
Judiciary Committee

HB 2191

Title: An act relating to limiting deferred prosecution in domestic violence cases.

Brief Description: Limiting deferred prosecution in domestic violence cases.

Sponsors: Representatives Lantz, Warnick, Pedersen, Williams, Moeller, Seaquist, Morrell, Kelley, Simpson and Ormsby.

Brief Summary of Bill
<ul style="list-style-type: none">Provides that a person charged with a misdemeanor or gross misdemeanor offense that would be considered domestic violence is not eligible for deferred prosecution more than once.

Hearing Date: 2/23/07

Staff: Trudes Tango (786-7384).

Background:

Deferred prosecution

A person charged with any misdemeanor or gross misdemeanor offense in district court may be eligible for deferred prosecution. In order to be eligible, a person charged with an offense other than certain offenses related to criminal mistreatment must:

- allege in the petition that alcoholism, drug addiction, or mental problems caused the person to commit the offense;
- allege that treatment is necessary to prevent a reoccurrence;
- agree to pay for the expenses of diagnosis and treatment, if financially able;
- stipulate to the admissibility and sufficiency of the facts in the police report;
- acknowledge the admissibility of the stipulated facts in any trial on the charged offense; and
- waive the right to testify, to have a speedy trial, to call witnesses, to present evidence, and to have a jury trial.

The petitioner must be evaluated by an approved treatment facility, which will submit a treatment plan to the court.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

If the court approves the plan and grants a deferred prosecution, the person will be ordered to undergo treatment in a two-year program. If a person fails to successfully complete the treatment program, the court must hold a hearing to determine whether to remove the person from the deferred prosecution and enter judgment on the charge. If the person does successfully complete the program, the court must dismiss the charges three years after the successful completion of the program.

Persons charged with a non-felony traffic offense and persons charged with certain offenses related to criminal mistreatment are not eligible for a deferred prosecution more than once.

Domestic violence

The statutes addressing domestic violence provide a nonexclusive list of offenses that, when committed by one family or household member against another, is considered domestic violence. Some of the crimes, such as assault in the fourth degree, criminal trespass, coercion, and malicious mischief in the third degree, are misdemeanors and gross misdemeanors.

Domestic violence perpetrator treatment programs must meet minimum requirements established by the Department of Social and Health Services. Perpetrator treatment programs must focus primarily on ending the violence and holding the perpetrator accountable.

Summary of Bill:

A person charged with a misdemeanor or gross misdemeanor that would be considered domestic violence shall not be eligible for deferred prosecution more than once.

The petitioner must state under oath that the petitioner: (a) is the family or household member of the victim; (b) is in need of domestic violence perpetrator treatment; (c) wants to correct his or her conduct to reduce the likelihood of harm to family or household members; (d) believes that unless treatment is received, the probability of future recurrence is great; and (e) agrees to pay for the cost of diagnosis and treatment, if financially able.

The petition must also contain a case history and written assessment prepared by an approved domestic violence perpetrator treatment program provider.

Appropriation: None.

Fiscal Note: Requested on February 22, 2007.

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