

HOUSE BILL REPORT

HB 2043

As Reported By House Committee On:

Corrections

Title: An act relating to making domestic violence an aggravating circumstance for purposes of sentencing decisions.

Brief Description: Making domestic violence an aggravating circumstance for purposes of sentencing decisions.

Sponsors: Representatives Ballasiotes, Costa, Ebersole, Appelwick, Romero, Hatfield, Cody, Dickerson, Ogden, Chopp and Conway; by request of Governor Lowry.

Brief History:

Committee Activity:

Corrections: 1/10/96, 2/1/96 [DPS].

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Sherstad, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; Schoesler and D. Sommers.

Staff: Rick Neidhardt (786-7841).

Background: The sentencing of adult felons is governed by the Sentencing Reform Act. Under the act, a standard sentencing range is determined based on the seriousness of the offense and the extent of the offender's criminal history. The judge may impose a term of confinement outside the standard range only after articulating a substantial and compelling reason justifying an exceptional sentence. The act lists illustrative, but non-exclusive, aggravating and mitigating factors that justify an exceptional sentence.

Because of concerns about the seriousness of domestic violence and its impact on families, it has been suggested that an additional aggravating factor be established for domestic violence offenses.

Current law defines "domestic violence" as including, but not limited to, any of the following crimes when committed by one family or household member against another:

- assault (first, second, third, or fourth degree);
- reckless endangerment (first or second degree);
- coercion;
- burglary (first or second degree);
- criminal trespass (first or second degree);
- malicious mischief (first, second, or third degree);
- kidnapping (first or second degree);
- unlawful imprisonment;
- violation of a protection order or a no-contact order;
- rape (first or second degree);
- residential burglary; and
- stalking.

Summary of Substitute Bill: An additional aggravating factor is established for domestic violence offenses involving one or more of the following circumstances:

- (1) the offense was part of an ongoing pattern of abuse;
- (2) the offense occurred in the presence of the victim's minor child; or
- (3) the offense involved deliberate cruelty or intimidation.

For any such domestic violence offense, the sentencing judge is allowed to impose a sentence above the standard range.

Substitute Bill Compared to Original Bill: The original bill created an aggravating factor for any domestic violence offense; the original bill did not limit this aggravating factor in any additional way.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: We need to hold offenders accountable. Sentencing needs to be done with an eye on the whole context of domestic violence and its continuing patterns. An aggravating factor for domestic violence should be narrowed down to those cases involving the worst aspects of domestic violence. Laws against domestic violence, and enforcement of those laws, are improving, and this is another step. The pattern of abuse is an important factor in sentencing for domestic violence. More and

better data on domestic violence needs to be collected; the current data is inconsistently collected from county to county. Law enforcement needs education on what domestic violence is. Prevention is not a criminal issue alone. Millions of dollars are spent on medical costs arising from domestic violence.

Testimony Against: None.

Testified: Lorraine Lee, Governor's Police Office (pro); and Mary Pontarolo, Washington State Coalition Against Domestic Violence (pro).