

HOUSE BILL REPORT

E2SSB 6347

*As Reported By House Committee on:
Judiciary
Appropriations*

Title: An act relating to domestic violence.

Brief Description: Making changes to the domestic violence statute.

Sponsor(s): By Senate Committee on Ways & Means (originally sponsored by Senators Nelson, A. Smith, Erwin, Madsen, Rinehart, Thorsness and von Reichbauer).

Brief History:

Reported by House Committee on:
Judiciary, February 28, 1992, DPA;
Appropriations, March 2, 1992, DP(w/oJUD amd).

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass as amended.* Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Hargrove; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Minority Report: *Without recommendation.* Signed by 1 member: Representative Forner.

Staff: Pat Shelledy (786-7149).

Background: The Domestic Violence Task Force issued its final report in June 1991. The task force made several recommendations. The King County Human Services Roundtable and the Washington State Coalition Against Domestic Violence worked with the task force to prepare legislation.

The Domestic Violence Protection Act governs petitions for protection orders to protect victims from domestic violence.

To obtain relief under the act, the person seeking protection must file a petition. When a petitioner files a petition, the court may enter an ex parte order pending a hearing on the petition. The ex parte order and a copy of

the petition and notice of the date for hearing must be served on the respondent.

The Domestic Violence Protection Act applies to "family or household members." The phrase means spouses, former spouses, persons who have a child in common, adults related by blood or marriage, and adults who are presently residing together or who have resided together in the past. Last year, the Legislature deleted juveniles from the definition of family or household members. The act does not apply to persons who have "dated" one another unless the persons otherwise meet the definition. Despite the exclusion of juveniles from the definition of family or household members, another provision of the law provides that a petitioner may seek relief on behalf of "minor family or household members."

Court clerks must have forms and brochures to help petitioners prepare the petition. The administrator for the courts has developed model forms and brochures and has distributed a master copy to court clerks. The act does not require that the forms be in languages other than English.

Apparently, some courts issue "mutual protection orders" at the hearing on the petitioner's petition without the respondent filing a petition for protection. Also, apparently some courts "realign" the parties and do not require the "new" petitioner to file a petition.

Generally, persons under age 18 must have a guardian, a guardian ad litem, or a "next friend" file actions for the minor in court.

Summary of Amended Bill:

INTENT AND FINDINGS SECTION:

A findings section provides that people with limited English proficiency have difficulty preparing the petitions. Some model forms have been altered to be inconsistent with the statutes. When the courts issue mutual protection orders without the filing of a separate written petition, the petitioner is deprived of due process, is labeled as violent, and is also treated as being at fault. Valuable information about reported acts of domestic violence is unobtainable without gathering data from law enforcement. Professionals concerned with domestic violence need more education. Adolescent dating violence is occurring at increasingly high rates.

SUBSTANTIVE PROVISIONS:

1. ISSUANCE OF AN EX PARTE ORDER WITHOUT A PETITION FILED.

When a court realigns the parties, the court may issue an ex parte temporary order for protection on behalf of the victim until the victim is able to prepare a petition for an order for protection.

Except when issuing an ex parte order when the court realigns the parties, the court may not grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counterpetition filed and served by the party seeking relief.

2. DEFINITION OF "FAMILY OR HOUSEHOLD MEMBERS."

The definition of "family or household members" is changed. The definition now also applies to 1) persons 16 years of age or older who are living together or who have lived together in the past and who have had a dating relationship; 2) persons 16 years of age or older with whom a respondent 16 years of age or older has had a dating relationship; and 3) persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren. "Dating relationship" means a social relationship of a romantic nature. Factors are identified for the court to determine whether the parties had a dating relationship. This change is subject to funding in the budget.

A person 16 years of age or older may seek relief under this act and does not have to obtain relief through a guardian or next friend. The court does not have to appoint a guardian or guardian ad litem for a person over age 16. The court may appoint a guardian ad litem for a petitioner or respondent.

