

HOUSE BILL REPORT

HB 1715

As Reported by House Committee On:
Community Safety, Justice, & Reentry
Appropriations

Title: An act relating to enacting comprehensive protections for victims of domestic violence and other violence involving family members or intimate partners.

Brief Description: Enacting comprehensive protections for victims of domestic violence and other violence involving family members or intimate partners.

Sponsors: Representatives Davis, Mosbrucker, Duerr, Griffey, Walen, Lekanoff, Morgan, Callan, Ramel, Thai, Rule, Ryu, Kloba, Chopp, Pollet, Chapman, Mena, Cortes, Eslick, Bergquist and Fey.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/9/23, 2/13/23, 2/16/23 [DPS];

Appropriations: 2/22/23, 2/24/23 [DP2S(w/o sub CSJR)].

Brief Summary of Second Substitute Bill

- Creates the Domestic Violence Lethality Hotline to perform lethality assessments and a high lethality designation on domestic violence perpetrators.
- Requires electronic monitoring with victim notification technology to be available statewide.
- Requires the development of plans to expand access to attorneys for victims of domestic violence in state and tribal courts and the maintenance of a list of attorneys who represent domestic violence survivors.
- Requests the Washington Supreme Court's Gender and Justice Commission to convene a work group to establish practice and training standards for attorneys representing domestic violence survivors.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

- Makes changes to civil protection orders.
- Creates a cause of action for victims of domestic violence who are intimate partners.
- Makes changes to provisions regarding crimes of domestic violence, including domestic violence no-contact orders, court proceedings, and law enforcement practices.
- Makes changes to the firearms or dangerous weapons surrender process.
- Makes changes to the Address Confidentiality Program and personal financial affairs reports filed with the Public Disclosure Commission.
- Expands the circumstances under which a victim of domestic violence may terminate a rental agreement.
- Creates a grant program for a statewide prosecutor for domestic violence cases.
- Creates a pilot program for domestic violence high-risk teams.
- Creates the Office of the Statewide Domestic Violence Ombuds.
- Creates the University of Washington Center for Excellence in Domestic Violence Research, Policy, and Practice.
- Expands training for law enforcement and judicial officers regarding domestic violence.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse and Ramos.

Minority Report: Do not pass. Signed by 1 member: Representative Graham.

Staff: Jim Morishima (786-7191).

Background:

Civil Protection Orders.

There are different types of civil protection orders that a court may issue to protect a person from the behavior of another. Separate types of protection orders exist for domestic violence, sexual assault, harassment, stalking, and vulnerable adult abuse. Also, a court

may issue an extreme risk protection order to prohibit a person who poses a significant risk of harm to self or others from possessing, purchasing, accessing, or receiving a firearm.

Contents of the Order.

For most types of protection orders, the court has broad discretion to order various types of relief, including:

- restraining the respondent from the behavior that gave rise to the order;
- restraining the respondent from contacting the petitioner;
- restraining the respondent from the residence, workplace, or school of the petitioner;
- restraining the respondent from coming within a specific distance from the petitioner;
- prohibiting the respondent from possessing firearms, dangerous weapons, or a concealed weapons permit;
- requiring the respondent to reimburse the petitioner for costs, including reasonable attorneys' fees; and
- requiring the respondent to submit to electronic monitoring.

Temporary Orders.

For most types of protection orders, where it appears that the respondent has engaged in conduct against the petitioner that serves as a basis for a protection order and the petitioner alleges that serious immediate harm or irreparable injury could result if an order is not issued immediately, the court may grant an *ex parte* temporary protection order, pending a full hearing. After a hearing, the court may issue a full protection order.

Modification of the Order.

Upon motion with notice to all parties, and after a hearing, the court may modify the terms of an existing order or terminate an existing order. A court may require the respondent to pay the petitioner for costs incurred in responding to a motion to modify or terminate a protection order, including reasonable attorneys' fees.

Service of the Order.

After a court grants an order, if service of the order by law enforcement is required, the court must forward the order and supporting materials to the relevant law enforcement agency before the next judicial day. The law enforcement agency must give precedence to serving the order over other documents that are not of a similar emergency nature. When personal service is required, the law enforcement agency must attempt to serve the order within 24 hours when practicable, but not more than five days after receiving the order.

Enforcement of the Order.

A law enforcement officer must arrest a person without a warrant if there is probable cause

to believe the person has violated certain terms of a civil protection order. Violation of enumerated portions of the order, such as excluding the respondent from the residence, workplace, or school of the petitioner, is a gross misdemeanor. Violation of a protection order is also contempt of court and may also be a class C felony under certain circumstances, such as when the violation creates a substantial risk of death or serious physical injury or upon a third violation of a protection order.

Judicial Officer Training.

Judicial officers are encouraged to complete training on the unique nature of protection order proceedings, including evidence-based training on procedural justice, trauma-informed practices, gender-based violence dynamics, coercive control, elder abuse, juvenile sex offending, teen dating violence, and the requirements for the surrender of weapons. The trainings should be provided on an ongoing basis as best practices, research on trauma, and legislation continue to evolve.

Crimes of Domestic Violence.

Law Enforcement.

The primary duty of a peace officer when responding to a domestic violence call is to protect the complaining party. If a responding peace officer has probable cause to believe a crime has been committed, he or she must exercise arrest powers. If the officer does not make an arrest, the officer must notify the victim of the victim's right to initiate a criminal proceeding. The officer must also advise the parties of the importance of preserving evidence.

When responding to an incident involving an assault on a family or household member during the preceding four hours, an officer must arrest the person whom the officer believes to be the primary physical aggressor. The factors an officer must consider when making this determination include the intent to protect victims of domestic violence, the comparative extent of injuries inflicted, serious threats creating fear of physical injury, and the history of domestic violence of each person involved.

