

HOUSE BILL ANALYSIS
HB 2325

Title: An act relating to domestic violence.

Brief Description: Strengthening domestic violence laws.

Sponsors: Representative Sterk.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Hearing Date: January 20, 1998.

Prepared By: Mark G. Hamilton, Counsel (786-7310).

Background: Release Pending Sentencing or Appeal. Currently, a convicted defendant must be detained pending sentencing for certain offenses. In addition, a stay of execution of a judgment of conviction pending appeal is not permitted for certain felony offenses. However, domestic violence offenses are not included in either of these provisions.

Release and No-Contact after Domestic Violence Arrest or Charge. Currently, a court may order a defendant charged with a domestic violence offense to have no contact with the alleged victim, as a condition of release from custody pending arraignment or trial. Along with its order releasing the person charged, the court must provide a written warning that violation of the no-contact provisions is a criminal offense.

Sentencing. Currently, domestic violence offenses are not counted in calculating an offender score for sentencing purposes. In addition, a court is required to include a one-year term of community placement for certain offenses, in addition to any term of total confinement. However, domestic violence offenses are not included among these.

Warrantless Arrest for Domestic Violence Offenses. Currently, a police officer may make a warrantless arrest of a person whom the officer has probable cause to believe has assaulted a family member within the preceding four hours. If members have assaulted each other, the officer is only required to arrest the primary aggressor.

Summary:

Section 1 amends RCW 9.95.062(2). No Stay Pending Appeal of Domestic Violence Conviction. Adds felony domestic violence offenses¹ to list of offenses for which a stay of execution of a judgment of conviction shall not be stayed due to an appeal by a convicted defendant.

Section 2 amends RCW 10.64.025(2). Detainment Pending Sentencing. Adds felony domestic violence offenses to list of offenses for which a convicted defendant shall be detained pending sentencing.

Section 3 amends RCW 10.99.040(2). No Bail or Personal Recognizance After Violation of Condition of Release. Adds paragraphs (a) and (b) and new language. This permits a court, on its own motion, or upon a prosecutor's verified application, alleging with specificity that a defendant has violated a condition of release under paragraph (a) (i.e., a no-contact order), to order the defendant arrested and held without bail or release on personal recognizance, pending an immediate hearing to reconsider the release authorized under subsection (2).

Written Warning of Consequences of Violating Court's Release Order. Section 3 also amends RCW 10.99.040(4)(d) by adding new language to the warning issued to a released domestic violence suspect, informing the suspect that he or she is subject to arrest without bail or personal recognizance pending trial, for violation of the terms of release.

Section 4 adds a new section (18) to RCW 9.94A.360. Sentencing. Adds domestic violence offenses to list of offenses used for calculating the "offender score" for sentencing purposes. Counts one point for each prior adult conviction and ½ point for each prior juvenile conviction of a misdemeanor domestic violence offense, if the present conviction is a felony domestic violence offense.

Section 5 amends RCW 9.94A.120(9)(a). Community Placement in Sentencing. Adds felony domestic violence offenses to list of offenses for which a court must sentence the offender to a one-year term of community placement, in addition to a term of total confinement.

Section 6 amends RCW 10.31.100(2)(b). Warrantless Arrest for Domestic Violence Offenses. Simplifies the language of paragraph (b), which requires a police officer to arrest and take into custody without a warrant a person whom the officer has probable cause to believe has committed a domestic violence

¹ Felony domestic violence offenses are defined in RCW 10.99.020, and include the following offenses: Assault in the first, second, and third degrees; drive-by shooting; burglary in the first and second degrees; malicious mischief in the first and second degrees; kidnapping in the first and second degrees and unlawful imprisonment; certain violations of protection or no-contact orders; rape in the first and second degrees; residential burglary; and certain instances of stalking.

offense. Strikes the prior language, which set forth specific circumstances under which an officer could arrest a person whom the officer had probable cause to believe had committed an assault against a family household member. The prior language also specified that the officer must arrest the primary physical aggressor, when family members have assaulted each other, and specified the standards by which that determination was to be made.

Rules Authority: No.
Fiscal Note: Requested January 14, 1998.
Effective Date: Ninety days after adjournment of session in which bill is passed.