

# SENATE BILL REPORT

## SSB 5348

---

As Passed Senate, March 11, 1997

**Title:** An act relating to aggravating circumstances for aggravated first degree murder.

**Brief Description:** Adding additional circumstances for the commission of aggravated first degree murder.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Roach, Long, Zarelli, Wood, Bauer, McCaslin, Johnson, Oke, Rossi, Swecker, Benton, Anderson, Hargrove, Patterson, Goings, Heavey, Snyder, Winsley, Strannigan, Schow and Rasmussen).

**Brief History:**

**Committee Activity:** Law & Justice: 2/10/97, 2/17/97 [DPS, DNPS].  
Passed Senate, 3/11/97, 38-11.

---

### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5348 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Haugen, Long, McCaslin, Stevens and Zarelli.

**Minority Report:** Do not pass substitute.

Signed by Senators Fairley and Kline.

**Staff:** David Johnson (786-7754)

**Background:** Under current law, aggravated first degree murder is the most serious crime and carries the most severe criminal penalties. To be convicted of aggravated first degree murder, a person must commit a first degree murder under one or more of several aggravating circumstances. A person convicted of aggravated first degree murder will receive either the death penalty or a sentence of life imprisonment without the possibility of parole.

For many murder victims death is the final act in a history of domestic violence. Death may be the price paid for trying to break free from an abusive relationship. In some cases, the victim has even obtained a court order to prevent contact with the abuser prior to being murdered. Domestic violence victims are often more vulnerable and less able to defend themselves than other people, because they are financially and emotionally dependent on the abuser.

It is felt that the existence of an order restraining the defendant from contact with the victim prior to the murder of the victim by the defendant or a pattern of abuse inflicted upon a

household member by a defendant prior to the murder of the household member by the defendant should be aggravating factors for imposing the death penalty.

**Summary of Bill:** It is an aggravating circumstance for the imposition of aggravated first degree murder that at the time of the murder there was a court order, from Washington or any other state, which prohibited the defendant from contacting, molesting or disturbing the peace of the victim, and the defendant knew of the existence of the order.

It is an aggravating circumstance for the imposition of aggravated first degree murder that at the time of the murder the defendant and victim were family or household members and the defendant had previously engaged in a pattern or practice of three or more incidents of harassment or assault against the victim, regardless of whether or not the defendant was convicted of any crime for such acts.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** All too often a person seeking to get out of a bad domestic situation is murdered. Domestic violence is particularly pernicious because it is repetitive and escalating, often ending in death. The most dangerous time is when the victim tries to escape the relationship because the defendant feels his or her ownership of the victim is threatened. The victim has experienced terror for a long time prior to being murdered. All elements of the aggravating factor must be proved beyond a reasonable doubt.

**Testimony Against:** Death penalty cases increase local prosecution and especially defense costs significantly. Money spent on death penalty cases could be better spent on programs that provide real safety to victims of domestic violence. It may be unconstitutional to use criminal conduct that has not resulted in a conviction as an aggravating circumstance. Restraining orders are often issued through ex parte process and that may cause a due process problem.

**Testified:** Bernardeen Broadus, Thurston County Prosecutor (pro); Jim Powers, Thurston County Deputy Prosecutor (pro); Tracy Turner, sister of victim (pro); Katie Ross, Washington Association of Criminal Defense Lawyers and Washington Defender Association (con); Lew Cox, Violent Crime Victim Services (pro); Tom McBride, Washington Association of Prosecuting Attorneys (pro).