

HOUSE BILL REPORT

HB 1220

As Reported by House Committee On:
Community Safety

Title: An act relating to appropriate response to assaults by individuals in behavioral health crisis.

Brief Description: Concerning appropriate response to assaults by individuals in behavioral health crisis.

Sponsors: Representatives Farivar, Macri, Reed, Obras, Doglio, Simmons, Pollet, Davis, Ormsby, Salahuddin and Hill.

Brief History:

Committee Activity:

Community Safety: 2/3/25, 2/10/25 [DP].

Brief Summary of Bill

- Creates an exception to Assault in the third degree of a nurse, physician, or health care provider where the person assaults such an individual performing nursing or health care duties while the person is in specified behavioral health detention, pending evaluation for such detention, or receiving or seeking in-patient behavioral health treatment.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: Do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Obras.

Minority Report: Do not pass. Signed by 3 members: Representatives Graham, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Burnett.

Staff: Lena Langer (786-7192).

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.

Background:

Classification of Crimes.

The classification of a crime generally determines the maximum authorized term of confinement and fine for an offense, subject to certain exceptions. For example, class C felonies are typically punishable by up to five years imprisonment, up to a \$10,000 fine, or both such imprisonment and fine. For most felony offenses, the Sentencing Reform Act determines a specific sentence range within the statutory maximum according to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the person's criminal history. However, additional sentencing policies may further increase or decrease a person's sentence.

Assault in the Third Degree.

A person commits assault if he or she attempts to inflict bodily injury on another person with unlawful force, unlawfully touches another person with criminal intent, or puts another person in apprehension of harm. An assault may be classified as Assault in the first, second, third, or fourth degree, depending on the specific circumstances.

A person commits Assault in the third degree if he or she, under circumstances not amounting to Assault in the first or second degree, assaults a specific category of person or commits the assault with certain intent or criminal negligence accompanied by other specific factors. For example, Assault in the third degree includes assault against a nurse, physician, or health care provider who is performing nursing or health care duties at the time of the assault.

Nurse, physician, or health care provider includes:

- registered nurses;
- advanced registered nurse practitioners;
- nurse practitioners;
- licensed practical nurses;
- licensed physicians;
- licensed osteopathic physicians;
- a person certified to perform emergency medical services; and
- a person who is regulated under the business and professions code who is employed by, or contracting with, a licensed hospital.

Assault in the third degree is a class C felony ranked at seriousness level III.

Summary of Bill:

An exception to Assault in the third degree of a nurse, physician, or health care provider is created where the person assaults such an individual performing nursing or health care

duties while:

- detained or pending an evaluation for detention for behavioral health disorders;
- detained for behavioral health treatment pursuant to the chapter for criminal insanity;
- or
- receiving or in the process of seeking voluntary in-patient behavioral health treatment.

Charges of Assault in the first, second, or fourth degree are not affected.

Appropriation: None.

Fiscal Note: Preliminary 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) The way the state currently handles assaults in the health care setting is not working for anyone. The offense of Assault in the third degree is meant to prevent and discourage harming health care professionals. However, individuals in these types of competency evaluations and involuntary treatment settings may not understand what is happening at the moment. When individuals are experiencing crisis, they might not understand that they are assaulting a health care worker, and that it will result in a felony rather than a misdemeanor charge. The bill is trying to take a scalpel to the Assault in the third degree law. The bill does not remove protections for health care workers, because other Assault charges are not affected by the bill.

The Assault in the third degree statute causes an upcharge for those convicted from a misdemeanor to a felony, but it is not actually protecting health care workers. Assault in the third degree is harming patients and undermining goals of reducing recidivism. Health care workers should not experience violence in the workplace, but there are other ways to reduce growing rates of violence in their workplace. Since health care workers were added to the Assault in the third degree statute, the rate of violence for these professionals has increased, not decreased. The felony charge of Assault in the third degree makes it easier for people to be moved from an inpatient treatment setting and put in jail, where they suffer and more strain is put on the already strained correctional system. If a person who is being restrained by security staff in a hospital kicks a security guard or tries to spit on a nurse, the person is charged with a felony just because of the hospital setting, but they would not receive the same charge for that conduct in a different setting. The collateral consequences of felony convictions are extreme for this type of behavior. The bill ensures that people with serious mental illness in behavioral health settings are not charged with felonies for behaviors that are caused by their behavioral health disorders when they are in crisis.

If the bill passes, people could still face criminal liability for these types of behaviors, but the conduct would be charged as a misdemeanor under Assault in the fourth degree. The upcharge to a felony for behaviors like slapping, spitting, and other actions does not make sense when people are experiencing a mental health crisis. The increased criminal penalty of Assault in the third degree is not a deterrent for people who are not thinking clearly while they are in crisis. The bill prevents charging a felony for conduct that would otherwise be a misdemeanor charge in any other setting. At least five other states have similar exceptions in their assault statutes. The current law for Assault in the third degree is not a solution to the violence that health care workers face. Health care workers support the bill, but would also like to see more preventative responses.

(Opposed) This bill asserts that patients experiencing a behavioral health crisis are unable to consider the consequences of their actions. This is not true of all patients. The bill removes extra protections for health care workers, but does not remove protections for other professionals. Emergency and frontline health care workers are a rapidly shrinking workforce. This bill sends the wrong message to health care workers. The supporters for the bill claim that, because rates of violence against health care workers have increased, the current Assault in the third degree statute is not a deterrence. Deterrence is only one of the reasons why the current statute exists. The statute currently makes a statement about how society views harms to health care professionals.

(Other) There are concerns about the impact the bill will have on health care workers. If this bill passes, it will signal to nurses and other health care workers that they must bear the brunt of the problems, as opposed to the state actually fixing the system. There must be repercussions for violent acts against nurses and health care workers when they are trying to do their jobs and help people. There has been a large increase in the state of reports of serious harm and death related to workplace violence against patients and health care staff. Nurses and health care staff deserve better.

Persons Testifying: (In support) Representative Darya Farivar, prime sponsor; Maialisa Vanyo, Washington Association of Criminal Defense Lawyers and Washington Defender Association; Kimberly Mosolf; Anna Nepomuceno, NAMI Washington; Todd Carlisle, Disability Rights Washington; Katie Hurley, King County Department of Public Defense; and Lindsey Grad, SEIU Healthcare 1199NW.

(Opposed) Dr. Ryan Keay, Washington Chapter - American College of Emergency Physicians; and Russell Brown, WA Association of Prosecuting Attorneys.

(Other) Justin Gill, Washington State Nurses Association.

Persons Signed In To Testify But Not Testifying: Kathy McDonald, Parent; Amy Ohta; Brittany Nave; and Tyler Chavers, City of Vancouver Homeless Response Coordinator.