

HOUSE BILL REPORT

ESSB 5629

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to making domestic violence an aggravating circumstance for purposes of sentencing decisions.

Brief Description: Making domestic violence an aggravating circumstance for purposes of sentencing decisions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Hargrove, Winsley, Long, Benton, Schow, and Oke).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/20/98, 2/25/98 [DP].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 12 members: Representatives Ballasiotes, Chair; Benson, Vice Chair; Koster, Vice Chair; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff; and Sullivan.

Staff: Mark Hamilton (786-7310).

Background: *Departures from Sentencing Guidelines.* The state's sentencing guidelines provide a standard range of imprisonment to which courts must sentence criminals convicted of felonies, based on the seriousness of the current crime, as well as other factors, such as prior criminal convictions. A court may impose an exceptional sentence, outside the guidelines « either higher or lower « on a finding of aggravating or mitigating factors. A number of these factors are set forth in the statute, but are "illustrative only and are not intended to be exclusive reasons for exceptional sentences."

Domestic Violence as Aggravating Factor. Among the aggravating factors for which a court may impose an upward departure from the guidelines is commission of a domestic violence offense when at least one of the following is also present:

1. The domestic violence was part of an ongoing pattern of abuse;
2. The offense was committed where a child could witness it; or

3. The offense manifested deliberate cruelty or intimidation of the victim.

Domestic Violence Offenses. Domestic offenses include any of the following offenses when committed by one family or household member against another:

1. Assault in the first, second, third, or fourth degree;
2. Drive-by shooting;
3. Burglary in the first or second degree;
4. Malicious mischief in the first, second, or third degree;
5. Kidnapping in the first or second degree;
6. Unlawful imprisonment;
7. Violation of protection or no-contact orders;
8. Rape in the first or second degree;
9. Residential burglary;
10. Stalking; and
11. Interference with the reporting of domestic violence.

Summary of Bill: The illustration of the domestic violence aggravating factor is altered to remove the three additional requirements, thereby illustrating to a court that it might depart upward from the sentencing range set out in the guidelines for *all* domestic violence offenses, rather than those domestic violence offenses which also fulfilled one of the three additional requirements.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Current law is so specific that it eliminates the opportunity to hold perpetrators accountable. The bill would allow judges to use any domestic violence as an aggravating factor by removing the difficult to prove provisions of current law.

Testimony Against: None.

Testified: Senator Pam Roach, prime sponsor.