

HOUSE BILL REPORT

EHB 2472

As Passed Legislature

Title: An act relating to domestic violence.

Brief Description: Clarifying domestic violence provisions.

Sponsors: Representatives Lambert, Costa, Conway and Veloria.

Brief History:

Committee Activity:

Law & Justice: 1/30/96 [DP].

Floor Activity:

Passed House: 2/6/96, 98-0.

Senate Amended.

House Concurred.

Passed Legislature.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 16 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Murray; Robertson; Smith and Sterk.

Staff: Pat Shelledy (786-7149).

Background: Proceedings involving domestic violence may be either civil or criminal.

Interference with the Reporting of Domestic Violence:

Currently, it is not a crime for an abuser to interfere with a victim's or witness's attempt to report domestic violence, call 911, or obtain medical treatment.

Definition of Crimes of Domestic Violence in Criminal Actions:

A crime is a "domestic violence crime" if a person commits one of several crimes against a family or household member. Examples include assault, rape, stalking, malicious mischief, burglary, and criminal trespass. The current definition does not

include a violation of a no-contact order that is issued following conviction for a another crime of domestic violence.

Penalties for violating a no-contact order or a protection order:

When a defendant is charged with a crime of domestic violence or is subsequently arraigned on the charge, the court may issue a no-contact order ordering the defendant to refrain from contacting the victim. A willful violation of the no-contact order issued upon arrest or arraignment is a gross misdemeanor. When a defendant is found guilty of the crime of domestic violence, the court may extend the no-contact order or issue one. A willful violation of the no-contact order issued following conviction is only a misdemeanor.

In general, the penalty for violating a criminal no-contact order or a civil domestic violence protection order is a gross misdemeanor. The penalty is not increased regardless of the number of times the defendant violates no-contact orders or protection orders.

Exceptional Sentences For Adult Offenders:

A court may impose an exceptional sentence above the standard range for a felony committed by an adult offender if the court finds that one or more aggravating factors exist. Several aggravating factors are listed in statute, and the court has developed more in case law.

Collection of Data on Incidents of Domestic Violence:

The Washington Association of Sheriffs and Police Chiefs collects data on incidents of domestic violence. Data on violations of protection orders or no-contact orders is not currently collected.

Miscellaneous:

In 1995, the Legislature passed ESSB 5219, which contained numerous provisions governing domestic violence. In particular, the bill attempted to reconcile minor differences between provisions governing restraining orders, no-contact orders, and protection orders issued under a variety of statutes. Another provision of the bill clarified that the court could restrain a person subject to the order from entering a residence shared with the petitioner, the petitioner's workplace or school, or the school or day care center of a child protected by the order. The bill did not amend a variety of statutes that contained similar provisions.

The bill provided that a law enforcement officer could enforce a protection order if the officer was presented with an unexpired, certified copy of the order, even if the

officer could not find the order in the computer-based intelligence information system where current orders are supposed to be retained.

Summary of Bill:

Crime of Interfering with Reporting Domestic Violence:

A batterer commits the crime of interfering with the reporting of a crime of domestic violence if the person prevents or attempts to prevent a victim of or witness to the crime from calling 911, obtaining medical assistance, or reporting the incident to law enforcement. Interference with reporting domestic violence is a gross misdemeanor.

Definition of Crimes of Domestic Violence in Criminal Actions:

The definition of domestic violence in criminal actions is amended to include the new crime of interference with the reporting of domestic violence and the existing crime of violating a no-contact order issued after conviction.

Penalties for Violating a No-Contact Order or a Protection Order:

A violation of a no-contact order issued following a conviction for a crime of domestic violence is a gross misdemeanor, unless one of the exceptions applies that increases the penalty to a class C felony.

A violation of a no-contact order issued in a criminal action or a violation of a protection order issued in a civil action is a class C felony if the defendant has at least two prior convictions for violating a no-contact order or protection order involving the same or different victim.

Exceptional Sentences for Adult Offenders:

A judge may impose an exceptional sentence above the standard range if the offense involved domestic violence and one or more of the following circumstances was present:

- (1) the offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;
- (2) the offense occurred within the sight or sound of the victim's or batterer's children under age 18; or
- (3) the offense was committed with deliberate cruelty or intimidation of the victim.

Collection of Data on Incidents of Violations of No-Contact or Protection Orders:

The Washington Association of Sheriffs and Police Chiefs, subject to funding in the budget, is directed to collect data on incidents of violations of no-contact orders or protection orders.

Miscellaneous:

Protection orders, restraining orders, and no-contact orders may specify that the person being restrained may not enter the grounds of a building where the respondent may not enter, such as a home, school, workplace, or day care center.

An officer may enforce an unexpired, certified copy of a protection order if proof of service exists. If the officer serves the order on the respondent, the officer may then enforce prospective compliance with the order.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This is a technical cleanup bill that clarifies sections of last year's ESSB 5219. It also reconciles the penalty for violating a no-contact order issued following conviction with penalty provisions for similar statutes.

Testimony Against: None.

Testified: Representative Lambert, prime sponsor; and Mary Pontarolo, Washington State Coalition Against Domestic Violence.