

HOUSE BILL REPORT

SHB 1610

As Amended by Senate

Title: An act relating to increasing the involvement of victims in the prosecution of criminal cases.

Brief Description: Increasing involvement of victims in criminal prosecutions.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Delvin, Costa, Ballasiotes, Padden, Tokuda, Kremen, Chappell, Morris, Campbell, Hatfield, Cody, Regala, Romero, Hickel, Sheldon, Robertson and Kessler).

Brief History:

Committee Activity:

Law & Justice: 2/17/95, 2/28/95 [DPS].

Floor Activity:

Passed House: 3/11/95, 94-0.

Senate Amended.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Cody; Lambert; McMahan; Morris; Robertson; Sheahan; Smith; Thibaudeau and Veloria.

Staff: Edie Adams (786-7180).

Background: Under the Sentencing Reform Act, the prosecuting attorney may enter into a plea agreement with the defendant in a criminal case under certain situations, including: (1) evidentiary problems make conviction doubtful; (2) the defendant has agreed to cooperate in the prosecution of others whose conduct was more serious; (3) at the request of the victim; (4) the defendant's criminal history; and (5) the nature and seriousness of the offense charged.

Whenever the prosecuting attorney enters into a plea agreement with an accused, he or she must state to the court, at the time of the defendant's plea, the nature of the agreement and the reasons for the agreement. The court determines whether the agreement is consistent with the interests of justice and with the prosecuting

standards. If the court determines the plea is not consistent with the interests of justice and the prosecuting standards, the defendant and the prosecutor are not bound by the agreement and the defendant may withdraw the plea of guilty and enter a plea of not guilty.

The Sentencing Reform Act also provides that a prosecuting attorney may decline to prosecute in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law, or would result in decreased respect for the law. For example, a prosecutor may decline to prosecute if the victim requests that no criminal charges be filed.

The prosecuting attorney may engage in discussions and reach agreements with the defendant or the defendant's representative regarding the selection or disposition of charges prior to the filing of charges.

Victims of crimes are granted certain rights under the state constitution and statutes. The Washington Constitution provides that crime victims have the right to be informed of and attend trial and all other court proceedings the defendant has a right to attend, and the right to make a statement at sentencing or any hearing where the defendant's release is being considered.

Statutory provisions grant crime victims additional rights, including the right to be informed of the final disposition of the case, the right to have a crime victim advocate present when the victim of a violent or sex crime is being interviewed by the prosecutor or the defense, the right to be notified of the time of the trial and sentencing and to be present in court proceedings, and the right to submit a victim impact statement or report to the court.

Summary of Bill: The prosecuting attorney shall make reasonable efforts to notify the victims of all crimes against persons of the nature of and reasons for the plea agreement, and ascertain any objections or comments the victims have concerning the plea agreement.

At the time of the defendant's plea, the prosecutor shall inform the court whether the victims of all crimes against persons covered in the plea agreement have expressed any objections to or comments on the plea agreement. The court shall consider any of the victims' objections or comments in determining whether the plea agreement is consistent with the interests of justice.

The prosecuting attorney may enter into discussions with the victim or victims of a crime regarding the selection or disposition of charges prior to the filing of charges. These discussions may be considered by the prosecutor in charging and disposition decisions.

EFFECT OF SENATE AMENDMENT(S):

The specific requirement that the court consider the victim's comments on or objections to a plea agreement in determining whether the plea agreement is consistent with the interests of justice and the prosecuting standards is deleted.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill validates a victim's right to be involved in the criminal justice process. A victim needs to be involved when a plea agreement is reached to enhance confidence in the system.

Testimony Against: Requiring the court to ask the prosecutor whether the plea agreement has been communicated to the victims creates the potential problems of clogging the system, creating delays in cases in which the defendant wants to enter a plea right away, and complicating the entry of the plea where there are many complex charges.

Testified: Tom McBride, Washington Association of Prosecuting Attorneys (pro with suggestions); Evelyn Francy, Washington Coalition of Sexual Assault Programs and Washington Association of Crime Victim Advocates (pro); Mike Patrick, Washington State Council of Police Officers (pro); Rose Crocco, Tennis Shoe Brigade (pro); and Helen Harlow, Tennis Shoe Brigade (pro).

Votes on Final Passage:

Yeas 94; Excused 4

Excused: Beeksmas, Jacobsen, Patterson, Reams