DATA COLLECTION:

Starting January 1, 1993, records of incidents of domestic violence must be submitted to the Washington Association of Sheriffs and Police Chiefs by all law enforcement agencies. The Criminal Justice Training Commission must amend its contract with the association for collection of statewide crime data to require compilation of data on domestic violence. This section is null and void unless funded in the budget.

PROFESSIONAL EDUCATION:

The departments of Social and Health Services, Community Development, and Health, the Office of the Administrator for the Courts, and the Criminal Justice Training Commission must conduct a review of the current level of domestic

violence education in the state, including higher education and continuing professional education. The professions covered are numerous. The group must submit a report to the Legislature by September 1, 1992.

STANDARDIZED FORMS:

By January 1, 1993, the administrator for the courts must develop new standardized forms, instructions, informational brochures, and a court staff handbook on domestic violence and the protection order process. The administrator for the courts must consult with a representative of the state domestic violence coalition, judges, and law enforcement personnel, and other interested persons. The standard petition and order must be used after April 15, 1993.

The brochure must describe the process to obtain a protection order under the Domestic Violence Protection Act, a no-contact order under Chapter 10.99 RCW, a restraining order under Chapter 26.09 RCW, an antiharassment order under Chapter 10.14 RCW, and a list of community resources. The list of resources must be obtained from a domestic violence program in each county.

The administrator for the courts must distribute master copies of the forms and brochures to the staff of all courts and must distribute master copies of the order forms to all courts.

The administrator for the courts must translate the instructions and brochures into Spanish, Vietnamese, Laotian, Cambodian, and Chinese, and must distribute a copy of the translated material to all court clerks by March 1, 1993. The administrator for the courts must determine by June 30, 1994, whether translation of the petition and order forms will improve access to the system for persons with limited English proficiency. If so, the administrator for the courts must distribute translated forms to all court staff by September 1, 1993.

The forms must include a warning of the criminal sanctions for violations that the petitioner may not waive the provisions of the order, and that it is the sole responsibility of the respondent to avoid or refrain from violation of the order.

Preparation and distribution of the forms is null and void if specific funding is not in the budget. The warning section is also null and void without funding.

Technical and clarifying language is added to the statutes.

Amended Bill Compared to Engrossed Second Substitute Bill:

The provision expanding the definition of "family or household members" to persons who are 16 years of age or older and have or had a dating relationship and to persons in a parent-child relationship is null and void unless funding is provided in the budget.

Fiscal Note: Available.

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

Testimony For: Violence among teenagers in dating relationships is an increasing problem which needs to be addressed; mutual protection orders are issued improperly which makes the victim feel responsible for the assaults, subjects the victim to harassment, possible arrest, and problems in custody proceedings; mutual protection orders are also problems for police officers who do not know how to enforce them. Statistical data collection is needed. Uniformity in petitions will simplify the process. Non-English speaking people need assistance with the process.

Testimony Against: None.

Witnesses: Sheri Yeatts, King County Prosecutor's Office Protection Order Program; Officer Jim Shimensky, King County Police Department; Nancy Ashley, Human Services Roundtable; Mary Pontarolo, Washington State Coalition Against Domestic Violence; and Karen Darkow, Safeplace (all pro).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: Do pass without amendment by Committee on Judiciary. Signed by 26 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Brekke; Carlson; Dorn; Ebersole; Ferguson; Fuhrman; Hine; Lisk; May; Peery; Pruitt; Rust; H. Sommers; Sprenkle; Valle; Vance; Wang; and Wineberry.

Minority Report: Do not pass. Signed by 2 members: Representatives Braddock and Nealey.

Staff: Nancy Stevenson (786-7137).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Judiciary: The

Appropriations Committee recommends passage of the bill without the Judiciary Committee amendment.

Fiscal Note: Available.

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

Testimony For: Support the recommendations of the Domestic Violence Task Force. While the cost of expanding the protection order definition to 16 year olds is unknown it is not expected to be significant, therefore the Judiciary Committee amendment making this provision null and void without funding in the budget should not be adopted.

Testimony Against: None.

Witnesses: Mike Ryherd, Human Services Roundtable; and Deborah Senn, Washington State Coalition Against Domestic Violence (pro without the Judiciary Committee amendment).