
HOUSE BILL 1934

State of Washington 59th Legislature 2005 Regular Session

By Representatives Lovick, Ahern, Dickerson, Santos, O'Brien,
Williams, Simpson, Ericks and Chase

Read first time 02/10/2005. Referred to Committee on Criminal
Justice & Corrections.

1 AN ACT Relating to assault of a peace officer with a projectile
2 stun gun; amending RCW 9A.36.021 and 9A.04.110; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.36.021 and 2003 c 53 s 64 are each amended to read
6 as follows:

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

9 (a) Intentionally assaults another and thereby recklessly inflicts
10 substantial bodily harm; or

11 (b) Intentionally and unlawfully causes substantial bodily harm to
12 an unborn quick child by intentionally and unlawfully inflicting any
13 injury upon the mother of such child; or

14 (c) Assaults another with a deadly weapon; or

15 (d) Assaults a peace officer with a projectile stun gun; or

16 (e) With intent to inflict bodily harm, administers to or causes to
17 be taken by another, poison or any other destructive or noxious
18 substance; or

19 ~~((e))~~ (f) With intent to commit a felony, assaults another; or

1 (~~(f)~~) (g) Knowingly inflicts bodily harm which by design causes
2 such pain or agony as to be the equivalent of that produced by torture.

3 (2)(a) Except as provided in (b) of this subsection, assault in the
4 second degree is a class B felony.

5 (b) Assault in the second degree with a finding of sexual
6 motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

7 **Sec. 2.** RCW 9A.04.110 and 1988 c 158 s 1 are each amended to read
8 as follows:

9 In this title unless a different meaning plainly is required:

10 (1) "Acted" includes, where relevant, omitted to act;

11 (2) "Actor" includes, where relevant, a person failing to act;

12 (3) "Benefit" is any gain or advantage to the beneficiary,
13 including any gain or advantage to a third person pursuant to the
14 desire or consent of the beneficiary;

15 (4)(a) "Bodily injury," "physical injury," or "bodily harm" means
16 physical pain or injury, illness, or an impairment of physical
17 condition;

18 (b) "Substantial bodily harm" means bodily injury which involves a
19 temporary but substantial disfigurement, or which causes a temporary
20 but substantial loss or impairment of the function of any bodily part
21 or organ, or which causes a fracture of any bodily part;

22 (c) "Great bodily harm" means bodily injury which creates a
23 probability of death, or which causes significant serious permanent
24 disfigurement, or which causes a significant permanent loss or
25 impairment of the function of any bodily part or organ;

26 (5) "Building", in addition to its ordinary meaning, includes any
27 dwelling, fenced area, vehicle, railway car, cargo container, or any
28 other structure used for lodging of persons or for carrying on business
29 therein, or for the use, sale or deposit of goods; each unit of a
30 building consisting of two or more units separately secured or occupied
31 is a separate building;

32 (6) "Deadly weapon" means any explosive or loaded or unloaded
33 firearm, and shall include any other weapon, device, instrument,
34 article, or substance, including a "vehicle" as defined in this
35 section, which, under the circumstances in which it is used, attempted
36 to be used, or threatened to be used, is readily capable of causing
37 death or substantial bodily harm;

1 (7) "Dwelling" means any building or structure, though movable or
2 temporary, or a portion thereof, which is used or ordinarily used by a
3 person for lodging;

4 (8) "Government" includes any branch, subdivision, or agency of the
5 government of this state and any county, city, district, or other local
6 governmental unit;

7 (9) "Governmental function" includes any activity which a public
8 servant is legally authorized or permitted to undertake on behalf of a
9 government;

10 (10) "Indicted" and "indictment" include "informed against" and
11 "information", and "informed against" and "information" include
12 "indicted" and "indictment";

13 (11) "Judge" includes every judicial officer authorized alone or
14 with others, to hold or preside over a court;

