

CERTIFICATION OF ENROLLMENT
SECOND ENGROSSED HOUSE BILL 1645

58th Legislature
2004 Regular Session

Passed by the House March 8, 2004
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 4, 2004
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED HOUSE BILL 1645** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND ENGROSSED HOUSE BILL 1645

AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By Representatives Kessler, Skinner, Edwards, Lantz, Moeller, Kirby, Kenney, Lovick, O'Brien, Kagi, Simpson, McCoy, Cody, Ruderman, Flannigan, Upthegrove, Pettigrew, Clibborn, McDermott, Dickerson, Hudgins, Schual-Berke, Santos, Conway, Sullivan, Morrell and Darneille

Read first time 02/03/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to protection of victims of domestic violence,
2 sexual assault, or stalking in the rental of housing; adding new
3 sections to chapter 59.18 RCW; creating a new section; repealing RCW
4 59.18.356; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds and declares that:

7 (1) Domestic violence, sexual assault, and stalking are widespread
8 societal problems that have devastating effects for individual victims,
9 their children, and their communities. Victims of violence may be
10 forced to remain in unsafe situations because they are bound by
11 residential lease agreements. The legislature finds that the inability
12 of victims to terminate their rental agreements hinders or prevents
13 victims from being able to safely flee domestic violence, sexual
14 assault, or stalking. The legislature further finds that victims of
15 these crimes who do not have access to safe housing are more likely to
16 remain in or return to abusive or dangerous situations. Also, the
17 legislature finds that victims of these crimes are further victimized
18 when they are unable to obtain or retain rental housing due to their
19 history as a victim of these crimes. The legislature further finds

1 that evidence that a prospective tenant has been a victim of domestic
2 violence, sexual assault, or stalking is not relevant to the decision
3 whether to rent to that prospective tenant.

4 (2) By this act, the legislature intends to increase safety for
5 victims of domestic violence, sexual assault, and stalking by removing
6 barriers to safety and offering protection against discrimination.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18 RCW
8 to read as follows:

9 The definitions in this section apply throughout this section and
10 sections 3 through 5 of this act unless the context clearly requires
11 otherwise.

12 (1) "Domestic violence" has the same meaning as set forth in RCW
13 26.50.010.

14 (2) "Sexual assault" has the same meaning as set forth in RCW
15 70.125.030.

16 (3) "Stalking" has the same meaning as set forth in RCW 9A.46.110.

17 (4) "Qualified third party" means any of the following people
18 acting in their official capacity:

- 19 (a) Law enforcement officers;
- 20 (b) Persons subject to the provisions of chapter 18.120 RCW;
- 21 (c) Employees of a court of the state;
- 22 (d) Licensed mental health professionals or other licensed
23 counselors;
- 24 (e) Employees of crime victim/witness programs as defined in RCW
25 7.69.020 who are trained advocates for the program; and
- 26 (f) Members of the clergy as defined in RCW 26.44.020.

27 (5) "Household member" means a child or adult residing with the
28 tenant other than the perpetrator of domestic violence, stalking, or
29 sexual assault.

30 (6) "Tenant screening service provider" means any nongovernmental
31 agency that provides, for a fee, background information on prospective
32 tenants to landlords.

33 (7) "Credit reporting agency" has the same meaning as set forth in
34 RCW 19.182.010(5).

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18 RCW
36 to read as follows:

1 (1)(a) If a tenant notifies the landlord in writing that he or she
2 or a household member was a victim of an act that constitutes a crime
3 of domestic violence, sexual assault, or stalking, and either (a)(i) or
4 (ii) of this subsection applies, then subsection (2) of this section
5 applies:

6 (i) The tenant or the household member has a valid order for
7 protection under one or more of the following: Chapter 26.50 or 26.26
8 RCW or RCW 9A.46.040, 9A.46.050, 10.14.080, 10.99.040 (2) or (3), or
9 26.09.050; or

10 (ii) The tenant or the household member has reported the domestic
11 violence, sexual assault, or stalking to a qualified third party acting
12 in his or her official capacity and the qualified third party has
13 provided the tenant or the household member a written record of the
14 report signed by the qualified third party.

15 (b) When a copy of a valid order for protection or a written record
16 of a report signed by a qualified third party, as required under (a) of
17 this subsection, is made available to the landlord, the tenant may
18 terminate the rental agreement and quit the premises without further
19 obligation under the rental agreement or under chapter 59.12 RCW.
20 However, the request to terminate the rental agreement must occur
21 within ninety days of the reported act, event, or circumstance that
22 gave rise to the protective order or report to a qualified third party.
23 A record of the report to a qualified third party that is provided to
24 the tenant or household member shall consist of a document signed and
25 dated by the qualified third party stating: (i) That the tenant or the
26 household member notified him or her that he or she was a victim of an
27 act or acts that constitute a crime of domestic violence, sexual
28 assault, or stalking; (ii) the time and date the act or acts occurred;
29 (iii) the location where the act or acts occurred; (iv) a brief
30 description of the act or acts of domestic violence, sexual assault, or
31 stalking; and (v) that the tenant or household member informed him or
32 her of the name of the alleged perpetrator of the act or acts. The
33 record of the report provided to the tenant or household member shall
34 not include the name of the alleged perpetrator of the act or acts of
35 domestic violence, sexual assault, or stalking. The qualified third
36 party shall keep a copy of the record of the report and shall note on
37 the retained copy the name of the alleged perpetrator of the act or
38 acts of domestic violence, sexual assault, or stalking. The record of

