

SENATE BILL REPORT

SB 6565

As Reported By Senate Committee On:
Financial Institutions, Insurance & Housing, February 5, 1998

Title: An act relating to insurance payments for insureds who are victims of domestic abuse.

Brief Description: Regulating insurance payments of insureds who are victims of domestic abuse.

Sponsors: Senators Hale, Prentice, Winsley, Franklin, Long, Roach, Haugen, Stevens, Spanel, Wood, Rasmussen, T. Sheldon, Loveland, Benton, Johnson, Thibaudeau, McDonald, B. Sheldon, Snyder, Anderson, Oke and Goings.

Brief History:

Committee Activity: Financial Institutions, Insurance & Housing: 1/27/98, 2/5/98 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 6565 be substituted therefor, and the substitute bill do pass.

Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

Staff: Dave Cheal (786-7576)

Background: Generally, insurers cannot discriminate against an insured or applicant on the basis of gender, marital status, or the presence of a sensory, mental, or physical handicap.

The concern of this bill is that insurers should be prevented from discriminating against an insured or an applicant because of his or her status as a subject of domestic violence, sexual assault, or child abuse.

Most property and casualty insurance contracts provide an exclusion from coverage if the loss is caused by the intentional act of an insured. Insurers have used this provision to deny payment to innocent co-insureds whose spouse has intentionally caused the damage.

Summary of Substitute Bill: Insurers are prohibited from refusing an application for insurance, refusing to renew, canceling, restricting or otherwise terminating a policy of insurance, or from charging a different rate for the same coverage based on the applicant or insured's status or potential status of being a victim of domestic abuse.

Domestic abuse— is defined as physical harm, assault, infliction of fear of harm or assault between family members. It also includes sexual assault of one family or household member by another, and stalking as defined in the criminal code of one family or household member

by another family or household member, or intentionally or recklessly damaging property so as to intimidate or attempt to control the behavior of another.

An exclusion of coverage in an insurance contract for losses caused by intentional or fraudulent acts may not be applied to claims where the loss is caused by an act of domestic abuse by another insured under the policy, provided the loss is otherwise covered, the insured claiming property loss files a police report and cooperates with any law enforcement investigation, and the claimant did not cooperate in creating the loss.

Payment is limited to the person's insurable interest minus payments to a mortgagee or other party with a legal secured interest in the property. An insurer making payment in this situation has rights of subrogation to recover against the person causing the loss.

Substitute Bill Compared to Original Bill: The section describing legislative intent is removed. The requirement that an innocent co-insured claimant can only recover if the guilty co-insured is charged with a crime is removed. The innocent co-insured whose property loss results from an act of domestic abuse must file a police report and cooperate with any resulting investigation in order to obtain coverage.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The plight of innocent co-insureds needs to be dealt with legislatively to balance the rights of claimants and the rights of insurers to protect themselves against fraud. This bill contains that balance. The prohibition against underwriting discrimination due to status as an abuse victim is strong and without reservation. The industry has come a long way on this.

This bill would protect insurers against nondomestic abuse claims where one insured caused the loss, even though another insured innocent co-insured did not. That's proper public policy.

Testimony Against: The bill would make it more difficult for an innocent co-insured to obtain payment for loss than under current law. It's a step backward. The requirement that the guilty- co-insured be charged with a crime before the innocent co-insured can recover would produce whimsical and unjust results, and is not necessary to protect the legitimate interests of insurers. The criminal charge requirement would distort the charging decisions of prosecutors.

Testified: Rob Tee, SAFECO (pro); Mel Sorensen, NAI (pro); Representative Jeri Costa (con); Catherine Kittis Bolduc (con); Kathy goeter, King County Prosecutor's office (con); Mike Kappahn, Farmers Insurance Group (con); Basil Badley, ACLI (pro); Jean Leonard, State Farm (pro).