As part of the basic law enforcement curriculum, the Criminal Justice Training Commission (CJTC) must include at least 20 hours of training on the law enforcement response to domestic violence. The training must include material on the extent and prevalence of domestic violence, the importance of criminal justice intervention, techniques for responding that minimize the risk of officer injury and promote victim safety, investigation and interviewing skills, evidence gathering and report writing, assistance and services for victims and children, verification and enforcement of court orders, and liability. The CJTC must also develop and update an in-service training program to familiarize law enforcement officers with domestic violence laws.

First Appearance.

A person arrested for an offense involving domestic violence must appear in front of a magistrate within one judicial day after arrest. If the defendant is released before arraignment or trial, the court may prohibit the defendant from having contact with the victim. In issuing the order, the court must consider ordering the defendant to surrender all firearms, dangerous weapons, or any concealed pistol license.

Arraignment.

At arraignment, the court must determine whether a no-contact order should be issued or extended. In issuing the order, the court may order the defendant to immediately surrender all firearms and any concealed pistol license to law enforcement upon release. The court may also require the defendant to submit to electronic monitoring. Upon conviction, the defendant may be ordered to reimburse the agency that provides the electronic monitoring.

Violation of a no-contact order is subject to the same criminal penalties as civil protection orders.

Sentencing.

In sentencing a defendant for a crime of domestic violence, a court must consider a variety of factors, including whether:

- the offense is a response to a continuing pattern of coercion, control, or abuse;
- the offense was part of an ongoing pattern of psychological, physical, or sexual abuse; and
- the offense occurred within sight or sound of the victim's or the defendant's children under the age of 18.

Surrender of Firearms or Dangerous Weapons.

Orders to Surrender Firearms or Dangerous Weapons.

A court may order a person to surrender firearms, dangerous weapons, or a concealed pistol license as part of a protection order or no-contact order. In some instances, such an order is mandatory. The order may last for any period of time up to the duration of the order.

Law enforcement must emphasize swift and certain compliance with court orders prohibiting access, possession, and ownership of all firearms. A law enforcement officer serving an order that includes the surrender of firearms, dangerous weapons, or a concealed pistol license must inform the respondent that the order is effective immediately, conduct a search as permitted by law, and take possession of all firearms, dangerous weapons, and any concealed pistol license belonging to the respondent that are surrendered, in plain sight, or discovered via lawful search.

Timing of Surrender.

If the respondent was present at the hearing, the surrender must occur on the same day as the hearing. If the respondent was not present at the hearing, and personal service by a law enforcement officer is not possible, surrender must occur within 24 hours of alternate service. A party ordered to surrender firearms, dangerous weapons, or a concealed pistol license must file with the court proof of surrender and receipt or a declaration of non-surrender within five days of the entry of the order.

Compliance Hearings.

A court must conduct a compliance hearing as soon as possible after receiving notice from enforcement of proof of service. At the hearing, the respondent must appear and provide proof of compliance with the court order. A compliance review hearing is not necessary if there is a sufficient showing (through attestation by the respondent, law enforcement verification, and other relevant evidence) that the person has timely and completely complied with the order.

A person in noncompliance with an order to surrender firearms, dangerous weapons, or a concealed pistol license is subject to contempt of court sanctions.

Notification.

Law enforcement agencies must develop a notification protocol that allows a family or household member or intimate partner to use an incident or case number to request to be notified when a law enforcement returns a privately owned firearm to the individual from whom it was obtained. The notification may be made by telephone, email, text message, or another method that allows notification to be provided without unnecessary delay. The notification must occur within one business day of a law enforcement agency determining the firearm must be returned. The law enforcement agency may hold the firearm in custody for 72 hours after the notification has been provided.

Residential Protections.

Domestic Violence Proceedings.

In a domestic violence action, a court must waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant. The court may order such an attorney not to disclose the location to his or her client.

The Address Confidentiality Program.

The Address Confidentiality Program is a program through which a victim of domestic

violence, sexual assault, trafficking, or stalking may apply to the Secretary of State to utilize an address designated by the Secretary of State in government records. The program may also be utilized by family members residing with the applicant.

Personal Financial Affairs Reporting for Government Officials.

Elected officials, certain appointed state officials, charter school directors, and professional staff in the Legislature and the Governor's office must file an annual statement of financial affairs with the Public Disclosure Commission, otherwise known as an F-1. Although a filer's residential address is not included on an F-1 form, the addresses of properties owned by the filer or a family member are included. Judges, prosecutors, sheriffs, and their immediate family members are allowed to provide alternate descriptions of real property on their F-1 forms.

Tenants' Rights.

A victim of domestic violence, sexual assault, unlawful harassment, or stalking may break a rental agreement under certain circumstances. The termination of the rental agreement must take place within 90 days of the reported act of domestic violence, sexual assault, unlawful harassment, or stalking.

The Statewide Automated Protected Person Notification System.

The Washington Association of Sheriffs and Police Chiefs operates a statewide automated protected person notification system to automatically notify a registered person via the person's choice of telephone or email when a respondent subject to a court order has attempted to purchase or acquire a firearm and been denied based on a background check or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law.

Summary of Substitute Bill:

Lethality Assessments.

The Department of Social and Health Services (DSHS) must establish the Domestic Violence Lethality Hotline (Hotline) to provide an evidence-based standard of practice to prevent intimate partner homicide, increase victim safety, prevent children from being exposed to violence, support children exposed to violence, and enhance collaboration between law enforcement, domestic violence agencies, and service providers across Washington. The DSHS must contract with an organization to operate the Hotline. The organization must be selected through a competitive bidding process to ensure that the selected organization has demonstrated financial ability, meets the qualifications to perform the duties of the Hotline, and does not have any conflicts of interest.

The organization must develop or select a lethality assessment instrument and protocol to be used to determine the likelihood that a homicide will be committed by one intimate partner against another. The lethality determination may not be based exclusively on a numeric score, but must be based on a comprehensive understanding of the situation and the professional determination of the person conducting the assessment. All lethality assessments must be rooted in evidence-based risk factors for domestic homicide.

