

SENATE BILL REPORT

SB 5299

As of January 29, 2023

Title: An act relating to law enforcement officer protection.

Brief Description: Concerning law enforcement officer protection.

Sponsors: Senators Braun, Rolfes, Conway, Holy, Mullet, Torres, Wagoner, Warnick, Wilson, C. and Wilson, L..

Brief History:

Committee Activity: Law & Justice: 1/31/23.

Brief Summary of Bill

- Classifies assault of an off-duty law enforcement officer as a class C felony.
- Modifies the sentencing enhancement for assaulting a law enforcement officer with a firearm to include assaulting a law enforcement officer with a deadly weapon.
- Requires law enforcement agencies to report any incident where a law enforcement officer employed by the agency is physically harmed by a citizen while performing duties.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: The term assault is not defined in the criminal code of Washington. Courts use common law to define the term and have recognized that an assault may be an attempt, with unlawful force, to inflict bodily injury upon another, an unlawful touching with criminal intent, or putting another in apprehension of harm whether the actor actually intends to inflict, or is incapable of inflicting, that harm.

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

The crime of assault is divided into four degrees depending on the manner in which it was committed, or the amount of harm caused to the victim.

Assault in the third degree may be committed in different ways including but not limited to:

- assaulting another person with the intent to prevent or resist the execution of any lawful process or mandate of any court officer or the lawful apprehension or detention of the perpetrator or another person;
- with criminal negligence, causing bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm;
- assaulting a law enforcement officer or other employee of a law enforcement agency who was performing their official duties at the time of the assault; or
- assaulting a peace officer with a projectile stun gun.

Assault in the third degree is a class C felony punishable by up to five years imprisonment, a fine up to \$10,000, or both. An additional 12 months is added to the standard sentence range if it is plead and proven beyond a reasonable doubt that the defendant intentionally committed the assault of a law enforcement officer or other employee of a law enforcement agency who was performing their official duties with what appears to be a firearm. The court will make a finding of fact of the special allegation. If a jury trial occurs, the jury must find a special verdict as to the special allegation if it finds the defendant guilty.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Assaulting a law enforcement officer or other employee of a law enforcement agency who was off duty at the time of the assault, if the assault was committed with the intent to specifically target the person due to their employment as a law enforcement professional, is classified as assault in the third degree.

The special allegation of intentionally assaulting a law enforcement officer or other employee of a law enforcement agency who was performing their official duties at the time of the assault with what appears to be a firearm is expanded to include intentionally assaulting such law enforcement officials with what appears to be a deadly weapon.

Each law enforcement agency in Washington must report each incident where a law enforcement officer employed by the agency is physically harmed by a citizen while performing duties within the scope of their employment. The report must contain details of the physical harm and the means of committing the harm, whether or not subsequent charges were filed against the citizen, and the ultimate disposition of the case if charges were filed, or the reasoning if charges were not filed.

Appropriation: None.

Fiscal Note: Requested on January 26, 2021.

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

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