

ESSB 5299 - H COMM AMD

By Committee on Community Safety, Justice, & Reentry

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 9A.36.031 and 2013 c 256 s 1 are each amended to
4 read as follows:

5 (1) A person is guilty of assault in the third degree if he or
6 she, under circumstances not amounting to assault in the first or
7 second degree:

8 (a) With intent to prevent or resist the execution of any lawful
9 process or mandate of any court officer or the lawful apprehension or
10 detention of himself, herself, or another person, assaults another;
11 or

12 (b) Assaults a person employed as a transit operator or driver,
13 the immediate supervisor of a transit operator or driver, a mechanic,
14 or a security officer, by a public or private transit company or a
15 contracted transit service provider, while that person is performing
16 his or her official duties at the time of the assault; or

17 (c) Assaults a school bus driver, the immediate supervisor of a
18 driver, a mechanic, or a security officer, employed by a school
19 district transportation service or a private company under contract
20 for transportation services with a school district, while the person
21 is performing his or her official duties at the time of the assault;
22 or

23 (d) With criminal negligence, causes bodily harm to another
24 person by means of a weapon or other instrument or thing likely to
25 produce bodily harm; or

26 (e) Assaults a firefighter or other employee of a fire
27 department, county fire marshal's office, county fire prevention
28 bureau, or fire protection district who was performing his or her
29 official duties at the time of the assault; or

1 (f) With criminal negligence, causes bodily harm accompanied by
2 substantial pain that extends for a period sufficient to cause
3 considerable suffering; or

4 (g) Assaults a law enforcement officer or other employee of a law
5 enforcement agency who was performing his or her official duties at
6 the time of the assault; or

7 (h) Assaults a law enforcement officer or other employee of a law
8 enforcement agency who was off duty at the time of the assault, but
9 the assault was committed with the intent to specifically target the
10 person due to their employment as a law enforcement professional; or

11 (i) Assaults a peace officer with a projectile stun gun; or

12 (~~(i)~~) (j) Assaults a nurse, physician, or health care provider
13 who was performing his or her nursing or health care duties at the
14 time of the assault. For purposes of this subsection: "Nurse" means a
15 person licensed under chapter 18.79 RCW; "physician" means a person
16 licensed under chapter 18.57 or 18.71 RCW; and "health care provider"
17 means a person certified under chapter 18.71 or 18.73 RCW who
18 performs emergency medical services or a person regulated under Title
19 18 RCW and employed by, or contracting with, a hospital licensed
20 under chapter 70.41 RCW; or

21 (~~(j)~~) (k) Assaults a judicial officer, court-related employee,
22 county clerk, or county clerk's employee, while that person is
23 performing his or her official duties at the time of the assault or
24 as a result of that person's employment within the judicial system.
25 For purposes of this subsection, "court-related employee" includes
26 bailiffs, court reporters, judicial assistants, court managers, court
27 managers' employees, and any other employee, regardless of title, who
28 is engaged in equivalent functions; or

29 (~~(k)~~) (l) Assaults a person located in a courtroom, jury room,
30 judge's chamber, or any waiting area or corridor immediately adjacent
31 to a courtroom, jury room, or judge's chamber. This section shall
32 apply only: (i) During the times when a courtroom, jury room, or
33 judge's chamber is being used for judicial purposes during court
34 proceedings; and (ii) if signage was posted in compliance with RCW
35 2.28.200 at the time of the assault.

36 (2) Assault in the third degree is a class C felony.

37 **Sec. 2.** RCW 9.94A.831 and 2009 c 141 s 1 are each amended to
38 read as follows:

39 In a criminal case where:

1 (1) The defendant has been convicted of assaulting a law
2 enforcement officer or other employee of a law enforcement agency who
3 was performing his or her official duties at the time of the assault
4 as provided under RCW 9A.36.031; and

5 (2) There has been a special allegation pleaded and proven beyond
6 a reasonable doubt that the defendant intentionally committed the
7 assault with a deadly weapon as defined in RCW 9A.04.110, or what
8 appears to be a firearm;

9 the court shall make a finding of fact of the special allegation, or
10 if a jury trial is had, the jury shall, if it finds the defendant
11 guilty, also find a special verdict as to the special allegation.

12 NEW SECTION. **Sec. 3.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected."

16 Correct the title.

EFFECT: Modifies the special allegation and sentencing
enhancement in current law for qualifying assaults committed against
an on-duty officer or other employee of a law enforcement agency to
apply to assaults with a deadly weapon or what appears to be a
firearm, rather than only assaults with what appears to be a deadly
weapon. Eliminates the amendatory provision requiring reporting and
data collection for incidents where an officer is physically harmed
by a citizen while performing duties within the scope of the
officer's employment.

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