
**Public Safety & Emergency Preparedness
Committee**

HB 2777

Brief Description: Modifying domestic violence provisions.

Sponsors: Representatives Goodman, O'Brien, Driscoll, Kessler, Maxwell, Finn, Hurst, Williams, Appleton, Hudgins, Kelley, Ericks, Morrell, McCoy, Seaquist, Green, Carlyle, Conway, Pearson and Simpson.

Brief Summary of Bill

- Adjusts how prior non-felony, domestic violent-related offenses are calculated for purposes of calculating an offender's sentence.

Hearing Date: 1/26/10

Staff: Yvonne Walker (786-7841).

Background:

Under the Sentencing Reform Act (SRA), an offender convicted of a felony has a standard sentence range that is based on the seriousness of the offense and the offender's prior felony convictions. The number of points an offender receives for current and prior felonies varies according to certain rules. Generally, the SRA and the points that an offender receives does not apply to convictions for misdemeanor or gross misdemeanor offenses. Courts of limited jurisdiction may impose a maximum of two years probation following a sentence for a non-felony offense involving domestic violence.

Domestic violence can be generally defined as any action that causes physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault between family or household members; sexual assault of one family or household member by another; or the stalking of one family or household member by another family or household member.

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.

Often victims of domestic violence seek help through a court order. There are several types of orders a court may grant that restrict a person's ability to have contact with another: (1) protection orders; (2) no-contact orders; (3) restraining orders; and (4) foreign protection orders.

No-contact orders are be issued by a court in a criminal proceeding. The court generally issues no-contact orders when a defendant is released from custody prior to trial or as part of the defendant's sentence. There are two types of prosecutions for which no-contact orders are statutorily authorized: prosecutions for criminal harassment and prosecutions for crimes involving domestic violence. A law enforcement officer must enforce a no-contact order issued as part of a prosecution for a crime involving domestic violence. Violation of such a no-contact order is a gross misdemeanor, unless the defendant has two previous convictions for violating a domestic violence protection order or other similar federal or out-of-state order, in which case the violation is a class C felony.

Aggravating Circumstances.

Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The SRA provides a list of factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range.

Summary of Bill:

The formula for calculating an offender's score is adjusted under the SRA. For the purpose of computing an offender's score, if the present conviction is for a felony domestic violence-related offense, where domestic violence was plead and proven, an offender receives one point for each "repetitive domestic violence offense." A repetitive domestic violence offense is any of the following non-felony offenses that are domestic violence-related: Assault, Violation of a No-Contact Order, Harassment, and Stalking. The maximum period of probation that may be imposed by courts of limited jurisdiction is increased from two years to five years.

Aggravating Circumstances.

Under the SRA, a court may impose an exceptional sentence below the standard sentence range for offenses involving domestic violence if the defendant suffered a continuing pattern of coercion, control, or abuse by the victim of the offense, and the offense is a response to that coercion, control, or abuse. An aggravating circumstance that permits an exceptional sentence when the offense was part of an ongoing pattern of abuse of the victim is changed to a pattern of abuse involving a victim or multiple victims.

Appropriation: None.

Fiscal Note: Requested on January 21, 2010.

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