

FINAL BILL REPORT

ESHB 1884

C 301 L 91
Synopsis As Enacted

Brief Description: Providing for domestic violence programs and community response.

By House Committee on Judiciary (originally sponsored by Representatives Ebersole, Forner, Belcher, Locke, Spanel, Peery, Phillips, H. Myers, Riley, R. Johnson, Paris, Wineberry, Ogden, Ludwig, Edmondson, Zellinsky, Brough, Jacobsen, Nelson, Miller, Holland, Winsley, Roland, Hine, Brekke, Rasmussen, Fraser, Mitchell and Orr).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background: The Human Services Roundtable, which is comprised of voluntary local organizations, met for a period of two years and worked with criminal justice representatives, victim advocates, health care providers, and others to develop recommendations for responses to domestic violence. The roundtable made a number of recommendations for development of new programs, expanded funding of existing programs, increasing research on domestic violence and related issues, and also made recommendations for substantive changes in the law.

Some existing domestic violence programs include grant programs to local shelters through the Department of Social and Health Services and victims compensation funding to victims of domestic violence.

Victims of domestic violence may receive money through crime victims compensation for certain services. However, victims may not receive compensation under the program if the victim consented, provoked, or incited the act that led to the injury for which the victim seeks compensation.

Last year, the Legislature authorized counties to impose an optional local sales and use tax. Any revenues generated under the tax are to be used exclusively for criminal justice purposes, and may not replace or supplant existing funding.

The Domestic Violence Protection Act provides a procedure for a person who is a victim of domestic violence to obtain an order for protection in a civil proceeding.

If a criminal proceeding is pending or a person is sentenced for an act of domestic violence, the victim may obtain a no-contact order through the criminal proceeding. Various crimes are considered "domestic violence" when the crime is committed by one family member against another. Under the domestic violence laws, the term "family or household members" means "adult persons" related by blood or marriage, persons who are presently residing together, or who have resided together in the past, and persons who have a child in common. The definition is ambiguous about whether the act governs juveniles. Violations of no contact orders or orders of protection are misdemeanors.

Under the criminal law, assaults range from gross misdemeanors to class A felonies depending upon the seriousness of the assault. Certain assaults that would ordinarily be considered gross misdemeanors are increased to class C felony status for various reasons, such as the assault occurred against an officer in the performance of the officer's duties. A class C felony carries a maximum penalty of five years in custody, although the sentencing reform act's provisions determine the actual range. Reckless endangerment may be a gross misdemeanor which carries a maximum penalty of one year in jail or a class C felony, depending on the degree of the crime. Currently, the class of an assault or reckless endangerment does not increase when the crime is committed in violation of a protective or no-contact order.

Certain confidentiality statutes prohibit dissemination of records maintained by an agency about the treatment of a victim. For example, a statute restricts dissemination by a rape crisis center of the records concerning a rape victim unless a specific procedure is followed by a court upon motion for review of the records. No similar provision exists for maintaining the confidentiality of records that may be maintained by a domestic violence program. The public disclosure laws do not specifically exempt these records from public disclosure and copying laws.

Parents who abuse their children and who are ordered removed from the home must obtain treatment prior to returning home. The parent must pay for the treatment according to a schedule established by the Department of Social and Health Services based on the parent's ability to pay.

Summary:

Legislative Findings: The Legislature makes a number of findings about the severity of the problem of domestic violence, the need for an integrated and adequately funded system to assure a wide range of services, the need for establishing quality standards for treatment programs, training of professionals, and further research. The Legislature also finds that a perpetrator's alcohol and substance abuse may be a contributing factor to domestic violence.

Victims compensation - restriction on compensation when victim consented or provoked the violence: The restriction on receiving crime victims compensation funds when the victim consented, provoked, or incited the act resulting in injury is amended. In cases of domestic violence, when determining whether the victim consented or provoked the act, the reviewer must consider who was the primary physical aggressor. This provision is contingent on funding in the budget.