Beginning January 1, 2025, the Hotline must provide on-call service for completing lethality assessments remotely through victim interviews facilitated by peace officers and for petitioners in domestic violence protection order proceedings. The Hotline must also assist victims with immediate safety planning and referrals for children exposed to violence. Upon completing a lethality assessment, the Hotline must electronically transmit a copy of the assessment to the applicable local law enforcement agency or court. Services must be offered statewide, on-demand, 24 hours a day, and seven days a week.

The organization must establish policies and procedures for conducting lethality assessments and provide training to peace officers on best practices for coordinating with the Hotline.

The Hotline must also implement a mechanism to place a high lethality designation in law enforcement and court databases if a respondent or defendant is determined to be at high risk of intimate partner homicide. The databases must include the Washington State Patrol's (WSP's) electronic database accessible to law enforcement agencies and officers, including federally recognized Indian tribes.

The courts must provide the Hotline with access to criminal history records and court records to the extent necessary for the Hotline to perform lethality assessments. Law enforcement agencies must also provide non-conviction data to the Hotline for the same purpose.

A court imposing a criminal sentence for a domestic violence offense against an intimate partner must consider any applicable lethality assessment, the defendant's firearm's history, and any evidence that the purpose of the alleged offense was to gain or maintain power and control over the victim as part of a broader pattern of intimate terrorism. "Intimate terrorism" is defined as a type of intimate partner violence in which the perpetrator uses violence, threats, coercive control, or other behaviors with the intent to dominate, intimidate, or control the victim. If there are criminal acts, those acts simply punctuate a broader pattern of subjugation. In cases of intimate terrorism, the victim is usually fearful of the perpetrator.

The Administrative Office of the Courts (AOC) must develop a model form for courts to use when granting protection orders or no-contact orders when the Hotline gives the respondent or defendant a high lethality designation. The form must include all mandatory

conditions for protection orders or no-contact orders with a high lethality designation. The AOC must also adopt rules requiring courts to rapidly transmit protection orders and no-contact orders with a high lethality designation to the Department of Licensing.

Statewide Availability for Electronic Monitoring with Victim Notification Technology.

By July 1, 2024, electronic monitoring with victim notification technology (EMVNT) must be available for all courts in all jurisdictions in Washington. The Criminal Justice Training Commission (CJTC) must adopt rules on EMVNT by December 1, 2023. The CJTC must solicit input from courts, local governments, monitoring agencies, and statewide associations representing law enforcement leaders, prosecutors, domestic violence victims, and domestic violence agencies. The rules must:

- require local governments to enter into contracts with a monitoring agency to provide EMVNT under court order, including specifying which entities are responsible for entering into those contracts;
- establish standards for the operation of EMVNT by monitoring agencies, with the goal of implementing best practices to improve victim safety;
- establish protocols for implementing court orders that include EMVNT, including protocols for the installation and removal of monitoring devices to ensure uninterrupted monitoring services following release from detainment or incarceration; and
- establish any additional requirements necessary to promote compliance with statutory electronic monitoring requirements, which may include training requirements for court officials, peace officers, 911 dispatchers, local corrections officers and staff, and other appropriate practitioners.

The CJTC must also develop a model policy on EMVNT based on best practices where the technology is currently being used in Washington. Each law enforcement agency in the state must adopt its own policy based on the model policy.

The AOC must contract with one or more entities to:

- provide training on EMVNT to prosecutors, law enforcement officers, judges, domestic violence agencies, attorneys representing domestic violence survivors, and any other persons or entities deemed appropriate by the AOC; and
- create a website with information about EMVNT, including recorded trainings, brochures or flyers, approved vendors, and specific instructions on how victims may advocate or request EMVNT.

Access to Legal Counsel.

By September 30, 2024, the Office of Civil Legal Aid (OCLA) must propose a plan to standardize and expand statewide access to civil legal assistance for survivors of domestic violence in protection order proceedings initiated in superior and district courts. The plan must focus on:

- how deployment of publicly funded attorneys could integrate with existing networks of community and non-profit organizations already providing support for domestic violence survivors;
- strategies for expanding the number of private attorneys available to provide effective civil legal representation to domestic violence survivors;
- strategies for incorporating high-quality, culturally responsive, equity and trauma-informed assistance by non-attorneys into delivery systems;
- a proposed implementation schedule and priorities;
- provisions to ensure effective training, support, technical, and other assistance to ensure equity and trauma-informed legal assistance targeted to survivors at greatest risk of lethal and other aggravated harms;
- any statutory changes necessary to implement the plan; and
- any other information deemed appropriate by the OCLA.

Subject to appropriated funds, the OCLA must also develop a program and implementation plan to provide indigenous-informed, culturally competent legal support to survivors in tribal court domestic violence protection proceedings. The OCLA must establish a tribal council to inform and guide the development of the program. Initial operation of the program must commence no later than January 1, 2025.

The OCLA must contract with a statewide domestic violence survivor advocacy organization to maintain on its website a statewide list of attorneys who represent survivors of domestic violence in protection order proceedings. The list of attorneys must be organized by region of the state and include contact information for the attorneys. An initial list must be posted by July 1, 2024, and must be regularly updated thereafter.

Civil Proceedings.

Contents of the of a Protection Order.

A court must order the respondent to submit to EMVNT upon the request of the petitioner if the respondent has a high lethality designation. In all other cases, EMVNT is discretionary.

When issuing a domestic violence, sexual assault, or stalking protection order on behalf of a prevailing petitioner, the court must order the respondent to pay reasonable attorneys' fees or limited license legal technician fees. In all other cases, such fees are discretionary.

Temporary Orders.

In any proceeding in which the court enters a temporary protection order that includes a temporary order to surrender and prohibit weapons, and after the hearing the court denies the petition for a full protection order, the court must stay entry of the decision and provide notice to the petitioner of the right to seek reconsideration or revision of the decision. The court must notify the petitioner verbally and provide the petitioner with written information

at the hearing explaining the procedures and timelines for filing a motion for reconsideration or a motion for revision. The information must also include contact information for civil legal aid organizations that may assist the petitioner.

