

SENATE BILL REPORT

EHB 1859

As of February 12, 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: Passed House: 3/06/17, 94-4; 1/24/18, 93-3.

Committee Activity: Law & Justice: 2/07/18.

Brief Summary of Engrossed 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 the additional aggravating circumstance to employees of any publicly or privately owned utility or agency engaged in official duties.
- Includes maintenance or repair of infrastructure, and connecting, disconnecting, and recording utility meters as official duties.

SENATE COMMITTEE ON LAW & JUSTICE

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 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

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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 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 recording 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: *Testimony from 2017 Regular Session.* 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, Washington Association of Defense Lawyers, Washington Defender Association.

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

Staff Summary of Public Testimony: PRO: Public and private utility workers are experiencing assaults while they are on the job repairing wiring and other utility

infrastructure. When the workers are threatened or their work is disrupted by assault incidents, necessary work may be delayed placing the power grid at risk. This bill would allow a judge to take that into account during sentencing when the assault victim is a utility worker on the job. As a lineman with 28 years on the job I have had dogs told by their owners to attack me, have had guns pulled on me, even while I was working in a truck with utility company signage clearly visible. I am frequently working alone to make repairs, at all hours of the day and night, in rural and urban locations. The outage may not be on the property I must pass through to get to the repair location. For meter readers, it is still necessary to go onto private property to take readings or collect a bill. My job is to make sure all utility workers go home safely to their families at the end of the day. I have worked for a PUD for 18 years, and for private utility companies too. I know that assaults on utility workers are frequent, but that most members of the public are not aware it is happening. Utility workers can be confronted while working and asked to leave the property. The situation can turn violent. I was sent on a job and needed to inform a homeowner that the power to the house would be cut so that I could fix an outage. I was attacked by two German shepherds and injured. The dogs are still at large. All I was trying to do was talk to the customer. The same situation can develop when payments are being collected in the field or meters are being read. Sometimes, our equipment allows the meter to be read from outside a fence, but meter readers must still go inside a fence to read meters on occasion.

Persons Testifying: PRO: Representative Mike Pellicciotti, Prime Sponsor; Damian Hernandez , IBEW 77; Rick Luiten, IBEW 77.

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