Victims compensation - counseling and benefits for the victim and family members: Victims of domestic violence are entitled to receive appropriate counseling. The Department of Labor and Industries will set fees for counseling. The benefits for the victim must be based upon the entire abusive relationship for which the victim claims benefits. This provision is contingent on funding in the budget.

Technical assistance program: The Department of Social and Health Services must establish a local assistance program to assist local communities in determining how to respond to domestic violence. A county or a group of counties can apply for technical assistance grants to develop a comprehensive plan for dealing with domestic violence. This provision is contingent on funding in the budget.

Use of optional sales tax revenues for domestic violence advocates: The use of the local optional sales tax for criminal justice purposes is amended to include funding for domestic violence community advocates. Funding from tax revenues is permissible if, prior to the effective date of this provision, and prior to voter approval, the county legislative authority adopted a financial plan that includes spending part of the money for the advocates.

Department of Social and Health Services standards for programs that treat batterers: The Department of Social and Health Services must adopt rules for standards of approval of domestic violence programs that treat batterers. The programs must: (1) provide treatment that meets certain minimum qualifications; (2) require the batterer to sign release of information forms; (3) have policies and

procedures for dealing with reoffenses; (4) provide criteria for completion of treatment; and (5) have qualified personnel to evaluate and treat the batterers. These provisions are contingent on funding in the budget.

Department of Health study regarding certification of domestic violence perpetrator counselors: The Department of Health must conduct a study to determine whether counselors who treat domestic violence perpetrators should be certified. The department must conduct the study in accordance with provisions enacted in 1990 that declare that the Legislature intends not to regulate health professions except for the purpose of protecting the public interest.

Treatment of parents removed from the home: Parents who abuse their children and who must obtain treatment prior to returning home must pay for the treatment services unless otherwise eligible for financial assistance. Parents are not entitled to the services or to financial assistance as a matter of right.

Establishing a class C felony assault for assaults committed in violation of a protective order: Certain assaults that would otherwise be misdemeanors are made class C felonies. An assault that is committed in violation of a no-contact order issued under a criminal action for a crime involving domestic violence or an ex-parte or permanent protective order issued under the Domestic Violence Protection Act is a class C felony, unless it qualifies as an assault in the first or second degree which are class A and B felonies respectively.

Reckless endangerment for recklessly endangering a person in violation of a protective order: A person is guilty of a class C felony if the person recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person and the conduct is in violation of a no-contact order issued under a criminal action for a crime involving domestic violence or an ex-parte or permanent protective order issued under the Domestic Violence Protection Act.

Adding reckless endangerment in the first degree to the list of domestic violence crimes: Reckless endangerment in the first degree is added to the list of crimes that are defined as a crime of domestic violence when the crime is committed by one family or household member against another.

Changing the definition of "family or household members" in the civil and criminal statutes on domestic violence: The definition of "family or household members" is amended to provide that the term does not apply to juveniles unless the

juveniles have a child in common, are spouses or former spouses.

Confidentiality of client records maintained by domestic violence programs: The records maintained by a domestic violence program, which is defined as an agency that provides shelter, advocacy, and counseling for domestic violence victims, are confidential and may not be released unless: a written pretrial motion supported by affidavit states the reason for the discovery request; the court examines the records in camera to determine whether the probative value of the records outweighs the victim's privacy interest in maintaining confidentiality; and the court enters an order setting forth which portions of the records are subject to discovery, and setting forth the reasons in writing. The public disclosure law is amended to provide domestic violence program records and rape crisis center records are not subject to the public disclosure laws.

Domestic Violence Shelters Act definitions: The Domestic Violence Shelter Act's definition section is amended to define community advocate, domestic violence programs, and legal advocate.

Null and void clauses: The crime victims compensation provisions, the requirement that the Department of Social and Health Services adopt standards for approval of domestic violence perpetrator programs, and the technical assistance grant program, are null and void if funding is not provided in the budget.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: July 28, 1991
May 20, 1991 (Section 14)