

HOUSE BILL REPORT

2SSB 5183

As Reported by House Committee On:
Public Safety

Title: An act relating to victims of nonfatal strangulation.

Brief Description: Concerning victims of nonfatal strangulation.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nobles, Dhingra, Das, Hasegawa, Hunt, Keiser, Kuderer, Liias, Mullet, Nguyen, Rivers, Salomon, Stanford, Wagoner and Wilson, C.).

Brief History:

Committee Activity:

Public Safety: 3/11/21, 3/23/21 [DPA].

**Brief Summary of Second Substitute Bill
(As Amended By Committee)**

- Requires the costs for forensic exams in domestic violence assault cases involving nonfatal strangulation to be paid by the state through the Crime Victim Compensation Program through July 1, 2023.
- Requires the Office of Crime Victims Advocacy to develop best practices for local communities to increase access to forensic nurse examiners for nonfatal strangulation assaults and develop strategies to make forensic nurse examiner training available in all regions of the state.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 13 members: Representatives Goodman, Chair; Johnson, J., Vice Chair; Mosbrucker, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Davis, Graham, Griffey, Hackney, Lovick, Orwall, Ramos, Simmons and Young.

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

Staff: Kelly Leonard (786-7147).

Background:

Strangulation. Strangulation means to compress a person's neck, thereby obstructing the person's blood flow or ability to breathe, or doing so with the intent to obstruct the person's blood flow or ability to breathe. Assaulting a person by strangulation constitutes Assault in the second degree, which is a class B felony. Depending on the circumstances, nonfatal strangulation may constitute attempted Murder in the first or second degree, both of which are class A felonies.

The term "domestic violence" generally refers to a crime committed by one family or household member against another, or by one intimate partner against another. There is no separate crime of domestic violence. Instead, prosecuting attorneys and courts rely on standard criminal offenses and supplement them with special procedures and penalties in cases involving domestic violence. Additional conditions may be imposed upon a person who commits domestic violence, including those pertaining to confinement and supervision, treatment, no-contact orders, and firearms.

Crime Victims Compensation Program. The Crime Victims' Compensation Program (CVCP), within the Department of Labor and Industries (L&I), provides benefits to victims of criminal acts. This includes, for example, medical treatment, mental health treatment, lost wage replacement, and burial costs. To qualify for benefits, a person must have:

- sustained a physical injury or mental health trauma as a result of a gross misdemeanor or felony crime in Washington;
- reported the crime to law enforcement within one year from the date of the crime or within one year from when it reasonably could have been reported; and
- submit an application for benefits within two years of the crime being reported to law enforcement, or within five years in certain circumstances.

Benefits under the program are secondary to services available from any other public or private insurance, meaning the CVCP is the payer of last resort. However, sexual assault victims have a state statutory right to receive a forensic examination where a nurse with forensic training collects evidence for a sexual assault kit. These exams are conducted at no cost to victims and cannot be billed to their insurance providers. Instead, the CVCP directly reimburses medical facilities for these services. The qualifying criteria for obtaining benefits through the CVCP do not apply to these forensic examinations.

Summary of Amended Bill:

Crime Victims' Compensation Program Coverage for Forensic Examinations Involving Nonfatal Strangulation. Through June 30, 2023, a victim of domestic violence involving nonfatal strangulation may not be charged with the costs of a forensic examination

performed for the purposes of gathering evidence for possible prosecution. Instead, the CVCP must directly reimburse the medical facility for the examination.

By October 1, 2022, the L&I must report the following information for fiscal year 2022 to the Legislature:

- the number, type, and amount of claims received by victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault;
- the number, type, and amount of claims paid for victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault; and
- the number of police reports filed by victims of suspected nonfatal strangulation who received services.

Best Practices for Forensic Nurse Examiners. The Office of Crime Victims Advocacy (OCVA) must develop best practices for local communities to use on a voluntary basis to create more access to forensic nurse examiners in cases of nonfatal strangulation assault including, but not limited to, partnerships to serve multiple facilities, mobile nurse examiner teams, and multidisciplinary teams to serve victims in local communities. The best practices must be completed and published by January 1, 2022.

The OCVA must also develop strategies to make forensic nurse examiner training available to nurses in all regions of the state without requiring the nurses to travel unreasonable distances and without requiring medical facilities or nurses to incur unreasonable expenses. The OCVA must submit a report to the Governor and the Legislature by October 1, 2022.

Amended Bill Compared to Second Substitute Bill:

The provision allowing the CVCP to return to paying for nonfatal strangulation forensic exams after insurance in certain circumstances is removed.

The provisions pertaining to the development of strategies to make forensic nurse examiner training available across the state are modified. The strategies may not require medical facilities to incur unreasonable expenses. The strategies should take into account factors deemed appropriate and relevant by the OCVA as well as the unique challenges faced by medical facilities and nurses operating in rural areas. The OCVA must consult with the schools of nursing at Washington State University and the University of Washington when developing the strategies, in addition to other groups and interests specified in the underlying bill.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the

session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Domestic violence perpetrators who strangle their victims are incredibly dangerous and also extremely difficult to prosecute because victims often have no visible marks or injuries. These incidents require professional forensic medical examinations performed by forensic nurse examiners. Forensic nurse examiners can document unseen injuries. This is critical for any potential prosecution, but also for providing victims with treatment for injuries that can cause long-term issues. Forensic nurses provide trauma-informed, victim-centered care and can connect victims to critical services. However, these examinations are expensive. This bill increases access to exams by establishing a mechanism for the state to cover the costs and also expanding training throughout the state. Washington should lead the nation on providing support to domestic violence victims.

(Opposed) None.

(Other) If the Legislature passes the bill, then it needs to appropriate additional funds to the CVCP in order to cover the costs of the examinations.

Persons Testifying: (In support) Senator Nobles, prime sponsor; Terri Stewart, UW Medicine - Harborview Abuse and Trauma Center; David Martin, King County Prosecuting Attorney's Office; Craig Roberts, Crystal Judson Family Justice Center; Coreen Schnepf, Pierce County Prosecuting Attorney's Office; Paula Sardinias, Washington Build Back Black Alliance; and Tom Catey.

(Other) Tammy Fellin, Department of Labor and Industries.

Persons Signed In To Testify But Not Testifying: None.