

HOUSE BILL REPORT

SB 6462

As Reported By House Committee On:

Law & Justice

Title: An act relating to crimes of domestic violence.

Brief Description: Increasing penalties for domestic violence crimes.

Sponsors: Senators Wojahn, Rasmussen, Smith, Haugen, Kohl, Long, Deccio, Winsley, Fairley, Prentice, Wood, Fraser, Hale, Moyer, McCaslin, Johnson, Oke, Goings, Bauer and Spanel; by request of Governor Lowry and Attorney General.

Brief History:

Committee Activity:

Law & Justice: 2/20/96, 2/23/96 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 15 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Smith; Sterk and Veloria.

Staff: Pat Shelledy (786-7149).

Background: Proceedings involving domestic violence may be either civil or criminal.

Civil Domestic Violence Proceedings:

Civil proceedings are conducted under Chapter 26.50 RCW. In a civil proceeding, a victim of domestic violence may petition the court for a domestic violence protection order. Protection orders generally order the respondent to refrain from contacting the victim or members of the victim's family, or harming or harassing the victim. A violation of a protection order is a gross misdemeanor in most cases. A violation is a class C felony if the respondent assaults the victim or recklessly creates a substantial risk of death or physical injury to another person when violating the protection order.

Criminal Actions Involving Domestic Violence:

A crime is a "domestic violence crime" if a person commits one of several crimes against a family or household member.

"Domestic violence" crimes include but are not limited to any of the following crimes when committed by one family or household member against another:

- (a) assault in the first, second, third, or fourth degree;
- (b) reckless endangerment in the first or second degree;
- (c) coercion;
- (d) burglary in the first or second degree or residential burglary;
- (e) criminal trespass in the first or second degree;
- (f) malicious mischief in the first, second, or third degree;
- (g) kidnapping in the first or second degree;
- (h) unlawful imprisonment;
- (i) violation of the provisions of a restraining order restraining the person or excluding the person from a residence (RCW 26.09.300);
- (j) violation of the provisions of a protection order or no-contact order restraining the person or excluding the person from a residence (RCW 26.50.060, 26.50.070, 26.50.130, or 10.99.040);
- (k) rape in the first or second degree; and
- (l) stalking (RCW 9A.46.110).

When a defendant is charged with a crime of domestic violence, the court may issue a no-contact order ordering the defendant to refrain from contacting the victim. A willful violation of the no-contact order is a gross misdemeanor, unless the respondent assaults the victim or engages in conduct that is reckless and creates a substantial risk of death or serious physical injury to another person, in which case a violation is a class C felony. When a defendant is found guilty of a crime of domestic violence, the court may extend the no-contact order or issue one. A willful violation of that no-contact order is only a misdemeanor, except when it is a class C felony under the circumstances noted above.

Interference with the Reporting of Domestic Violence:

Currently, it is not a crime for an abuser to interfere with a victim's or witness's attempt to report domestic violence, call 911, or obtain medical treatment.

Exceptional Sentences:

A court may impose an exceptional sentence above the standard range for a felony committed by an adult offender if the court finds that one or more aggravating factors exist. Several aggravating factors are listed in statute, and the court has developed more in case law.

Collection of Data on Incidents of Domestic Violence:

The Washington Association of Sheriffs and Police Chiefs collects data on incidents of domestic violence.

Summary of Amended Bill:

Definition of Domestic Violence:

The definition of domestic violence in Chapter 10.99 RCW is amended to include the new crime of interference with the reporting of domestic violence and the existing crime of violating a no-contact order issued after conviction.

Violation of No-contact or Protection Orders:

A willful violation of a no-contact order issued under Chapter 10.99 RCW or a domestic violence protection order issued under Chapter 26.50 RCW is a class C felony if the conviction is the third or subsequent conviction for that offense.

Crime of Interfering with Reporting Domestic Violence:

A batterer commits the crime of interfering with the reporting of a crime of domestic violence if the person prevents or attempts to prevent a victim of or witness to the crime from calling 911, obtaining medical assistance, or reporting the incident to law enforcement. Interference with reporting domestic violence is a gross misdemeanor.

Exceptional Sentences for Adult Offenders:

A judge may impose an exceptional sentence above the standard range if the offense involved domestic violence and one or more of the following circumstances was present:

- (1) the offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;
- (2) the offense occurred within the sight or sound of the victim's or batterer's children under age 18; or
- (3) the offense was committed with deliberate cruelty or intimidation of the victim.

Collection of Data on Incidents of Violations of No-contact or Protection Orders:

The Washington Association of Sheriffs and Police Chiefs, subject to funding in the budget, is directed to collect data on incidents of violations of no-contact orders or protection orders.

Technical and clarifying amendments are made.

Amended Bill Compared to Original Bill: Several technical and clarifying amendments are made. A new provision is added to require the Washington Association of Sheriffs and Police Chiefs to collect data on incidents of violating no-contact orders or protection orders.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Batterers who repeatedly engage in crimes of domestic violence must face harsher penalties. The bill gives the court the flexibility to impose a harsher sentence on a batterer who is convicted of a felony if the batterer has a history of abuse or abuses the victim in the children's presence. In addition, batterers who repeatedly violate protection orders and no-contact orders must face harsher penalties than currently provided under law. Creating a new crime of interfering with the reporting of a crime of domestic violence has been identified as an essential tool to combat domestic violence.

Testimony Against: None.

Testified: Senator Lorraine Wojahn, prime sponsor; Christine Gregoire, Attorney General (pro); Lorraine Lee, Governor's Executive Policy Office (pro); Debbie Allen, Seattle Police Department (pro); Jim Theofelis, citizen (pro); and Janice Skinner, Active Disabilities of Grays Harbor (pro).