

HOUSE BILL REPORT

HB 2325

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to domestic violence.

Brief Description: Strengthening domestic violence laws.

Sponsors: Representatives Sterk, Scott, Gardner, Linville, Benson, Ogden, Dunshee, Appelwick, Kessler, Chopp, Cody, Costa, Backlund, Anderson, Schoesler, D. Sommers, Sheahan, Smith, Constantine, Gombosky, Conway and Lantz.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/20/98, 1/28/98 [DPS].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; McCune; Mitchell; Radcliff and Sullivan.

Staff: Mark Hamilton (786-7310).

Background:

Release Pending Sentencing or Appeal. Currently, a convicted defendant must be detained pending sentencing for certain offenses. In addition, a stay of execution of a judgment of conviction pending appeal is not permitted for certain felony offenses. However, domestic violence offenses are not included in either of these provisions.

Release and No-Contact after Domestic Violence Arrest or Charge. Currently, a court may order a defendant charged with a domestic violence offense to have no contact with the alleged victim as a condition of release from custody pending arraignment or trial. Along with its order releasing the person charged, the court must provide a written warning that violation of the no-contact provisions is a criminal offense.

Sentencing. Currently, domestic violence offenses are not counted in calculating an offender's score for sentencing purposes. In addition, a court is required to include a one-year term of community placement for certain offenses, in addition to any term of total confinement. However, domestic violence offenses are not included among these.

Warrantless Arrest for Domestic Violence Offenses. Currently, a police officer may make a warrantless arrest of a person whom the officer has probable cause to believe has assaulted a family member within the preceding four hours. If members have assaulted each other, the officer is only required to arrest the primary aggressor.

Summary of Substitute Bill:

No Stay Pending Appeal of Domestic Violence Conviction. Adds felony domestic violence offenses (*see supra* fn. 1) to the list of offenses for which a stay of execution of a judgment of conviction shall not be stayed due to an appeal by a convicted defendant.

Detainment Pending Sentencing. Adds felony domestic violence offenses to list of offenses for which a convicted defendant shall be detained pending sentencing.

No Bail or Personal Recognizance After Violation of Condition of Release. Permits a court, on its own motion, or upon a prosecutor's verified application, alleging with specificity that a defendant has violated a condition of release (*i.e.*, a no-contact order), to order the defendant arrested and held without bail or release on personal recognizance, pending an immediate hearing to reconsider the release.

Written Warning of Consequences of Violating Court's Release Order. Adds new language to the warning issued to a released domestic violence suspect, informing the suspect that he or she is subject to arrest without bail or personal recognizance pending trial, for violation of the terms of release.

Sentencing. Adds domestic violence offenses to the list of offenses used for calculating the offender score— for sentencing purposes. Counts one point for each prior adult conviction and one-half point for each prior juvenile conviction of a misdemeanor domestic violence offense, if the present conviction is a felony domestic violence offense.

Community Placement in Sentencing. Adds felony domestic violence offenses to list of offenses for which a court must sentence the offender to a one-year term of community placement, in addition to a term of total confinement.

Warrantless Arrest for Domestic Violence Offenses. Requires a police officer to arrest and take into custody without a warrant a person whom the officer has probable cause to believe has committed a domestic violence offense. Retains the language allowing an officer to arrest only the primary physical aggressor when family members have assaulted each other, and which specifies the standards by which that determination is to be made.

Substitute Bill Compared to Original Bill: The sole difference between the bills is that the substitute bill reinstates the language regarding police officer arrests of only the primary physical aggressor and the standards for making that determination. The original bill had stricken these provisions.

Appropriation: None.

Fiscal Note: Requested on January 14, 1998.

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

Testimony: The bill originated with the Spokane County Domestic Violence Unit, which combines prosecutors, law enforcement, and victim advocates. A felony domestic violence offense is usually not the first offense seen by prosecutors or police; typically, a series of less serious (*i.e.*, misdemeanor) domestic violence offenses lead up to a felony domestic violence offense. Thus, counting misdemeanor domestic violence offenses toward the offender score— for sentencing purposes is a positive step. Each speaker acknowledged or expressed concern about the stricken primary aggressor language.

Testimony Against: None.

Testified: Representative Mark K. Sterk, prime sponsor; Stephanie Walter, Spokane County Prosecutor; and Mary Pontarolo, Washington State Coalition Against Domestic Violence.