15 (12) "Malice" and "maliciously" shall import an evil intent, wish,
16 or design to vex, annoy, or injure another person. Malice may be
17 inferred from an act done in wilful disregard of the rights of another,
18 or an act wrongfully done without just cause or excuse, or an act or
19 omission of duty betraying a wilful disregard of social duty;

20 (13) "Officer" and "public officer" means a person holding office
21 under a city, county, or state government, or the federal government
22 who performs a public function and in so doing is vested with the
23 exercise of some sovereign power of government, and includes all
24 assistants, deputies, clerks, and employees of any public officer and
25 all persons lawfully exercising or assuming to exercise any of the
26 powers or functions of a public officer;

27 (14) "Omission" means a failure to act;

28 (15) "Peace officer" means a duly appointed city, county, or state
29 law enforcement officer;

30 (16) "Pecuniary benefit" means any gain or advantage in the form of
31 money, property, commercial interest, or anything else the primary
32 significance of which is economic gain;

33 (17) "Person", "he", and "actor" include any natural person and,
34 where relevant, a corporation, joint stock association, or an
35 unincorporated association;

36 (18) "Place of work" includes but is not limited to all the lands
37 and other real property of a farm or ranch in the case of an actor who
38 owns, operates, or is employed to work on such a farm or ranch;

1 (19) "Prison" means any place designated by law for the keeping of
2 persons held in custody under process of law, or under lawful arrest,
3 including but not limited to any state correctional institution or any
4 county or city jail;

5 (20) "Prisoner" includes any person held in custody under process
6 of law, or under lawful arrest;

7 (21) "Projectile stun gun" means an electronic device that projects
8 wired probes attached to the device that emit an electrical charge and
9 that is designed and primarily employed to incapacitate a person or
10 animal;

11 (22) "Property" means anything of value, whether tangible or
12 intangible, real or personal;

13 ((+22+)) (23) "Public servant" means any person other than a
14 witness who presently occupies the position of or has been elected,
15 appointed, or designated to become any officer or employee of
16 government, including a legislator, judge, judicial officer, juror, and
17 any person participating as an advisor, consultant, or otherwise in
18 performing a governmental function;

19 ((+23+)) (24) "Signature" includes any memorandum, mark, or sign
20 made with intent to authenticate any instrument or writing, or the
21 subscription of any person thereto;

22 ((+24+)) (25) "Statute" means the Constitution or an act of the
23 legislature or initiative or referendum of this state;

24 ((+25+)) (26) "Threat" means to communicate, directly or indirectly
25 the intent:

26 (a) To cause bodily injury in the future to the person threatened
27 or to any other person; or

28 (b) To cause physical damage to the property of a person other than
29 the actor; or

30 (c) To subject the person threatened or any other person to
31 physical confinement or restraint; or

32 (d) To accuse any person of a crime or cause criminal charges to be
33 instituted against any person; or

34 (e) To expose a secret or publicize an asserted fact, whether true
35 or false, tending to subject any person to hatred, contempt, or
36 ridicule; or

37 (f) To reveal any information sought to be concealed by the person
38 threatened; or

1 (g) To testify or provide information or withhold testimony or
2 information with respect to another's legal claim or defense; or

3 (h) To take wrongful action as an official against anyone or
4 anything, or wrongfully withhold official action, or cause such action
5 or withholding; or

6 (i) To bring about or continue a strike, boycott, or other similar
7 collective action to obtain property which is not demanded or received
8 for the benefit of the group which the actor purports to represent; or

9 (j) To do any other act which is intended to harm substantially the
10 person threatened or another with respect to his health, safety,
11 business, financial condition, or personal relationships;

12 ((+26+)) (27) "Vehicle" means a "motor vehicle" as defined in the
13 vehicle and traffic laws, any aircraft, or any vessel equipped for
14 propulsion by mechanical means or by sail;

15 ((+27+)) (28) Words in the present tense shall include the future
16 tense; and in the masculine shall include the feminine and neuter
17 genders; and in the singular shall include the plural; and in the
18 plural shall include the singular.

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