

0008.160.002

RPB/tw

05/17/88

ORDINANCE NO. 536

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REPEALING THE ADOPTION BY REFERENCE OF THE STATE STATUTE PROHIBITING SIMPLE ASSAULT AND ADOPTING THE NEW STATE STATUTE, RCW 9A.36.041, PROHIBITING ASSAULT IN THE FOURTH DEGREE; CONTAINING A SEVERABILITY CLAUSE AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Washington State Legislature has repealed the prohibition against simple assault, effective July 1, 1988, and enacted assault in the fourth degree to replace the simple assault statute, and

WHEREAS, the Gig Harbor Municipal Code should be similarly amended to repeal the adoption by reference of simple assault and add the adoption by reference of assault in the fourth degree, and

WHEREAS, this ordinance is in the interests of the public health, safety and welfare, now, therefore,

THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Section 9.26.010 of the Gig Harbor Municipal Code is hereby amended to read as follows:

9.26.010 Assault and other crimes involving physical harm. The following statutes, including all future amendments, are adopted by reference:

RCW 9A.36.041	Assault in the fourth degree.
RCW 9A.36.050	Reckless endangerment.
RCW 9A.36.070	Coercion.
RCW 9.61.230	Telephone calls to harass, intimidate, torment or embarrass.
RCW 9.61.240	Same--Permitting telephone to be

RCW 9.61.250 used.
 Same--Offenses, where deemed
 committed.

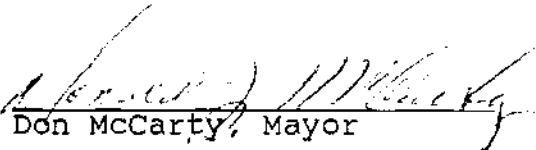
Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. The provisions of this ordinance do not apply to or govern the construction of and punishment for any offense committed prior to the effective date of this ordinance, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this ordinance had not been enacted.

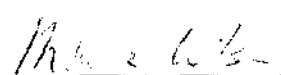
Section 4. The City Clerk is hereby directed to record an authenticated copy of the state statute adopted by reference in this ordinance and to maintain not less than one (1) copy of such statute on file in the office of the City Clerk for use and examination by the public pursuant to RCW 35A.12.140.

Section 5. This ordinance shall take effect five
(5) days after passage and publication of the attached
summary which is hereby approved.

PASSED by the City Council of the City of Gig Harbor,
Washington, and approved by its Mayor at a regular meeting of
the council held on this 27th day of June, 1988.


Don McCarty, Mayor

ATTEST:


Michael R. Wilson
City Administrator/Clerk

Filed with city clerk: 5/18/88
Passed by city council: 6/27/88
Date published: 7/6/88
Date effective: 7/11/88

SUMMARY OF ORDINANCE NO. 536

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, REPEALING THE ADOPTION BY REFERENCE OF THE STATE STATUTE PROHIBITING SIMPLE ASSAULT AND ADOPTING THE NEW STATE STATUTE, RCW 9A.36.041, PROHIBITING ASSAULT IN THE FOURTH DEGREE; CONTAINING A SEVERABILITY CLAUSE AND SETTING AN EFFECTIVE DATE.

On June 27, 1988, the City Council of the City of Gig Harbor passed Ordinance No. 536 which provides as follows:

Section 1. Repeals the adoption by reference of simple assault and adopts assault in the fourth degree by reference.

Section 2. Contains a severability clause.


Section 3. Contains a savings clause.

Section 4. Requires the City Clerk to maintain one copy of the state statute on file.

Section 5. Sets an effective date of 5 days from the date of publication of this approved summary.

The full text of this ordinance will be mailed without charge to anyone who submits a written request to the City Clerk of the City of Gig Harbor for a copy of the text.

APPROVED by the City Council at their meeting of June 27, 1988.



