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## Public Safety Committee

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### EHB 1632

**Brief Description:** Concerning domestic violence.

**Sponsors:** Representatives Goodman, Klippert, Orwall, Hayes, Jinkins and Wylie.

#### Brief Summary of Bill

- Elevates Assault in the fourth degree from a gross misdemeanor to a class C felony when it involves domestic violence and the defendant has two or more prior adult convictions for assault involving domestic violence in the previous 10 years.
- Counts prior convictions of Assault of a Child or criminal mistreatment involving domestic violence as two points when calculating an offender score for a conviction of a felony domestic violence offense.
- Permits a sheriff to waive fees associated with a service of a writ of habeas corpus issued for a return of child when the person granted the writ is unable to pay due to poverty.

**Hearing Date:** 1/15/16, 1/20/16

**Staff:** Kelly Leonard (786-7147).

#### **Background:**

*Domestic Violence.* Domestic violence is defined as: (a) physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking of one family or household member by another family or household member.

The term "family or household members" includes spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have previously resided together, persons 16 years of age or older who are presently residing together or who previously resided together and

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who have or had a dating relationship, persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship, and persons who have a biological or legal parent-child relationship, including stepparents and stepchildren and grandparents and grandchildren.

*Assault in the Fourth Degree.* A person is guilty of Assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another. Assault in the fourth degree is a gross misdemeanor.

*Sentencing and Offender Scoring.* Crimes are classified as misdemeanors, gross misdemeanors, or felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies and determines a specific range of sentence within the statutory maximum. Sentences for felony offenses are determined by reference to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. The offender score may vary from zero to nine plus points depending on five factors: (1) the number of prior criminal convictions or juvenile dispositions; (2) the relationship between any prior offense(s) and the current offense of conviction; (3) the presence of other current convictions; (4) the offender's community custody status at the time the crime was committed; and (5) the length of the offender's crime-free behavior between offenses.

For a present felony domestic violence conviction, the following felony offenses involving domestic violence currently count double, or two points, towards the offender score:

- Felony Domestic Violence Harassment;
- Felony Domestic Violence Stalking;
- Burglary in the first degree;
- Kidnapping in the first degree;
- Kidnapping in the second degree;
- Unlawful Imprisonment;
- Robbery in the first degree;
- Robbery in the second degree;
- Assault in the first degree;
- Assault in the second degree;
- Assault in the third degree;
- Arson in the first degree; and
- Arson in the second degree.

If a felony offense does not have a designated seriousness level under the SRA, the maximum period of confinement is one year regardless of the class of felony. These offenses are referred to as unranked felonies.

*Crimes Against Persons.* Crimes may be designated by statute as crimes against persons or crimes against property. If a crime is designated as a crime against persons, additional restrictions may be imposed on the offender at sentencing. Such restrictions include that the offender cannot have his or her record of conviction cleared, may be subject to community placement or community custody, and cannot qualify to earn up to 50 percent of earned release time.

*Habeas Corpus.* "Habeas corpus" is Latin and literally means "you have the body." The superior and appellate courts may grant writs of habeas corpus in favor of parents, guardians, spouses or domestic partners, and next of kin, to enforce the rights, and for the protection of children and persons who are incompetent. Under certain circumstances, the court may issue a warrant directing the sheriff to take the person and bring him or her immediately before the court. The writ is brought to the sheriff to be served on the person who is alleged to be illegally holding the person that is the subject of the writ. The sheriff must collect for official services, which includes fees charged and collected for service of writs, warrants, making returns, and actual and necessary mileage.

### **Summary of Bill:**

*Assault in the Fourth Degree.* Assault in the fourth degree involving domestic violence is an unranked class C felony if the person has two or more prior adult convictions within 10 years for any of the following crimes involving domestic violence:

- Assault in the first degree;
- Assault in the second degree;
- Assault in the third degree; or
- Assault in the fourth degree.

Felony Assault in the fourth degree is limited to circumstances involving assault committed against a spouse, former spouse, current or former dating partner, or against a person with whom the defendant has a child in common. This also applies to the prior convictions that count toward felony Assault in the fourth degree.

Felony Assault in the fourth degree involving domestic violence is categorized as a crime against a person.

*Offender Scoring.* For a present felony domestic violence conviction, the following felony offenses involving domestic violence are included among those that currently count double, or two points, towards the offender score:

- Assault of a Child in the first degree;
- Assault of a Child in the second degree;
- Assault of a Child in the third degree;
- Criminal Mistreatment in the first degree; or

- Criminal Mistreatment in the second degree.

*Fees for Writs of Habeas Corpus.* Sheriffs are permitted to waive fees associated with service of a writ of habeas corpus that was issued for the return of a child when the person who was granted the writ is unable to pay due to poverty.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note on proposed substitute requested on January 14, 2016.

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