A motion for reconsideration or a motion for revision must be filed within 10 days of the court's denial of the petition for a full protection order. The petitioner may not file both a motion for a reconsideration and a motion for revision. The hearing on the motion must be held within 30 days from the filing of the motion.

The court's order denying entry of a full protection order must be stayed, and the temporary protection order and temporary order to surrender and prohibit weapons must remain in effect, pending reconsideration or revision. If the petitioner does not timely motion for reconsideration or motion for revision, the order denying the full protection order becomes final once the filing deadline has passed. If the petitioner timely files a motion for reconsideration or motion for revision, the stay of the court's order remains in place until the hearing on the motion for reconsideration or motion for revision is held, but no later than 30 days after the motion is filed.

Modification of the Order.

For domestic violence, sexual assault, or stalking protection orders, the court must require the respondent to pay the petitioner for costs incurred in responding to a motion to modify or terminate the order, including reasonable attorneys' fees. Such an order is discretionary in all other cases.

Service of the Order.

If service of the order by law enforcement is required, the court must forward the order and supporting materials to the relevant law enforcement agency on the same judicial day, instead of the next judicial day. The first attempt at service must occur within 24 hours unless an emergency situation renders service infeasible. A law enforcement officer must give priority to orders with a high lethality designation. The law enforcement information sheet may not include the petitioner's residential address.

A law enforcement officer serving an order must attempt to contact the petitioner before the attempted service so that the petitioner may provide pertinent information related to officer safety considerations, the respondent's behavior, the location and description of the respondent's firearms, and other relevant details. After the order is served, the law enforcement officer must inform the petitioner that the order has been served, is now in effect, and may be lawfully enforced. The officer must also convey to the petitioner information regarding the respondent's behavior that may be relevant to the petitioner's safety planning.

Enforcement of the Order.

A law enforcement officer who arrests a person without a warrant for violating the terms of a protection order must keep the person in custody until release by a judicial officer on bail, personal recognizance, or court order. The law enforcement officer is not required to keep the person in custody if the person requires immediate medical attention and is admitted to a hospital.

Violation of a provision of the order requiring electronic monitoring is subject to criminal penalties.

Judicial Officer Training.

The training that judicial officers are encouraged to complete must include material on domestic violence homicide prevention and best practices for the surrender of weapons. The AOC, in consultation with the Supreme Court Gender and Justice Commission, should ensure the training is regularly provided, ensure the training is available remotely, and notify judicial officers of the training.

Civil Cause of Action.

A victim of domestic violence may bring an action against the perpetrator of the domestic violence if the victim was the intimate partner of the perpetrator. Damages include any damages proximately caused by the domestic violence, including emotional distress, health care costs, lost wages, property damage, and attorneys' fees incurred to obtain a protection order or no-contact order. A prevailing plaintiff is entitled to reasonable attorneys' fees incurred to bring the action. The cause of action has a six-year statute of limitations from the termination of the domestic violence relationship.

Crimes of Domestic Violence.

In a domestic violence proceeding, a court may not deny a no-contact order based on the existence of an applicable civil protection order preventing the defendant from contacting the victim.

Law Enforcement.

The person to whom a peace officer owes the primary duty to protect is changed from the complaining party to the victim. Beginning January 1, 2025, when a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, he or she must, with the consent of the victim, connect the victim to the Hotline to conduct a lethality assessment, assist the victim with immediate safety planning, and provide referrals for children exposed to violence.

The types of protection order violations for which a law enforcement officer must arrest an

individual without a warrant are expanded to include violations of orders requiring the individual to submit to electronic monitoring. When responding to an incident involving an assault on a family or household member or intimate partner, the officer must arrest the person whom the officer believes to be the primary aggressor, instead of the primary physical aggressor. The factors an officer must consider when making this determination are expanded to include the presence of evidence indicating intimate terrorism. The law enforcement officer must keep the person in custody until release by a judicial officer on bail, personal recognizance, or court order. The law enforcement officer is not required to keep the person in custody if the person requires immediate medical attention and is admitted to a hospital.

The domestic violence training that is part of the basic law enforcement curriculum is expanded to include distinguishing situational family violence from intimate terrorism, assistance and services for children exposed to violence, domestic violence homicide prevention, conducting lethality assessments in consultation with the Hotline, the intersection of firearms and domestic violence, best practices for serving and enforcing protection orders, best practices for implementation and enforcement of orders to surrender and prohibit weapons and extreme risk protection orders, and understanding the risks of traumatic brain injury posed by domestic violence.

The in-service training program is expanded to include training on conducting lethality assessments in consultation with the Hotline, domestic violence homicide prevention, the intersection of firearms and domestic violence, best practices for serving and enforcing protection orders, and assistance to, and services for, victims and children, including children exposed to violence.

First Appearance.

When a defendant arrested for domestic violence appears before a magistrate, the prosecutor must provide the court any available and applicable domestic violence lethality assessment and any preliminary evidence that the purpose of the alleged offense was to gain or maintain power and control over the victim as part of a broader pattern of intimate terrorism. If the court uses an entity to make recommendations on conditions for pretrial release, the entity may not make such recommendations before performing a lethality assessment in cases involving an intimate partner victim.

A defendant with a high lethality designation must:

- be ordered to pretrial supervision at the highest level of pretrial supervision offered, if pretrial supervision is available; and
- be ordered to submit to EMVNT as a condition of pretrial release—the defendant may be ordered to pay the costs of the EMVNT.

Arraignment.

In issuing a no-contact order at arraignment, a court must consider any available lethality assessment. In cases with a high lethality designation, the court must, as a condition of release:

- prohibit the defendant from possessing or accessing firearms and order the defendant to immediately surrender all firearms and any concealed pistol license to a law enforcement agency upon release; and
- order the defendant to submit to EMVNT if the victim was the defendant's intimate partner.

If a defendant enters into a deferred prosecution or stipulated order of continuance, the applicable order or agreement may require the defendant pay the costs of electronic monitoring.

