

SENATE BILL REPORT

SB 5070

As of February 11, 2015

Title: An act relating to the supervision of domestic violence offenders.

Brief Description: Requiring the department of corrections to supervise domestic violence offenders who have a conviction and were sentenced for a domestic violence felony offense that was plead and proven.

Sponsors: Senators Pearson, Warnick, Dammeier, Kohl-Welles and Brown.

Brief History:

Committee Activity: Law & Justice: 2/03/15.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Lindsay Erickson (786-7465)

Background: When the Sentencing Reform Act was passed by the Legislature in 1984, it contained very limited provisions for the supervision of offenders. Over time the Legislature added back supervision in varying lengths of time and for varying offenses. In 1999 the Legislature passed the Offender Accountability Act (OAA). The OAA extended community custody to all sex offenses, all violent offenses, all crimes against persons, and all felony drug offenses. It also required the Department of Corrections (DOC) to utilize a validated risk assessment and supervise offenders according to their risk level. Since that time, the Legislature has gradually decreased the number of offenders supervised by DOC:

- In 2003 under SB 5990, the Legislature authorized DOC to supervise only those offenders in the two highest risk levels unless the offender committed a sex offense, violent offense, crime against a person, certain drug offenses, burglary, or felony domestic violence.
- In 2009 under SB 5288/6162, the Legislature authorized DOC to supervise only those offenders in the two highest risk levels unless the offender committed a sex offense or serious violent offense, received an alternative sentence, was designated as dangerously mentally ill, was a misdemeanor sex offender, or was classified as a certain domestic violent offender. Community custody term lengths were reduced to 36 months for sex or serious violent offenders, 18 months for violent offenders, and 12 months for all others.
- In 2011 under SB 5891, the Legislature eliminated supervision for offenders convicted of first-time failure to register and misdemeanor domestic violence

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offenders, and instituted supervision for repeat felony and misdemeanor domestic violence offenders where domestic violence was plead and proven after August 1, 2011.

Currently DOC must supervise the following offenders sentenced to community custody:

1. offenders who are classified at a high risk to reoffend; and
2. regardless of risk classification, those offenders who:
 - a. are convicted of a sex offense or serious violent offense;
 - b. are identified as dangerously mentally ill;
 - c. have an indeterminate sentence;
 - d. are convicted of a failure to register;
 - e. have a current conviction for domestic violence felony offense where domestic violence was plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violent offense or domestic violence felony offense where domestic violence was plead and proven after August 1, 2011;
 - f. are sentenced to a Drug Offender Sentencing Alternative, Special Sex Offender Sentencing Alternative, or First Time Offender Waiver;
 - g. must be supervised under the Interstate Compact; or
 - h. are certain misdemeanor sex offenders and repeat domestic violence offenders.

In 2010 the Legislature made a number of changes to the laws relating to domestic violence, including changes in the areas of law enforcement and arrest, no-contact and protection orders, firearms possession, and sentencing reforms. Notably, the legislation adjusted how prior felony and non-felony domestic violence related offenses are calculated for purposes of calculating an offender's sentence. All domestic violence offenses must be plead and proven after August 1, 2011.

Summary of Bill: DOC must supervise an offender sentenced to community custody regardless of risk classification if the offender has a conviction for a domestic violence felony offense where domestic violence was plead and proven and was committed after the effective date of the bill. Prior provisions remain in effect for offenders who committed a domestic violence felony offense prior to the effective date of the bill.

The state and its officers, agents, and employees must not be held criminally or civilly liable for its supervision of an offender unless the state and its officers, agents, and employees acted with reckless disregard.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: These domestic violence offenders need a certain level of supervision. Individuals convicted of domestic violence crimes are not first-time offenders, and there is usually significant history associated with these crimes. Domestic violence often escalates over time, so often if there is a conviction for domestic violence, it is a very serious offense. Prosecutors may charge these offenders down which may then be plead down even further. The resulting charge and incarceration do not reflect the seriousness of many of these crimes. This bill will bring these offenders back within the supervision of the courts and will make sure that assessments – like drug and alcohol, domestic violence – are followed. These offenders must be held accountable when they are not incarcerated.

Persons Testifying: PRO: Senator Pearson, prime sponsor; Grace Huang, WA State Coalition Against Domestic Violence; Barbara Holland, domestic violence victim; Judy Kuschel, WA Federation of State Employees.