

HOUSE BILL REPORT

EHB 1859

As Passed House:
January 24, 2018

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:

Committee Activity:

Public Safety: 2/13/17, 2/16/17 [DP].

Floor Activity:

Passed House: 3/6/17, 94-4.

Floor Activity:

Passed House: 1/24/18, 93-3.

Brief Summary of Engrossed Bill

- Expands the list of aggravating circumstances that may support imposition of an exceptional sentence above the standard sentencing range to include assault of a utility worker who is engaged in official duties.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

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

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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 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 below the standard range (with a mitigating circumstance) or 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 Engrossed Bill:

The statutory list of aggravating circumstances that may support a sentence above the standard range is expanded. It qualifies as an aggravating circumstance that the current offense involved the assault of a utility employee of any publicly or privately owned utility company or agency, who is, at the time of the act, engaged in official duties. Official duties include the maintenance or repair of utility poles, lines, conduits, pipes, or other infrastructure, and connecting, disconnecting, or recording utility meters.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Under the provisions of this bill, when a felony is committed against a utility worker in the commission of his or her duties, it is an aggravating factor that a judge may consider if pleaded and proven. Mitigating factors may always be considered, but aggravating factors may only be considered if statutorily delineated. They must also be proven to a jury. The prosecutor has to prove the underlying crime, as well as the additional aggravating factor. The cases at issue in the bill are cases where an assault involves broken bones or something severe enough that a person is prevented from carrying out his or her work, and could potentially impact a larger group of people. The standard sentence is quite low, and, under the bill, the judge could consider the interruption to services.

Utility workers put themselves in harm's way performing restoration work during storms and reading meters. Often they are working alone and may be put in positions that open them up to conflict, such as having to make noise during the night, come onto private property, disconnect services, and collect on unpaid bills. Workers are often faced with hostility and are not trained to be public relations people. Workers have been attacked, shot at, and attacked by dogs. At times, they have to stop their work. The purpose of the bill is to deter

violence against public workers and help identify the significance of the problem. Other states have found that this policy has worked for them.

(Opposed) None.

Persons Testifying: Representative Pellicciotti, prime sponsor; Shaunie Wheeler, Lou Walter, and Damian Hernandez, International Brotherhood of Electrical Workers, Local 77; and Rex Habner, Puget Sound Energy.

Persons Signed In To Testify But Not Testifying: None.