Sentencing.

The factors a court must consider when sentencing a person for a crime of domestic violence are expanded to include whether the purpose of the offense was to gain or maintain power and control over the victim as part of a broader pattern of intimate terrorism.

In sentencing a person for a crime of domestic violence with a high lethality designation, courts of limited jurisdiction must order the defendant to EMVNT. If the crime is intimate partner domestic violence with a high lethality designation, the court must order the defendant to surrender all firearms and dangerous weapons prior to release from any term of confinement, or, if the defendant does not serve a term of confinement, prior to the conclusion of the sentencing hearing.

Surrender of Firearms or Dangerous Weapons.

Orders to Surrender Firearms or Dangerous Weapons.

For no-contact orders and civil protection orders, including extreme risk protection orders, the court may order the search for a seizure of any firearm or dangerous weapon at any location where the court has probable cause to believe the firearm or dangerous weapon is located. The court must state with specificity the reasons for and scope of the authorized search and seizure.

Because of the heightened risk of serious violence after arrest for a crime of domestic violence, when there is a high lethality designation and the court has probable cause to believe that a person serving a term of confinement for an offense requiring the surrender of firearms or other dangerous weapons continues to possess such firearms or dangerous weapons, the court must order a law enforcement officer to accompany the person to the location where the court has probable cause to believe the firearms or dangerous weapons are stored. The law enforcement officer must immediately take possession of any firearms or dangerous weapons the officer finds at the location.

Timing of Surrender.

The alternate 24-hour period within which a person who was not served and did not appear at his or her hearing must surrender his or her firearms or dangerous weapons is eliminated. A person ordered to surrender firearms, dangerous weapons, or a concealed pistol license as part of a criminal proceeding must file with the court proof of surrender and receipt or a declaration of non-surrender prior to release from confinement or before the conclusion of the hearing, instead of within five days.

Compliance Hearings.

The ability of a court not to conduct a compliance hearing when there is a sufficient showing that the order has been complied with is eliminated. Prosecutors may submit written information for purposes of verifying compliance. If the court finds that a person is in noncompliance, it must issue an arrest warrant. Contempt proceedings for noncompliance are mandatory, instead of discretionary.

Notification.

The types of individuals who must be notified when a firearm is returned are expanded to include any person identified in a no-contact order, restraining order, or protection order and any identified victim of the crime that resulted in the firearm surrender.

Residential Protections.

Domestic Violence Proceedings.

In a domestic violence action, the ability for a court to reveal the location of the victim to the attorney of the defendant is eliminated.

The Address Confidentiality Program.

The Address Confidentiality Program is expanded to include all persons residing with the applicant.

Personal Financial Affairs Reporting for Government Officials.

The type of individuals who are allowed to provide alternate descriptions of real property on their personal financial affairs forms are expanded to include participants in the Address Confidentiality Program.

Tenants' Rights.

The requirement that domestic violence, sexual assault, unlawful harassment, or stalking must be reported within 90 days of terminating a rental agreement is eliminated.

Statewide Resource Prosecutor.

Subject to appropriated funds, the CJTC must administer a grant program to establish a statewide resource prosecutor for domestic violence cases. The grant recipient must be a statewide organization or association representing prosecuting attorneys. The grant recipient must hire a resource prosecutor to:

- provide technical assistance and research to prosecutors to prosecute domestic violence cases;
- provide training on implementation and enforcement of orders to surrender and prohibit weapons, extreme risk protection orders, first appearances, case resolution, duties regarding recovery of firearms at the scene of domestic violence incidents, service of orders to surrender weapons, service of extreme risk protection orders, and firearm rights restoration petitions for domestic violence perpetrators;
- provide additional training and resources to prosecutors to support a trauma-informed, victim-centered approach to prosecuting domestic violence cases;
- meet regularly with law enforcement agencies and prosecutors to explain legal issues and prosecutorial approaches to domestic violence cases and provide and receive feedback to improve case outcomes;
- consult with the CJTC regarding the development and implementation of best practices for prosecuting domestic violence cases; and
- comply with other requirements established by the CJTC.

The CJTC may establish additional appropriate conditions for the grant and may adopt necessary policies and procedures to implement and administer the grant program, including monitoring the use of grant funds and compliance with grant requirements.

Domestic Violence High-Risk Teams.

Subject to appropriated funds, the Department of Commerce must administer a pilot program to implement domestic violence high-risk teams. A domestic violence program must be the lead or co-lead of the high-risk teams. The high-risk teams must include:

- early identification of the most dangerous cases through evidence-based lethality assessments;
- increased access to supportive services for high-risk victims;
- increased perpetrator monitoring and accountability; and
- a coordinated response to high-risk cases through a multidisciplinary team.

When there is a high lethality designation in a civil or criminal domestic violence proceeding, the court must refer the case to a domestic violence high-risk team, if available. If potentially high-risk cases are identified through other means, such as shots fired programs or other reports or investigations, those cases may also be referred to the high-risk

teams. The Department of Commerce may scale the program within appropriated funds, but at least five teams must be available west of the Cascade Mountains and five teams must be available east of the Cascade Mountains.

Office of the Statewide Domestic Violence Ombuds.

By July 1, 2024, the DSHS must establish the Office of the Statewide Domestic Violence Ombuds (OSDVO) to promote and protect the rights of victims of domestic violence and ensure the intent of provisions relating to crimes of domestic violence.

The OSDVO must:

- receive, investigate, and attempt to address and resolve complaints related to the treatment of victims of domestic violence across systems, including both the civil and criminal legal systems;
- implement a statewide case review system for civil domestic violence protection orders to examine and report on irregularities in rulings and judicial officer conduct; and
- implement a statewide case review system for criminal domestic violence protection cases to examine and report on law enforcement responses and investigations, prosecutorial behavior, irregularities in rulings, and the conduct of judicial officers.

