

SENATE BILL REPORT

2SSB 5183

As Amended by House, April 6, 2021

Title: An act relating to victims of nonfatal strangulation.

Brief Description: Concerning victims of nonfatal strangulation.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Nobles, Dhingra, Das, Hasegawa, Hunt, Keiser, Kuderer, Liias, Mullet, Nguyen, Rivers, Salomon, Stanford, Wagoner and Wilson, C.).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/21/21, 1/26/21 [DPS-WM].

Ways & Means: 2/09/21, 2/16/21 [DP2S].

Floor Activity: Passed Senate: 2/24/21, 49-0.

Passed House: 4/6/21, 98-0.

Brief Summary of Second Substitute Bill

- Directs the Office of Crime Victims Advocacy (OCVA) to develop practices for local communities to increase access to forensic nurse examiner services in nonfatal strangulation assaults, and to publish those best practices to its website by January 1, 2022.
- Directs OCVA to develop strategies to make forensic nurse examiner training available throughout the state without causing unreasonable travel or expenses for nurses, and report those strategies to the Governor and Legislature by January 1, 2022.
- Authorizes the Crime Victims Compensation Program to pay for forensic examination of domestic violence victims of nonfatal strangulation and prohibits charging the victim for the examination, without the victim having to apply for benefits from the program, through June 30, 2023.
- Prohibits the Crime Victims Compensation Program from reducing

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provider reimbursement rates if funding provided by the Legislature for nonfatal strangulation exam costs is exhausted, and allows the Crime Victims Compensation Program to return to paying for the cost of nonfatal strangulation exams after insurance.

- Requires the Department of Labor and Industries to report to the Legislature regarding the number, type, and amount of claims for nonfatal strangulation exams.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5183 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Dozier, McCune, Saldaña and Wilson, C.

Staff: Alison Mendiola (786-7488)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5183 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Rivers, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Sarah Emmans (786-7478)

Background: Non-Fatal Strangulation. Strangulation involves external compression of the victim's airway and blood vessels, causing reduced air and blood flow to the brain. Victims may show no or minimal external signs of injury despite having life-threatening internal injuries including traumatic brain injury. Injuries may present after the assault or much later and may persist for months and even years post-assault. Victims who are strangled multiple times face a greater risk of traumatic brain injury. Traumatic brain injury symptoms are often not recognized as assault-related and may include cognitive difficulties such as decreased ability to concentrate, make decisions, and solve problems. Traumatic brain injury symptoms may also include behavior and personality changes such as irritability, impulsivity, and mood swings.

Strangulation or suffocation are often associated with sexual assault and domestic violence and are second-degree assaults and Class B felonies. Class B felonies carry a maximum sentence of ten years in prison, a \$20,000 fine, or both.

The Office of Crime Victims Advocacy. Established in 1990, the Office of Crime Victims Advocacy (OCVA) assists crime victims in Washington State by:

- advocating on behalf of victims obtaining needed services and resources;
- administering grant funds for community programs working with crime victims;
- assisting communities in planning and implementing services for crime victims; and
- advising local and state government agencies of practices, policies, and priorities that impact crime victims.

Crime Victims Compensation Program. The Crime Victims Compensation Program was created to help victims with the many costs associated with violent crime. The program provides financial compensation to crime victims for such expenses as medical bills, loss of financial support, and funeral expenses. The fund may assist those who:

- have a bodily injury or severe emotional stress from a crime and that crime is a gross misdemeanor or felony;
- filed a report with law enforcement within one year of the date the crime occurred or within one year of when it reasonably could have been reported;
- provide reasonable cooperation with law enforcement including helping to investigate and prosecute the offender; or
- apply for benefits within two years of the crime being reported to law enforcement or, for good cause, within five years.

Crime victims compensation may cover medical/dental benefits, lost wages, medication coverage, mental health treatment, grief counseling and funeral expenses. To qualify for benefits a person must have:

- sustained a physical injury or mental health trauma as a result of a gross misdemeanor or felony crime in Washington State;
- reported the crime to law enforcement and cooperated with the investigation;
- file a report with law enforcement within one year from the date of crime or within one year from when it reasonably could have been reported.
- submit a timely application;
- submit an application for benefits within two years of the crime being reported to law enforcement—or, up to five years from the police report in certain circumstances; and
- for minors, at the time of the crime, the application must be filed within two years of their 18th birthday.

The program covers costs of a forensic nurse examination related to nonfatal strangulation when it is part of a sexual assault or if a victim applies for program benefits. Exams for victims of sexual assault are covered when the exam is performed for gathering evidence for possible prosecution. The victim is not billed or charged directly or indirectly for the exam, as the exam is covered by the Crime Victims Compensation Program.

