

# HOUSE BILL REPORT

## HB 2397

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### As Reported by House Committee On: Juvenile Justice & Family Law

**Title:** An act relating to penalties against convicted domestic violence offenders to pay for domestic violence programs.

**Brief Description:** Imposing penalties against convicted domestic violence offenders to pay for domestic violence programs.

**Sponsors:** Representatives Upthegrove, Dickerson, Lantz, Clibborn, Delvin, Chase, Schual-Berke, Miloscia, Hudgins, Kessler and Morrell.

#### **Brief History:**

##### **Committee Activity:**

Juvenile Justice & Family Law: 1/21/04, 1/27/04 [DPS].

#### **Brief Summary of Substitute Bill**

- Authorizes superior, district, and municipal courts to impose a penalty (up to \$100) on any person convicted of a domestic violence crime, to be used for domestic violence advocacy, prevention, and prosecution programs in the city or county.

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### HOUSE COMMITTEE ON JUVENILE JUSTICE & FAMILY LAW

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Pettigrew, Vice Chair; Delvin, Ranking Minority Member; Carrell, Hinkle, Lovick and Upthegrove.

**Staff:** Trudes Tango Hutcheson (786-7384).

#### **Background:**

Crimes are generally punishable by imprisonment, a fine in an amount fixed by the court, or both. The statutory maximum fine for a misdemeanor is \$1,000 and \$5,000 for a gross misdemeanor.

In addition to the fine the court may impose, courts are sometimes required to impose additional assessments against a convicted defendant. For example, a superior court must impose a crime victims and witness penalty assessment of \$250 against a person convicted of a misdemeanor, and \$500 for a gross misdemeanor or felony. This assessment is in addition to

any other fine or penalty and cannot be waived by the court. District and municipal courts are also required to impose certain assessments that cannot be waived.

Generally, all fees, fines, forfeitures, and penalties assessed and collected by superior, district, and municipal courts must be distributed between local governments and the state. Usually, the distribution is 32 percent to the State Public Safety and Education Account (PSEA) and 68 percent to local government.

Domestic violence includes, but is not limited to, crimes, such as assault, stalking, malicious mischief, and rape, when committed by one family or household member against another.

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### **Summary of Substitute Bill:**

Superior, district, and municipal courts may impose a penalty assessment of up to \$100 against any person convicted of a crime involving domestic violence. When determining whether to impose the penalty assessment, judges are encouraged to seek input from the victim in assessing the defendant's ability to pay, including information on current financial obligations, family circumstances, and ongoing restitution.

Revenue from the assessment must be used solely for establishing and funding domestic violence advocacy and domestic violence prevention and prosecution programs in the city or county of the court imposing the assessment. Cities and counties without programs may contract with community-based domestic violence program providers.

The penalty assessment is in addition to any other penalty, restitution, fine, or costs. The penalty assessment is not subject to distribution to the PSEA.

### **Substitute Bill Compared to Original Bill:**

The substitute bill adds the provision encouraging judges to seek the victim's input regarding the convicted offender's ability to pay the assessment. The substitute bill also added inadvertently omitted sections that exempt the assessments from the PSEA distribution.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** An increase in resources for domestic violence services will be helpful. The domestic violence programs are critical. The fees from this bill will help offset the costs of these programs. The fee is only imposed on convicted offenders and it is left up to the judges to impose it. Some cities anticipate a 20 percent increase in domestic violence crimes. The

bill will assist cities and counties in helping victims, including children, of domestic violence crimes. Courts have discretion to impose this fee and will impose it only where appropriate.

**Testimony Against:** The additional assessment will overburden defendants and discourage participation in treatment. Offenders are already assessed numerous fines and fees, including restitution and costs. Judges can impose this fee, but it is unlikely they can collect it since defendants are unable to pay the fees they currently owe.

**Persons Testifying:** (In support) Grace Huang, Washington State Coalition Against Domestic Violence; Larry Pederson, Thurston Community Network; Doug Levy, City of Everett, City of Federal Way, City of Kent; and Tami Perdue and Anne Marie Cronin, City of Kent.

(Opposed) Carolyn Drake; and Sherry Appleton, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.