

HOUSE BILL REPORT

HB 2962

As Reported By House Committee On:
Law & Justice

Title: An act relating to criminal mistreatment.

Brief Description: Creating the crime of criminal mistreatment in the third degree.

Sponsors: Representatives Robertson, Kessler, Lisk, Costa, Sheahan, McDonald, L. Thomas and Anderson.

Brief History:

Committee Activity:

Law & Justice: 1/28/98, 2/4/98 [DPS].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Cody; Kenney; Lantz and Robertson.

Minority Report: Do not pass. Signed by 4 members: Representatives Carrell; Lambert; Mulliken and Sherstad.

Staff: Edie Adams (786-7180).

Background: Domestic violence laws provide civil and criminal remedies to victims of domestic violence. "Domestic violence" is defined as the commission of one of a specified list of crimes against a family or household member. Some of the crimes that may be domestic violence include: assault, rape, drive-by shooting, reckless endangerment, burglary, malicious mischief, and kidnapping.

"Family or household member" means spouses, former spouses, persons who have a child in common, adults related by blood or marriage, adults who reside together or have resided together, persons 16 years of age or older who reside together or have resided together and who have or have had a dating relationship, persons 16 years of age or older who have or have had a dating relationship, and persons who have a biological or legal parent-child relationship.

Under the Sentencing Reform Act, a person who commits a felony offense involving domestic violence may receive an exceptional sentence based on a number of aggravating factors, including that the offense occurred within sight or sound of the victim's or the offender's minor children under the age of 18 years.

There are two degrees to the crime of criminal mistreatment. The first-degree offense, a class B felony, is committed when a parent of the child, a person entrusted with the physical custody of the child or dependent person, or a person employed to provide to the child or dependent person the basic necessities of life, recklessly causes great bodily harm to the child or dependent person by withholding the basic necessities of life. The second-degree offense, a class C felony, involves recklessly creating an imminent and substantial risk of death or great bodily harm, or recklessly causing substantial bodily harm by withholding the basic necessities of life.

Summary of Substitute Bill: A new crime of criminal mistreatment in the fourth degree is created. A person commits criminal mistreatment in the fourth degree if the person commits domestic violence within sight or sound of the victim's or offender's minor child. Fourth-degree criminal mistreatment is a misdemeanor.

As part of the sentence for fourth-degree criminal mistreatment, the court must impose the following conditions: restricted or no contact with the victim of the domestic violence and with the child in whose presence the offense was committed; no further acts of violence or threats against the victim; substance abuse treatment if the defendant was under the influence of drugs or alcohol when he or she committed the offense; and completion of a domestic violence perpetrator program. The court may waive the imposition of any of these conditions if it would not be in the best interest of justice to impose them. The defendant must pay the costs of evaluation, treatment, and monitoring.

Substitute Bill Compared to Original Bill: The substitute bill makes the crime a fourth-degree offense and allows the court to restrict the offender from contact with the child or children in whose presence the crime was committed.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill is patterned after a law in California to help break the cycle of abuse that kids get caught up in when they witness domestic violence. Children witness violent scenes far too many times and these children are victims of this violence they witness. The impact on children is horrific. These children have some of the same

responses that children who actually experience abuse have. Children learn from these experiences and take them into their adulthood. They learn to become part of the conspiracy of silence and lie to cover it up. Girls may learn to accept abuse and boys may learn how to be abusive. There are 3.3 to 4.3 million children who witness domestic violence each year. These children are at risk. This will provide an additional tool for police. It is one of the most important bills of the session.

Testimony Against: None.

Testified: James Kelly, Auburn Police Department (pro); Catherine Myers, Auburn City Attorney (pro); Gregory Wood, Auburn Police Department (pro); Michael Burris, Washington State Law Enforcement Association (pro); Mike Patrick, Washington State Council of Police Officers (pro); and Cherie Tessier, People First of Washington (pro).