, and connecting, disconnecting, or recoding utility meters.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: The utility grid provides an important service. Utility workers maintain the utility grid on public, private, and tribal lands. They go out to repair utility services at all hours of the day and night, in bad weather, and in remote places and dangerous neighborhoods. While on the job, utility workers have had to stop work because of injury and threats. For example, utility workers on the job have been shot with bb guns, robbed at gunpoint, assaulted with baseball bats, sprayed with mace, and attacked by dogs at the direction of the dog's owner. The injured utility workers are directly harmed, but indirectly all of the population is harmed when the utility grid goes down and the electrical systems we rely on are disrupted. The bill will allow a court to impose a sentence above the standard range and will discourage these incidents and provide the utility workers with safer working environments.

CON: Since the Sentencing Reform Act passed, the many modifications to penalties based on aggravating and mitigating factors have created a "Rube Goldberg" effect with all of the tweaks and exceptions to the sentencing scheme. Rather than continuing to tack on additional tweaks, it is time to take a comprehensive look at the sentencing scheme and make changes to the sentencing scheme that rationally related sentences for a variety of crimes.

**Persons Testifying:** PRO: Representative Mike Peliciotti, Prime Sponsor; Shaunie Wheeler, IBEW 77; Rex Habner, IBEW 77; Rick Luiten, IBEW 77.

CON: Bob Cooper, WA Assoc. of Defense Lawyers, WA Defender Assoc.

**Persons Signed In To Testify But Not Testifying:** No one.