The case review system must include:

- data on the percentage of domestic violence protection order petitions that result in a full protection order being issued and regional variances therein;
- data on the categories of the bases upon which domestic violence protection orders are issued and the percentages of granted protection orders in each category, including physical violence, stalking, coercive control, and sexual assault;
- trained volunteers that will provide both real-time case reviews in court and reviews of recorded court proceedings;
- information on the percentage of intimate partner violence police reports that lead to charges and the conviction rate for the charges; and
- a review of case files from law enforcement agencies and prosecuting attorneys to identify changes in training, investigatory, and prosecutorial practices necessary to optimize outcomes in domestic violence investigations and prosecutions.

The law enforcement case file review must include:

- an evaluation of whether current training and practices foster a trauma-informed, victim-centered approach and whether practices prevent domestic violence homicides;
- a comparison of arrests, charges, and convictions, including an analysis of the reasons why prosecutors decline to file charges; and
- randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating and prosecuting domestic violence cases and interacting with survivors.

The case review system may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of domestic violence. Any law enforcement agency or prosecuting attorney selected for a review must make requested case files and other documents available if the case files are not linked to ongoing, open investigations and appropriate and necessary redactions may be made. Agencies and prosecuting attorneys must include available information on the race and ethnicity of all victims in the relevant case files provided to the OSDVO. Case files and other documents must be made available according to appropriate deadlines established by the OSDVO in consultation with the agency or prosecuting attorney.

In designing and conducting the case review system, the OSDVO must consult and collaborate with experts in trauma-informed and victim-centered training, experts in domestic violence investigations and prosecutions, domestic violence survivors, domestic violence victim advocates, and other stakeholders. The OSDVO may form a multidisciplinary work group for these purposes.

The OSDVO must provide semiannual reports to the Governor, the Supreme Court, and the appropriate committees of the Legislature.

University of Washington Center of Excellence.

The University of Washington must establish a Center of Excellence in Domestic Violence Research, Policy, and Practice (CEDVRPP). The CEDVRPP must:

- conduct scientifically rigorous intimate partner violence research that informs policy and practice and serves as a national model;
- promote a collaborative, multidisciplinary approach to addressing intimate partner violence, informed by community members and practitioners;
- collaborate with and be informed by survivors and community and governmental agencies that interact with and provide services to those affected by intimate partner violence;
- disseminate research findings to assist in the development of evidence-based intimate partner violence policy and practice;
- assist in the support, success, and continued training of intimate partner violence research scholars;
- establish an advisory council with representation from relevant disciplines across the University of Washington, representatives from systems that interact with domestic violence victims and perpetrators, and intimate partner violence community groups in order to guide development of the CEDVRPP's overarching goals and strategic vision. The advisory council must also assist CEDVRPP leadership and core center faculty in identifying priority areas of research to best inform intimate partner violence policy and practice;
- award research grants to facilitate timely generation of data and research results to inform the Legislature and others on key policy or practice-related issues relevant to

- those affected by intimate partner violence;
- publish an annual report beginning December 1, 2024, on the state of domestic violence in Washington, including available prevalence data;
- conduct listening sessions with survivors of intimate partner violence statewide, including survivors in urban and rural areas, Black survivors, Indigenous survivors, survivors of color, and survivors who identify as part of the LGBTQ community;
- provide presentations and research-informed training to system actors, including domestic violence victim advocates;
- convene an annual statewide domestic violence summit, the first of which must occur by June 30, 2025;
- develop a statewide strategic plan to reduce intimate partner violence and increase support for victims, which is due on December 1, 2025, with updates every five years; and
- undertake a body of work related to domestic violence intervention treatment.

The body of work related to domestic violence intervention treatment must include a multiyear research study to test the efficacy of various therapeutic interventions for domestic violence perpetrators aimed at reducing intimate partner violence, including intimate terrorism. Treatment interventions may vary, but must include internal family systems and an evidence-based intervention for the treatment of suicidality, such as the collaborative assessment and management of suicidality or dialectical behavioral therapy. The CEDVRPP must also work with the Department of Health, domestic violence intervention treatment providers, insurance carriers, and other relevant entities in order to formulate a detailed plan that would facilitate Medicaid and commercial insurance reimbursement for domestic violence intervention treatment. The plan must include licensing requirements and provider credentialing necessary for reimbursement, billing codes, needed changes to law or rule, and any other relevant information.

Law Enforcement Training.

Subject to appropriated funds, the CJTC must provide ongoing specialized, intensive, and integrative training for persons responsible for investigating domestic violence cases involving intimate partners. The training must be based on a victim-centered, trauma-informed approach to responding to domestic violence. Among other subjects, the training must include content on the neurobiology of trauma and trauma-informed interviewing, counseling, and investigative techniques.

The training must:

- be based on research-based practices and standards;
- offer participants an opportunity to practice interview skills and receive feedback from instructors;
- minimize the trauma of all persons who are interviewed during investigations;
- provide methods of reducing the number of investigative interviews necessary whenever possible;

- assure, to the extent possible, that investigative interviews are thorough, objective, and complete;
- recognize needs of special populations;
- recognize the nature and consequences of domestic violence victimization;
- require investigative interviews to be conducted in a manner most likely to permit the interviewed persons the maximum emotional comfort under the circumstances;
- address record retention and retrieval;
- address documentation of investigative interviews; and
- educate investigators on the best practices for notifying victims of significant events in the investigative process.

In developing the training, the CJTC must seek advice from the Washington Association of Sheriffs and Police Chiefs, organizations representing victims of domestic violence, and experts on domestic violence and the neurobiology of trauma. The CJTC must consult with the Washington Association of Prosecuting Attorneys in an effort to design training containing consistent elements for all professionals engaged in interviewing and interacting with domestic violence victims in the criminal legal system.

The CJTC must develop the training and begin offering it by January 1, 2025. Officers assigned to regularly investigate domestic violence must complete the training within one year of being assigned or by July 1, 2026, whichever is later.

The Statewide Automated Protected Person Notification System.

The statewide automated protected person notification system must interface with the Washington State Patrol, the AOC, and any court not contributing data to the AOC in real time.