1 the report to a qualified third party may be accomplished by completion
2 of a form provided by the qualified third party, in substantially the
3 following form:

4
5 [Name of organization, agency, clinic, professional service provider]

6 I and/or my (household member) am/is a victim of
7 ... domestic violence as defined by RCW 26.50.010.
8 ... sexual assault as defined by RCW 70.125.030.
9 ... stalking as defined by RCW 9A.46.110.

10 Briefly describe the incident of domestic violence, sexual assault, or stalking:
11

12 The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s):
13 and at the following location(s)

14 The incident(s) that I rely on in support of this declaration were committed by the following person(s):
15

16 I state under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

17 Dated at (city) ., Washington, this ... day of, 20. ..

18
19 Signature of Tenant or
20 Household Member

21 I verify that I have provided to the person whose signature appears above the statutes cited in RCW 59.18.---
22 (section 3 of this act) and that the individual was a victim of an act that constitutes a crime of domestic violence, sexual
23 assault, or stalking, and that the individual informed me of the name of the alleged perpetrator of the act.

24 Dated this ... day of, 20. ..

25
26 Signature of authorized
27 officer/employee of
28 (Organization, agency,
29 clinic, professional
30 service provider)

31 (2) A tenant who terminates a rental agreement under this section
32 is discharged from the payment of rent for any period following the
33 last day of the month of the quitting date. The tenant shall remain
34 liable for the rent for the month in which he or she terminated the
35 rental agreement unless the termination is in accordance with RCW
36 59.18.200(1). Notwithstanding lease provisions that allow for
37 forfeiture of a deposit for early termination, a tenant who terminates

1 under this section is entitled to the return of the full deposit,
2 subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties
3 to the rental agreement, except household members who are the victims
4 of sexual assault, stalking, or domestic violence, are not released
5 from their obligations under the rental agreement or other obligations
6 under this chapter.

7 (3) The provision of verification of a report under subsection
8 (1)(b) of this section does not waive the confidential or privileged
9 nature of the communication between a victim of domestic violence,
10 sexual assault, or stalking with a qualified third party pursuant to
11 RCW 5.60.060, 70.123.075, or 70.125.065. No record or evidence
12 obtained from such disclosure may be used in any civil, administrative,
13 or criminal proceeding against the victim unless a written waiver of
14 applicable evidentiary privilege is obtained, except that the
15 verification itself, and no other privileged information, under
16 subsection (1)(b) of this section may be used in civil proceedings
17 brought under this section.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 59.18 RCW
19 to read as follows:

20 (1) A landlord may not terminate a tenancy, fail to renew a
21 tenancy, or refuse to enter into a rental agreement based on the
22 tenant's or applicant's or a household member's status as a victim of
23 domestic violence, sexual assault, or stalking, or based on the tenant
24 or applicant having terminated a rental agreement under section 3 of
25 this act.

26 (2) A landlord who refuses to enter into a rental agreement in
27 violation of this section may be liable to the tenant or applicant in
28 a civil action for damages sustained by the tenant or applicant. The
29 prevailing party may also recover court costs and reasonable attorneys'
30 fees.

31 (3) It is a defense to an unlawful detainer action under chapter
32 59.12 RCW that the action to remove the tenant and recover possession
33 of the premises is in violation of subsection (1) of this section.

34 (4) This section does not prohibit adverse housing decisions based
35 upon other lawful factors within the landlord's knowledge.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18 RCW
2 to read as follows:

3 (1) A tenant who has obtained a court order from a court of
4 competent jurisdiction granting him or her possession of a dwelling
5 unit to the exclusion of one or more cotenants may request that a lock
6 be replaced or configured for a new key at the tenant's expense. The
7 landlord shall, if provided a copy of the order, comply with the
8 request and shall not provide copies of the new keys to the tenant
9 restrained or excluded by the court's order. This section does not
10 release a cotenant, other than a household member who is the victim of
11 domestic violence, sexual assault, or stalking, from liability or
12 obligations under the rental agreement.

13 (2) A landlord who replaces a lock or configures for a new key of
14 a residential housing unit in accordance with subsection (1) of this
15 section shall be held harmless from liability for any damages that
16 result directly from the lock change.

17 NEW SECTION. **Sec. 6.** RCW 59.18.356 (Threatening behavior--
18 Violation of order for protection--Termination of agreement--Financial
19 obligations) and 1992 c 38 s 7 are each repealed.

20 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

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