

HOUSE BILL REPORT

ESHB 1160

As Passed House
March 16, 1993

Title: An act relating to crime victims.

Brief Description: Providing for notification to crime victims of certain rights.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives R. Johnson, Ballasiotes, Padden, Long, Fuhrman, Campbell, Kremen, Brough, Jones, Quall, Pruitt, Rayburn, Sheahan, Horn, Brumsickle, Van Luven, Talcott, Lisk, Edmondson, Mielke, King, Miller, Wood, Foreman, Sehlin and Silver).

Brief History:

Reported by House Committee on:
Judiciary, February 16, 1993, DPS;
Passed House, March 16, 1993, 98-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: Adult and child victims of crime, survivors of victims, and witnesses have certain rights under the Washington State Constitution and as provided in statute. Reasonable efforts must be made to ensure that victims and survivors of victims are able to exercise their rights. A few examples of the rights are: (1) the right to be informed of the final disposition of the case; (2) the right to attend the proceedings; (3) the right to a secure waiting area while waiting to testify; (4) the right to make a victim impact statement at trial sentencing; and (5) in the case of child victims, the right to have a crime victim advocate attend the trial with the child.

In response to a series of particularly violent crimes in the late 1980s, the governor created the Task Force on Community Protection. The task force was directed to identify flaws in state law regarding sexual and other violent offenders, and to recommend changes to address these flaws. The task force formally submitted its recommendations to the governor in December 1989.

During the 1990 session, the Legislature passed a measure which included many of the task force's recommendations and created two grant programs to be administered by the Department of Community Development (DCD). One grant program was established to enhance community-based treatment services for victims of sex offenders. The other program was established to enhance sexual assault prevention programs across the state.

The 1990 legislation also called for creation of an Office of Crime Victims' Advocacy within the Office of the Governor. The governor vetoed this portion of the legislation and instead established, by executive order, an Office of Crime Victims' Advocacy within DCD. One of the tasks assigned to the new office by the governor's executive order was administration of the two new grant programs.

Summary of Bill: Additional rights are provided to adult and child victims of violent or sex offenses. Reasonable efforts must be made to give to the victim a written statement of the victim's rights. The statement should include the name, address, and telephone number of a county or local crime victim/witness program, if such a program exists. If the victim is a child, the statement may either be given to the child or to the child's parent or guardian if appropriate. The statement should be given when the victim reports the crime. Crime victim/witness programs are defined.

Reasonable efforts should also be made to have a crime victim advocate from a crime victim/witness program present at any prosecutorial or defense interviews with the victim. This requirement applies only if the presence of the crime victim advocate does not cause delay in the investigation or prosecution of the case. The role of the advocate is to provide emotional support to the victim.

The Office of Crime Victims' Advocacy is established in statute as an office within DCD. The broad purpose assigned to the office is to provide a focus within state government on the rights of, and services for, victims of crime. Specific duties are assigned to the office to meet this broader purpose.

A crime victims' "ombuds" is created within the Office of Crime Victims' Advocacy. The ombuds has the authority to investigate complaints related to crime victims' rights and opportunities. The ombuds may also act as a liaison between agencies in the criminal justice system, victim services providers, and crime victims themselves. The ombuds may request and be given access to information pertaining to a complaint. If the ombuds finds that a complaint is substantiated, the ombuds may recommend action to the appropriate authority. The ombuds' recommendation is not binding, although the authority is to inform the ombuds within a reasonable time period whether action was taken and, if not, why not.

The director of DCD is to appoint an executive administrator for the Office of Crime Victims' Advocacy. The executive administrator post is designated as an exempt position.

The existing language in statute describing the grant programs is modified to allow funding for programs which offer prevention services to persons at risk of becoming victims of sex offenders.

Records maintained by the Office of Crime Victims' Advocacy are not subject to discovery in a judicial proceeding unless the court has reviewed the records and has entered an order stating that the records are discoverable. Members of the office may not be compelled to testify in court except for certain purposes. The office's records are exempt from the public inspection and copying requirements of the public disclosure statutes.

Fiscal Note: Available on SHB 1160 and HB 1828. New fiscal note requested.

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

Testimony For: Many crime victims are unaware of their rights. This bill will give them notice of their rights. Advocates also assist victims who may need support through the investigation and prosecution.

Testimony Against: The bill places an unworkable burden on law enforcement to provide notice to all crime victims of their rights and to bring an advocate to the scene of all crimes and all crime reports. If the victim is traumatized by the crime, the victim may not remember receiving a copy of the rights. A more effective way to ensure that victims are aware of their rights is to have a crime victims advocacy unit contact them after the crime.

Witnesses: Representative Rob Johnson, prime sponsor (pro); Gretchen Paque, Skagit County Prosecuting Attorney's Office (pro); Beverly Emery, Office of Crime Victims Advocacy (pro); Jackie McFayden, Association of Washington Cities (con); John Wurner, Olympia Police Chief (con); Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (con); and Pamela Davenport, Secretary of State Address Confidentiality Program (pro).