Substitute Bill Compared to Original Bill:

The substitute bill:

- creates a cause of action, with a six-year statute of limitations, through which a victim of domestic violence who is an intimate partner of the perpetrator may sue the perpetrator for damages proximately caused by the domestic violence plus reasonable attorney's fees;
- removes the 90-day time limit for a victim to terminate a rental agreement after a reported act of domestic violence;
- requires a high lethality designation to be transmitted to the Washington State Patrol's electronic database;
- requires the Washington Association of Sheriffs and Police Chiefs' automated protected person notification system to interface with the Washington State Patrol, the Administrative Office for the Courts (AOC), and any courts not contributing data to the AOC in real time;
- expands the information that must be provided to the court and the factors that must

be considered when sentencing a criminal defendant to include the defendant's firearms history and any evidence that the purpose of the offense was to gain or maintain power and control over the victim as part of a broader pattern of intimate terrorism;

- changes the plan to create a right to counsel to a plan to standardize and expand statewide access to civil legal assistance for survivors of domestic violence;
- changes the entity that must maintain the list of domestic violence attorneys from the Office of Civil Legal Aid (OCLA) to a statewide domestic violence survivor advocacy organization;
- requires the OCLA to create a program to provide indigenous-informed, culturally competent legal support of survivors in tribal court domestic violence protection proceedings;
- includes children exposed to violence in provisions relating to lethality assessments, training, and criminal domestic violence proceedings;
- changes the timing of firearms surrender in criminal proceedings from the day of release or day of the hearing to before release or prior to the end of the hearing;
- requires the high-risk teams to be led or co-led by a domestic violence program and expands the use of the high-risk teams to include when risks are identified through means other than lethality assessments;
- requires the statewide resource prosecutor to provide training on issues relating to the surrender of firearms and dangerous weapons; and
- makes a variety of other changes, including changing the content of court forms developed by the AOC, transmission of lethality assessments, expanding law enforcement and judicial training requirements, expanding notification requirements to include persons named in restraining orders, allowing prosecutors to submit written comments at compliance hearings, changing the composition of the University of Washington's (UW's) advisory committee, and expanding the purposes of the UW's research grants to include data generation.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Victims of domestic violence often live in terror. Perpetrators have no problem finding legal assistance, but victims find it difficult to find attorneys. Obtaining a protection order can be expensive. Transmission of orders can be delayed because of holidays. Washington's toughness on domestic violence ends after the arrest, but the arrest is only the tip of the iceberg.

Protection orders are not force fields. Perpetrators violate protection orders all the time and inflict horrific violence, causing victims to flee. All that time, the perpetrator is free to terrorize, while the victim is hiding for his or her life.

Certain regions of the state have high rates of domestic violence. Rates of domestic violence increased due to COVID-19. The presence of a gun drastically increases lethality. Domestic violence leads to children with adverse childhood experiences, which can have long-term effects.

This bill is the most thorough, original, and comprehensive legislation out there on domestic violence. It plugs the holes and offers new tools to hold people accountable. The bill will make domestic violence prevention a priority in Washington and will help build the needed safety net.

The electronic monitoring provisions will help victims get their lives back by containing perpetrators. Perpetrators can be excluded from zones and the victim can be notified when the zones are violated. Electronic monitoring is the most effective way to prevent homicide and gives victims and their families peace of mind.

The domestic violence hotline and lethality assessments are the most exciting part of this bill. Lethality assessments are already being used in Washington, but inconsistently. Centralizing how they should be used in court rule is a good idea. Lethality assessments are also being used in other states. The assessments are developed by researchers and professors and identify highest-risk victims. This can be done at the scene. The assessment informs all of the other parts of the system, including electronic monitoring. The high-risk teams are an essential part of this bill.

Almost all domestic violence survivors have to navigate the system alone and face civil legal problems. Abusers misuse the civil legal system to maintain control over the victim. Victims also face economic issues caused by the perpetrator. More civil attorneys are needed for victims. Legal assistance is necessary to enforce the laws the state has enacted.

The Center of Excellence at the University of Washington is an important part of this bill. Research is critical. Effective treatment methods should be explored and should be payable by insurance.

This bill is not perfect, but the intent is. The bill is a good first step. There are constitutional and staffing concerns with the firearms provisions.

(Opposed) None.

(Other) There should be a comprehensive and robust discussion of these issues. Many of the provisions of the bill can be improved upon. The notification requirements and

processes in the bill should be streamlined within law enforcement resources.

Persons Testifying: (In support) Representative Lauren Davis, prime sponsor; David Martin, King County Prosecuting Attorney Office; Jim Bamberger, Office of Civil Legal Aid; Taylot Knight, Clark County Prosecuting Attorney's Office Domestic Violence Prosecution Center; and Annie Murphey, Spokane Regional Domestic Violence Coalition.

(Other) Rick Torrance, Department of Commerce-Office of Crime Victims Advocacy; and Taylor Gardner, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Community Safety, Justice, & Reentry. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Ryu, Senn, Simmons, Slatter, Springer, Stonier and Tharinger.

Minority Report: Do not pass. Signed by 4 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Chandler and Dye.

Minority Report: Without recommendation. Signed by 7 members: Representatives Corry, Assistant Ranking Minority Member; Connors, Couture, Rude, Sandlin, Schmick and Steele.

