

SENATE BILL REPORT

SB 5177

As Reported By Senate Committee On:
Law & Justice, February 1, 1995

Title: An act relating to restitution agreements between crime victims and offenders.

Brief Description: Providing for restitution agreements between crime victims and offenders.

Sponsors: Senators Smith, Kohl, Long and Gaspard.

Brief History:

Committee Activity: Law & Justice: 1/24/95, 2/1/95 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5177 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; C. Anderson, Vice Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: With the increasing caseload faced by the criminal justice system, it becomes more difficult for courts to fully address the needs of victims. One program that has offered victims more input in the criminal justice system is mediation. Mediation programs arrange for a trained mediator to facilitate a meeting between a victim and an offender who have each voluntarily agreed to participate. During the meeting, facts of the case are discussed, feelings aired, and restitution negotiated. The restitution agreement is presented to the judge and can become a part of the offender's sentence. The agreement may include monetary payments, performance of some type of service, or both.

Several revisions of the sentencing laws have been suggested to clarify that judges have authority to consider mediated restitution agreements, and can order that the agreement be part of an offender's sentence.

Summary of Substitute Bill: The Legislature finds that mediation can have beneficial results, including allowing victims an opportunity to confront offenders and to feel a sense of involvement in the case, increasing offenders' compliance with restitution orders, and reducing reoffense rates. It is the Legislature's intent to encourage the use of mediation programs, and clarify the court's authority to order offenders to comply with a mediated restitution agreement.

Victim-offender mediation programs must comply with statutes regulating dispute resolution centers. The programs must also have mediators specifically trained to facilitate mediations between crime victims and offenders. Programs must enter into an agreement with the county, court or prosecuting attorney. Cases are deemed inappropriate for mediation if

either the offender or the victim is unwilling to participate, there is a risk of violence or intimidation, no trained mediator is available, no safe location is available, or the offender denies commission of the crime. The court, prosecuting attorney, or probation counselor may refer cases to a mediation program after entry of a guilty plea by the offender.

Victims have the right to submit mediation agreements related to restitution to the court for consideration at the time of sentencing an offender.

At the time of sentencing either an adult or a juvenile, the court must consider, and may require compliance with, any mediated restitution agreement between a victim and the offender. The agreement may include compensation which includes performance other than, or in addition to, payments of money.

Substitute Bill Compared to Original Bill: The substitute bill is the same as the original bill, except for technical amendments.

Appropriation: None

Fiscal Note: Available.

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

Testimony For: Mediation programs offer victims a chance to voice their feelings. Offenders who have participated in mediation may be less likely to re-offend and more likely to pay restitution. The bill puts guidelines for mediation in statute and allows judges to order defendants to comply with the terms of a mediation agreement.

Testimony Against: Sentencing hearings may be delayed by waiting for mediation to be concluded. There are concerns that victims may be coerced into participation in mediation, or that the offender may use the mediation proceedings to minimize the offense.

Testified: Kate Hunter, Dorothy Foster, Mediation Services (pro); Tom Owens, Cheri Hoffer, volunteer mediators (pro); Debbie Ruggles, Evelyn Francy, Washington Coalition of Sexual Assault Programs; Dave Savage, Dept. of Corrections; Tom McBride, WAPA.