

SENATE BILL REPORT

ESSB 5219

As Passed Senate, March 9, 1995

Title: An act relating to domestic violence.

Brief Description: Changing domestic violence provisions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Smith, Roach, C. Anderson, Long, Haugen, McCaslin, Spanel, Drew, Winsley, Kohl and Sheldon).

Brief History:

Committee Activity: Law & Justice: 1/23/95, 2/15/95 [DPS-WM].

Ways & Means: 2/28/95, 3/3/95 [DPS (LAW)].

Passed Senate, 3/9/95, 48-0.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5219 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Rinehart, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: The Domestic Violence Protection Remedies Task Force is a group consisting of domestic violence advocates, lawyers, law enforcement and representatives of the court system. The task force has suggested a number of changes to improve the effectiveness of the domestic violence laws, including: improving victims' access to the courts; allowing consolidation of domestic violence actions with other domestic relations actions; providing the courts more information about the legal history of parties; clarifying law enforcement response to domestic violence calls; giving the court authority to order that the petitioner have possession of essential personal effects; increasing the penalty for violation of a restraining order; and requiring training and development of policies related to domestic violence.

The task force also found that stalking is a common form of domestic violence and has suggested that stalking of a family or household member be included within the jurisdiction of the Domestic Violence Protection Act.

To qualify for grants under the federal Violence Against Women Act, states may not charge fees for obtaining protection orders. Washington law requires a fee for filing a petition for protection order, but allows waiver of the fee if the court determines the petitioner is unable to pay.

Summary of Bill: The crime of stalking committed against a family or household member is included within the definition of domestic violence in the Domestic Violence Protection Act.

No fees for filing or service of process may be charged to petitioners seeking a domestic violence protection order. If the court finds service of the petition by publication is appropriate, the court may allow service by mail instead, if that is determined to be just as likely to give actual notice as service by publication and the petitioner is unable to afford the cost of service by publication.

The hearing on a petition for a protection order may be conducted by telephone to accommodate a petitioner's disability or, in exceptional circumstances, to protect a petitioner from further violence.

After a hearing, the relief the court may grant includes requiring the respondent to pay administrative court costs, and ordering the use of a vehicle and possession of essential personal effects. Upon declining to issue a protection order, the judge must state in writing the reasons for denial of the order.

In dissolution actions, in actions seeking child custody by a nonparent, and in paternity actions, the court may issue a domestic violence protection order or an anti-harassment order, or may consolidate into the case a previously-issued domestic violence order.

The Administrator for the Courts must arrange for the translation of domestic violence instructions and informational brochures into the languages of significant non-English-speaking populations in this state. The translations are required to be distributed to county clerks by January 1, 1997. Interpreters must be appointed for non-English-speaking persons to assist them in the preparation of forms, in participating in the hearing and in translating any orders.

Protection orders are required to contain the date and time of issuance and an expiration date. County clerks must enter the orders into a statewide judicial information system within one judicial day after issuance. This system is required to be available in each district, municipal and superior court by July 1, 1997. Courts are required to consult the system to avoid the issuance of conflicting orders in different courts.

Violation of a domestic violence protection order is increased from a misdemeanor to a gross misdemeanor. Even if an order has not been entered in the law enforcement computer system, a police officer may enforce a protection order upon presentation of an unexpired, certified copy, and must arrest a person who has knowledge of an order and has violated it. Officers are also required to arrest persons 16 years or older if the officer believes the person has assaulted a family or household member within the last four hours. The term "family or household member" is amended to have the same meaning as in the Domestic Violence Act, by including persons 16 years of age or older who have had a dating relationship, and persons with a parent-child relationship.

By January 1, 1997, the Criminal Justice Training Commission must include 20 hours of training about domestic violence cases in its basic law enforcement curriculum. The commission is also required to develop a domestic violence program for use by all law

enforcement agencies for in-service training. By January 1, 1997, the Criminal Justice Training Commission must develop an educational manual and a training curriculum for use by prosecutors, and distribute it to all prosecutors by July 1, 1998.

Name change petitions may be filed in superior court if a person seeks to have the file sealed because of fear for their own safety, or the safety of their child.

Counties may create a review board to provide input to the Department of Social and Health Services when the department is considering approval of a perpetrator treatment program in that county.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill makes a number of changes to current law that will increase victim's access to the courts, and enhance the court's ability to enter appropriate protection orders. The bill also requires important additional training for law enforcement and requires model policies for handling domestic violence cases to be developed.

Testimony Against: None.

Testified: PRO: Mary Pontarolo, Wash. State Coalition Against Domestic Violence; Amy Stephson, NW Women's Law Center; David Law, Evergreen Legal Service; Jeanne Edwards, Bothell City Council; Terri Peck, citizen; Coral Letnes, citizen; Janice Skinner, Active Disabilities of Grays Harbor; Judge Vicki Seitz, District and Municipal Court Judges Assn.; Carolyn Hayek, retired district court judge; Sgt. Bob Case, Bainbridge Island Police Dept.; Jean Cullen, DAWN; PRO (with changes): Martha Hardin, Sup. Ct. Judges Assn.; Mary Hammerly, Wash. State Bar Assn., Family Law Section; Steve Tomson, Don Pierce, Larry Erickson, Wash. Assn. of Sheriffs & Police Chiefs.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5219 as recommended by Committee on Law & Justice be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Gaspard, Hargrove, Hochstatter, Johnson, Long, McDonald, Moyer, Pelz, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West, Winsley and Wojahn.

Staff: Linda Brownell (786-7913)

Testimony For: The Domestic Violence Protection Remedies Task Force has worked very hard this past year to make recommendations to increase victim's access to protection in the best and cheapest way possible. Although there is a small fee revenue loss included in the fiscal note, federal funding would be lost if the fee is not repealed. Having the orders entered in the judicial information system will help solve the problem of conflicting orders

in different courts. We need consistent policies to handle prosecution. However, resources and methods of handling cases vary between jurisdictions.

Testimony Against: None.

Testified: Mary Pontarolo, Washington State Coalition Against Domestic Violence (pro); Tom McBride, Washington Association of Prosecuting Attorneys (pro).

House Amendment(s): The provision is stricken that allows counties to create review boards to provide input to DSHS on approval of perpetrator treatment programs.

The fee for a marriage license includes a \$5 fee for use and support of prevention of child abuse and neglect activities. The June 30, 1995 expiration date for this fee is stricken, so that the fee can continue to be collected.