Staff: Yvonne Walker (786-7841).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Community Safety, Justice, & Reentry:

The second substitute bill makes the following changes to the Domestic Violence Lethality Hotline (Hotline) and the lethality assessments: (1) delays the establishment date from July 1, 2024, to January 1, 2025; (2) delays the date the Hotline must begin operations from January 1, 2025, to July 1, 2025; (3) requires the lethality assessment tool to be empirically validated and reassessed at regular intervals; (4) allows the victim to stop the assessment from being shared with law enforcement and the courts; (5) requires the Administrative Office of the Courts to develop a standard form to submit the information to the courts; (6) requires the development of training requirements for individuals conducting lethality assessments; (7) requires confidential, immediate safety planning to take place after the assessment is complete, to be conducted by a different person than the person who

conducted the lethality assessment; (8) requires the Hotline staff to provide the victim with certain information; (9) requires the Hotline to refer the victim to a local community-based domestic violence agency for follow-up and requires this to be done in real time when practicable; (10) requires the Hotline to provide copies of the assessment to a prosecutor or defense attorney upon request; (11) clarifies that the assessment that may be considered by a sentencing court must be of the defendant and performed in connection with the conduct giving rise to the current case; (12) makes the assessment and safety planning exempt from public records disclosure; and (13) allows law enforcement agencies to continue to use alternate lethality assessments prior to the effective date of the act as long as the law enforcement agencies refer victims to the Hotline for safety planning.

The second substitute bill also:

- changes the responsibility for developing training on electronic monitoring with victim notification technology from the Administrative Office of the Courts to the Statewide Resource Prosecutor;
- requests the Washington Supreme Court's Gender and Justice Commission to convene a work group to establish minimum practice standards and training standards for attorneys representing domestic violence survivors;
- changes mandatory conditions predicated on a high lethality designation back to optional conditions, but requires the court to explain in writing its reasoning for not ordering the conditions;
- changes requirements for mandatory costs and attorneys' fees by allowing a court to decline to order the costs and fees, lower the amounts, or enter into a payment plan, if the court finds by a preponderance of the evidence that payment of the fees would be manifestly unjust, or the respondent or defendant is unable to pay the costs or fees and is unlikely to be able pay them in the future;
- makes the following changes regarding motions to reconsider or revise denials of full protection orders where there is a temporary order involving an order to surrender or prohibit weapons:
 - requires only the order to surrender or prohibit weapons to stay in effect during the pendency of the motion, rather than the entire order;
 - requires the order surrender or prohibit weapons to stay in place for 10 calendar days to give the petitioner the time to file a motion to reconsider or revise; and
 - requires, if such a motion is filed, the order to stay in place until the motion is resolved;
- changes the entity responsible for establishing the Office of the Statewide Domestic Violence Ombuds (OSDVO) from the Department of Social and Health Services to the Department of Commerce;
- extends the deadline for establishing the OSDVO from July 1, 2024, to January 1, 2025;
- adds a severability clause; and
- adds a null and void clause, making the bill null and void if specific funding for the purpose of the bill, referencing the bill by bill or chapter number, is not provided by June 30, 2023, in the omnibus appropriations act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 27, 2023.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) Our domestic violence system is thoroughly broken. The challenge that many survivors and their children encounter is that many shelters are full or there is a long waitlist, or the entire process is complicated. This bill works to close gaps in a system that creates incredible injustices that leaves many survivors to fall through the cracks. There are approximately 61,000 crimes of domestic violence that annually occur in Washington. There are over 20,000 individuals that petition for civil court protection every year. Of the total number of women that are murdered by a domestic partner, only 4 percent were engaged in a community-based agency.

One provision of this bill attempts to address the systemic lack of necessary legal assistance for domestic violence survivors who are forced daily to navigate the protection order system alone. It is not usual that perpetrators charged with domestic violence crimes receive court appointed counsel. However, the vast majority of their victims stand before the court without the necessary legal help to secure protection for themselves when they are most vulnerable.

This bill incorporates the best practices available nationally and takes them to a new level, especially in its response to lethality. A lethality assessment in all domestic violence cases is the first step in saving lives and improving the system. The next important step is having cases handled by a high-risk team.

(Opposed) The intent behind this bill is good but the logic behind the Domestic Violence Lethality Hotline seems to be that the lack of a timely response to domestic violence by police, prosecutors, and the judiciary is because they just do not know it can be dangerous. That is not the case. There is fear this law will result in minimalizing cases that do not appear to be potentially lethal thus endangering victims who seek help from police before things get deadly.

People commonly believe the safest response to domestic violence is to get abusers prosecuted and grant survivors a protection order. Although this may help some, these actions can also lead to an increase in lethality. Rather than relying on law enforcement and the criminal justice system, what survivors need the most is to make family law more equitable. In addition, survivors want and need their partners to continue to be productive community members, they just want the violence to stop.

Domestic violence advocacy programs already do a great job in helping survivors understand their risk and plan for their safety every day. However, Washington has not increased funding for victim services in over 20 years. As a result, domestic violence agencies are struggling and overwhelmed with clients. Sustainable funding is needed for high-trauma services. The expensive mandates on law enforcement and other systems proposed in this bill is not the answer. This bill would also be difficult to implement in small rural communities.

The most effective domestic violence laws are rooted in collaboration among stakeholders, policy makers, and those who will be most impacted by implementation such as survivors. This bill would further deplete existing services and resources. The current fiscal note is grossly understated.

(Other) Domestic violence cases are difficult, complex cases and there is support for a comprehensive and robust discussion in how to protect victims of violence. Furthermore, there is a provision in the bill that provides a statewide resource prosecutor to handle matters dealing with domestic violence. A statewide resource prosecutor would provide a bridge between the training law enforcement receive and the in- court experiences of prosecutors. It would also provide a bridge to manage some of the technology that is currently available and some of the victim notification pieces. This is a resource and a model that is used across the country. However, there are several provisions in the bill that can still be improved upon.

Persons Testifying: (In support) Representative Lauren Davis, prime sponsor; Nina Martinez, Latino Civic Alliance; Diane Rosenfeld, Harvard Law School Gender Violence Program; Annie Murphey, Spokane Regional Domestic Violence Coalition; and Jim Bamberger, Office of Civil Legal Aid.

(Opposed) Margaret Hobart; Kris Camenzind, Hope Alliance; Ann Simpson, Mariposa House; Natalie Burton; Suzi Fode, New Hope; and Nan Stoops, Washington State Coalition Against Domestic Violence.

(Other) Taylor Gardner, Washington Association of Sheriffs and Police Chiefs; and Russell Brown, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.