Michael R. Wilson
City Administrator/Clerk

AMENDMENTS TO ASSAULT STATUTES

In 1987, the Washington State Legislature revised the assault statutes, however the amendments do not become effective until July 1, 1988. In 1988, the Legislature enacted additional amendments. See Chapter 151, 158, 206 & 266, Laws of 1988. These amendments also take effect on July 1, 1988. The following chart outlines the elements of both the old and new assault statutes.

OLD: Effective until 7/1/88

NEW: Effective 7/1/88

Assault 1st

OLD: RCW 9A.36.010

NEW: RCW 9A.36.011

Intent to kill a person or
commit a felony and

Intent to inflict great bodily
harm and

1) assaults another
with firearm or any deadly
weapon or by force or means
likely to produce death; or

1) assaults another
with firearm or any deadly
weapon or by force likely to
produce death or great bodily
harm; or

2) administer or cause to be
taken by another, a poison or
other destructive or noxious
thing so as to endanger life of
another.

2) administer or
cause to be taken by another, a
poison or other destructive or
noxious thing; or

3) assaults another and
inflicts great bodily harm.

Assault 2nd

OLD: RCW 9A.36.020

NEW: RCW 9A.36.021

Circumstances not amounting to assault in the first degree:

1) with intent to injure,
unlawfully administers or causes
to be taken by another, any
poison, destructive or
noxious thing or any drug or
medicine which is dangerous
to life or health; or

1) with intent to
inflict bodily harm,
administers or causes to be
taken by another, a poison, the
human immunodeficiency virus
as defined in RCW 70.24, or
other destructive or
noxious substance; or

2) knowingly inflicts
grievous bodily harm upon
another with or without a
weapon; or

2) intentionally assaults
another and thereby recklessly
inflicts substantial bodily
harm *; or

3) knowingly assaults another with weapon or other instrument or thing likely to produce bodily harm; or

4) knowing assaults another with intent to commit felony.

3) assaults another with deadly weapon; or

4) with intent to commit a felony, assaults another; or

5) intentionally and unlawfully causes substantial bodily harm to unborn quick child by intentionally and unlawfully inflicting any injury upon the mother; or

6) knowingly inflicts bodily harm which by design causes such pain or agony as to be the equivalent of that produced by torture.

7) with intent to inflict bodily harm, exposes or transmits human immunodeficiency virus as defined in RCW 70.24.

*NOTE: The definition of "substantial bodily harm" has been amended to include temporary disfigurement and temporary loss.

Assault 3rd

OLD: RCW 9A.36.030

NEW: RCW 9A.36.031

Circumstances not amounting to assault in the first or second degree.

1) assaults another with intent to prevent or resist execution of any lawful process or mandate of any court officer or lawful apprehension or detention of himself or another; or

1) same as old; or

2) with criminal negligence, causes physical injury to another with a weapon or other instrument or thing likely to produce bodily harm; or

2) same except physical injury changed to bodily injury; or

3) assaults a person employed as a transit operator or driver while that person is operating or in control over a company vehicle; or

3) same as old; or

4) assaults a firefighter or other fire dept. or fire district employee who was performing his/her official duties at the time of the assault.

4) same as old; or

5) with criminal negligence, causes bodily harm accompanied by substantial pain that extends for a period sufficient to cause considerable suffering.

Simple Assault/Assault 4th

OLD: RCW 9A.36.040-Simple Assault NEW: RCW 9A.36.041-Assault 4th

Every person who shall commit an assault or an assault and battery not amounting to assault in the 1st, 2nd or 3rd degree.

Every person who assaults another under circumstances not amounting to assault in the 1st, 2nd or 3rd degree or custodial assault.

Custodial Assault

RCW 9A.36.100

The assault does not amount to assault in the 1st or 2nd degree and the person assaults any full or part-time staff member or volunteer, educational personnel, personal service provider or any vendor or agent thereof at any juvenile or adult corrections institution or local adult or juvenile detention facility who was performing official duties at the time of the assault.

Chapter 151, Laws of 1988 amends this statute to add assaults upon community correction officers, employees of a community corrections office and volunteers who assist such officers and employees when the assault occurs while the officer or employee was performing official duties.