

HOUSE BILL ANALYSIS

HB 1394

Title: An act relating to the duress defense.

Brief Description: Making the defense of duress unavailable for the crime of homicide by abuse.

Sponsors: Representatives Hurst, Constantine, Lambert, Sheahan, McDonald, Lovick, H. Sommers, Dickerson, Kenney and Esser.

Brief Summary of Bill

- Makes the defense of duress unavailable to a person being prosecuted for homicide by abuse.

HOUSE COMMITTEE ON JUDICIARY

Staff: Jim Morishima (786-7191).

Background:

A person is guilty of homicide by abuse if, under circumstances manifesting an extreme indifference to human life, the person causes the death of a child or person under the age of 16, a developmentally disabled person, or a dependent adult and the person has previously engaged in a pattern of assault or torture of the victim. Homicide by abuse is a class A felony.

Even when all of the elements of a crime have been established against a defendant, the defendant may raise certain defenses that pardon his or her conduct. One example of such a defense is the defense of duress.

Under the defense of duress, a defendant's criminal act is excused if the defendant participated in the crime under the compulsion of another person. The other person must have created a reasonable apprehension in the mind of the defendant that in case of refusal, the defendant or another would be subject to immediate death or immediate grievous bodily injury. The defense is not established solely by a showing that the defendant acted at the command of his or her spouse. The defendant has the burden of proving the elements of duress by a preponderance of the evidence.

The defense of duress is not available in prosecutions for murder or manslaughter. The defense of duress is also not available if the defendant intentionally or recklessly placed himself or herself in a situation in which duress was likely.

Summary of Bill:

The defense of duress is not available in prosecutions for homicide by abuse.

Fiscal Note: Not requested.

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

Office of Program Research