Summary of Second Substitute Bill: The Office of Crime Victims Advocacy. OCVA is to develop best practices that local communities may voluntarily use to create more access to forensic nurse examiners in cases of nonfatal strangulation assault. When developing the best practices, OCVA is to consult with: the Washington Association of Sheriffs and Police Chiefs; the Washington Association of Prosecuting Attorneys; the Washington State Coalition Against Domestic Violence; the Harborview Center for Sexual Assault and Traumatic Stress; the Washington State Hospital Association; the Washington State Association of Counties; the Association of Washington Cities; the Washington Coalition of Sexual Assault programs; the Schools of Nursing at Washington State University and the University of Washington; a collective bargaining representative of frontline nurses, and other organizations deemed appropriate by OCVA.

OCVA is to finish developing the best practices no later than January 1, 2022, and publish them on its website.

OCVA is to develop strategies to make forensic nurse examiner training available to nurses in all regions of the state without requiring nurses to travel unreasonable distances or incur unreasonable charges. When developing these strategies, OCVA is to consult with: the Harborview Abuse and Trauma Center; the Department of Health; the Nursing Care Quality Assurance Commission; the Washington State Hospital Association; the Washington State Nurses Association; forensic nurse practitioners; and other organizations deemed appropriate by OCVA. OCVA is to report the strategies to the Governor and appropriate committees of the Legislature by October 1, 2022.

Crime Victims Compensation Program. The program is authorized to pay forensic examination costs for a domestic violence victim of a nonfatal strangulation assault incurred by a hospital or other emergency medical facility, without the victim having to apply for services through the program, until June 30, 2023. The examination costs are not to be charged, directly or indirectly, to the victim.

If funding provided by the Legislature for the purposes of the act is exhausted, the program is prohibited from reducing provider reimbursement rates for other crime victims, and instead may revert to paying for the cost of nonfatal strangulation exams after insurance.

The Department of Labor and Industries is required to report to the Legislature regarding the number, type, and amount of claims related to nonfatal strangulation exams, including the number that involved police reports, and the number that involved sexual assault exams.

Sections 2 and 3 of this act expire June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: Strangulation is the most intimate form of partner violence. A person who suffers from nonfatal strangulation is 750 percent more likely to become a homicide victim and these crimes can hard to prosecute as they mostly happen behind closed doors. There is a need to rely on evidence and the strangulation may not leave any marks to the untrained eye. Medical exams are the best way to hold abusers accountable. These changes are needed as forensic exams are very expensive, about \$1,000 per person. In 2018, in King County alone there were 323 known cases of strangulation, 64 of which were treated in the hospital and only 4 received a forensic exam because it also involved a sexual assault. This bill is greatly needed, long-terms effects of strangulation make it harder to be successful in healing, not just physically as victims often suffer from PTSD. Forensic nurse examiners already receive training in nonfatal strangulation. Forensic nurses are called to testify instead of treating the victim in the hospital.

OTHER: Currently these victims can apply for services from the program but they have to file a police report. This bill would allow them to receive a medical claim without filing a claim. This was not included in the Governor's budget.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator T'wina Nobles, Prime Sponsor; Karin White, YWCA Pierce County; Craig Roberts, Crystal Judson Family Justice Center; Coreen Schnepf, Pierce County Prosecuting Attorney's Office; Tom Catey, Pierce County Sheriff; David Martin, King County Prosecutor.

OTHER: Rick Torrance, Department of Commerce; Tammy Fellin, Labor & Industries.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: Strangulation is a brutal crime. It is the most intimate form of partner violence. Medical exams are the best way to hold abusers accountable. There seem to be a lot of questions about the changes in the bill, including how often these assaults happen and what the costs are. King County has five years of data to look at for this type of crime. In King County's experience, there have been a couple hundred cases per year, only some of which will seek hospital treatment. The changes to the Crime Victims program are needed as forensic exams are very expensive, about \$1,000 per person.

OTHER: Because the bill was not included in the Governor's budget, the Department of

Labor and Industries does not support the bill but this does not mean the department does not support the policy. This bill would require the Crime Victims Compensation program to pay for the costs of medical exams for strangulation victims, even if the victim does not apply for benefits. Applying for the program means the victim is cooperating with an investigation and files a police report. If the program does not have enough funding to cover the new service, then the program is required by statute to reduce provider rates for other crime victims.

Persons Testifying (Ways & Means): PRO: Senator T'wina Nobles, Prime Sponsor; David Martin, King County Prosecutor.

OTHER: Tammy Fellin, Labor & Industries.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

Specifies that the strategies developed by the OCVA to make forensic nurse examiner training available in all regions of the state may not require medical facilities to incur unreasonable expenses. Further provides that the strategies should take into account factors deemed appropriate and relevant by the OCVA as well as the unique challenges faced by medical facilities and nurses operating in rural areas. Requires the OCVA to consult with the schools of nursing at Washington State University and the University of Washington when developing the strategies.

Removes the provision that allows the Department of Labor and Industries to return to paying for nonfatal strangulation forensic exams after insurance if the Department determines that the cost of services exceeds specifically appropriated funds.