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**Public Safety Committee**

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**HB 1632**

**Brief Description:** Concerning domestic violence.

**Sponsors:** Representatives Goodman, Klippert, Orwall, Hayes, Jinkins and Wylie.

**Brief Summary of Bill**

- Counts two points for each prior conviction of Assault of a Child or Criminal Mistreatment where those offenses involve domestic violence when calculating an offender score for a present conviction for a felony domestic violence offense.
- Elevates the crime of Assault in the fourth degree involving domestic violence from a gross misdemeanor to a class C felony when a person has two or more prior convictions for Assault in the fourth degree involving domestic violence.
- Permits a sheriff to waive fees associated with service of a writ of habeas corpus that was issued for the return of a child when the person who was granted the writ is, by reason of poverty, unable to pay the costs.

**Hearing Date:** 1/30/15

**Staff:** Cassie Jones (786-7303).

**Background:**

Offender Score for Felonies Involving Domestic Violence.

The sentence imposed for a felony crime will depend on the seriousness level of the offense and the defendant's offender score. The offender score may vary from zero to nine plus points depending on five factors: (1) the number of prior criminal convictions or juvenile dispositions; (2) the relationship between any prior offense(s) and the current offense of conviction; (3) the presence of other current convictions; (4) the offender's community custody status at the time the crime was committed; and (5) the length of the offender's crime-free behavior between offenses.

For a present felony domestic violence conviction, the following felony offenses involving domestic violence currently count double, or two points, towards the offender score:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Felony Domestic Violence Harassment;
- Felony Domestic Violence Stalking;
- Burglary in the first degree;
- Kidnapping in the first degree;
- Kidnapping in the second degree;
- Unlawful Imprisonment;
- Robbery in the first degree;
- Robbery in the second degree;
- Assault in the first degree;
- Assault in the second degree;
- Assault in the third degree;
- Arson in the first degree; and
- Arson in the second degree.

Domestic violence is defined as: (a) physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking of one family or household member by another family or household member.

#### Assault in the Fourth Degree.

Assault in the fourth degree is a gross misdemeanor, punishable by up to 364 days in jail and a \$5,000 fine.

#### Fees for Writs of Habeas Corpus.

"Habeas corpus" is Latin and literally means "you have the body." Chapter 7.36 RCW governs writs of habeas corpus. Pursuant to that chapter, the superior and appellate courts of this state may grant writs of habeas corpus in favor of parents, guardians, spouses or domestic partners, and next of kin, to enforce the rights, and for the protection of children and persons who are incompetent. Whenever it appears that the person that is the subject of the writ will be carried out of the jurisdiction of the court, or will suffer irreparable injury, before compliance with the writ may be enforced, the court may also issue a warrant directing the sheriff to take the person that is the subject of the writ and bring him or her immediately before the court.

Once issued by the court, the writ (and any warrant) are brought to the sheriff to be served by delivery on the person who is alleged to be illegally holding the person that is the subject of the writ. The sheriff is also tasked with filing the return. The fees that the sheriff must collect for official services are set forth in statute. These include fees that must be charged and collected for service of writs, warrants, making returns, and actual and necessary mileage. There are also fees specified in statute with respect to what courts must charge for various filings. The chapter governing writs of habeas corpus includes a specific provision allowing an impoverished person seeking a writ of habeas corpus, but unable to pay the fees, to seek a waiver of court fees and permitting, but not requiring, the court to waive such fees.

#### **Summary of Bill:**

#### Offender Score for Felonies Involving Domestic Violence.

For a present felony domestic violence conviction, the following felony offenses involving domestic violence are included among those that currently count double, or two points, towards the offender score:

- Assault of a Child in the first degree;
- Assault of a Child in the second degree;
- Assault of a Child in the third degree;
- Criminal Mistreatment in the first degree; or
- Criminal Mistreatment in the second degree .

Assault in the Fourth Degree.

Assault in the fourth degree involving domestic violence is a class C felony, punishable by up to five years in prison and a \$10,000 fine, if the person has two or more prior convictions for Assault in the fourth degree involving domestic violence. Felony Assault in the fourth degree involving domestic violence is categorized as a crime against a person.

Fees for Writs of Habeas Corpus.

Sheriffs are permitted, but not required, to waive fees associated with service of a writ of habeas corpus that was issued for the return of a child when the person who was granted the writ is, by reason of poverty, unable to pay the cost of service.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.