

SENATE BILL REPORT

SB 5833

As Reported by Senate Committee On:
Human Services & Corrections, February 23, 2009

Title: An act relating to protecting victims of sexual assault, sexual harassment, and stalking.

Brief Description: Providing certain procedures for tenants who are victims of sexual assault, sexual harassment, and stalking.

Sponsors: Senators Regala, Kohl-Welles, Hargrove and McDermott.

Brief History:

Committee Activity: Human Services & Corrections: 2/12/09, 2/23/09 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5833 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: The Residential Landlord-Tenant Act (RLTA) regulates the relationship between tenants and landlords. The RLTA provides requirements, duties, rights, and remedies with respect to the landlord and tenant relationship.

Generally, a rental agreement will establish a tenancy for a specified period of time or a periodic tenancy (e.g., month to month). A tenancy for a specified time is terminated at the end of the period specified. A periodic tenancy is automatically renewed for another period until terminated by either the landlord or the tenant by giving at least 20 days notice prior to the end of the period.

The RLTA specifies certain circumstances under which a landlord or tenant may terminate a tenancy without further obligation under the agreement. One of those circumstances is where the tenant is a victim of domestic violence, sexual assault, or stalking. If a tenant has a valid order of protection or the tenant reports the domestic violence to a qualified third party and the qualified third party provides and signs a written record of the report, the tenant may terminate the tenant's rental agreement. The request to terminate the tenancy must occur

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within 90 days of the reported act and the tenant must provide a copy of the order or report to the landlord.

A qualified third party is defined as a law enforcement officer, a health professional, court personnel, a mental health professional, a crime victim advocate, or a member of the clergy. A written record of report must include the time and location that the act occurred, a brief description of the act or acts of domestic violence, and that the tenant informed the qualified third party of the name of the alleged perpetrator. The name of the perpetrator must not be included in the report. A model form is prescribed by statute.

Summary of Bill (Recommended Substitute): If a tenant is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may terminate the rental agreement prior to obtaining a valid order of protection or a written record of report signed by a qualified third party if the tenant provides a copy of an order or report to the landlord within seven days of quitting the tenant's dwelling unit.

Unlawful harassment is defined. Landlord is defined to include employees of the landlord. On written request of the landlord, the qualified third party must provide the name of the alleged perpetrator to the landlord.

A tenant who is a victim of sexual assault, stalking, or unlawful harassment by a landlord may change or add locks to the tenant's dwelling unit at the tenant's expense. A protection order or written record of report from a qualified third party must be provided to the landlord within seven days of changing the locks. The tenant's rental agreement will automatically terminate in 90 days unless:

- the tenant notifies the landlord within 60 days that the tenant does not wish to terminate the tenancy. If the perpetrator is no longer employed at the premises, the tenant must provide the landlord with a key; and
- the tenant exercises his or her right to terminate the tenancy within 60 days of changing the locks.

A landlord may enter the tenant's dwelling unit in an emergency if accompanied by a law enforcement official. A tenant must make arrangements for a landlord to enter the premises if the landlord utilizes current statutory procedures and gives the tenant a specific time and date for entering. Upon vacating the unit, the tenant must provide the key and all copies of the key to the landlord.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The term "sexual harassment" is replaced by "unlawful harassment." The definition of unlawful harassment in chapter 10.14 RCW is adopted and further defined as any request for sexual favors to a tenant in return for a change in or performance of any terms of a lease or rental agreement. Notice to a landlord of a tenant's termination of a tenancy and the date of termination is further specified.

Provisions requiring that a qualified third party hold the key when a tenant has changed his or her locks is removed. When a tenant changes his or her locks, the tenancy will terminate automatically in 90 days unless:

- the tenant notifies the landlord within 60 days that the tenant does not wish to terminate the tenancy. If the perpetrator is no longer employed at the premises, the tenant must provide the landlord with a key; and
- the tenant exercises his or her right to terminate the tenancy within 60 days of changing the locks.

A tenant is required to make arrangements for a landlord to enter the premises if the landlord utilizes current statutory procedures and gives the tenant a specific time and date for entering. Provisions allowing a tenant to sue a landlord for relocation assistance as well as those provisions regarding retaliation are removed. The requirement that a landlord provide all tenants with a notice of rights under this act is also removed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill: PRO: This bill builds on provisions enacted in 2004 to protect victims of sexual assault. The provision has worked well and there has not been reports of people abusing the system. We have identified a deficiency in that the system won't help someone who is being sexually harassed by their landlord. The landlord groups have worked in good faith, but they are still working on coming to a consensus. This issue is real, although the true incidence rate is unknown. Victims groups have polled state workers and have found victims in the state. Common landlord behaviors include quid pro quo offers and a refusal to fix. Landlords have unique access by knowing the layout of the premises and having a key to the tenant premises.

A victim is required to make a report of the sexual abuse. Reporting can be extremely difficult. The seven-day delay in the bill is critical to tenant safety as is the ability to change the locks for immediate protection. Victims should not have to choose between a roof over their head and their personal safety.

CON: The landlord's associations have been involved in negotiations to try and iron out a good policy. The current version is quite a bit different than what you have in front of you. Both sides should be able to come to an agreed version in the near future.

Persons Testifying: PRO: David Ward, NW Women's Law Center; Andrea Piper, Washington Coalition of Sexual Assault Programs; Jennifer Castro, Housing Justice Project.

CON: Joe Puckett, Washington Multi-Family Housing Association; Ron Newbry, Yakima Valley Landlords Association; Julie Johnson, Rental Housing Association.