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## Public Safety Committee

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### SB 5070

**Brief Description:** Requiring the department of corrections to supervise domestic violence offenders who have a conviction and were sentenced for a domestic violence felony offense that was plead and proven.

**Sponsors:** Senators Pearson, Warnick, Dammeier, Kohl-Welles and Brown.

#### Brief Summary of Bill

- Require the Department of Corrections to supervise an offender, regardless of risk classification, if the offender has a conviction for a domestic violence felony offense where domestic violence was plead and proven.
- Provides that the state and its officers, agents, and employees may not be held criminally or civilly liable for its supervision of an offender under the act unless the state and its officers, agents, and employees acted with reckless disregard.

**Hearing Date:** 3/25/15

**Staff:** Cassie Jones (786-7303).

#### **Background:**

##### Community Supervision.

The Department of Corrections (DOC) is required to supervise an offender sentenced to community custody regardless of the person's risk classification if the offender:

- has a current conviction for a sex offense or a serious violent offense;
- has been identified by the DOC as a dangerous mentally ill offender;
- has an indeterminate sentence and is subject to parole;
- has a current conviction for failure to register; or
- has a current conviction for a domestic violence felony offense where domestic violence was plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence or domestic violence felony offense where domestic violence was plead and proven after August 1, 2011.

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*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.*

A "repetitive domestic violence offense" means any:

- domestic violence assault that is not a felony;
- domestic violence violation of a no-contact order that is not a felony;
- domestic violence protection order that is not a felony;
- domestic violence harassment that is not a felony;
- domestic violence stalking that is not a felony; and
- any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under Washington law would be classified as one of the above.

#### State Tort Liability.

The State of Washington waived its sovereign immunity in 1961; therefore, the state is liable for damages arising out its tortious conduct to the same extent as if it were a private person or corporation. The Washington State Supreme Court has held that the state has a duty to take reasonable precautions to protect against reasonably foreseeable dangers posed by offenders released from confinement and subject to community supervision by the DOC. Therefore, a plaintiff who has incurred damages as a result of the actions of a supervised offender may sue the DOC for its negligent supervision of the offender. When a plaintiff who was determined to have no share of the fault prevails on a claim of negligent supervision, the DOC is liable for 100 percent of the damages regardless of its degree of fault.

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

#### Community Supervision.

For crimes committed prior to the effective date of the act, current law remains the same with respect to the DOC's duty to supervise an offender sentenced to community custody regardless of risk classification when the offender has a current conviction for a domestic violence felony offense where domestic violence was plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence or domestic violence felony offense where domestic violence was plead and proven after August 1, 2011.

For crimes committed after the effective date of the act, the DOC is required to supervise an offender sentenced to community custody regardless of risk classification when the offender has a conviction for a domestic violence felony offense where domestic violence was plead and proven.

#### State Tort Liability.

The state and its officers, agents, and employees may not be held criminally or civilly liable for its supervision of an offender under the act unless the state and its officers, agents, and employees acted with reckless disregard.

**Appropriation:** None.

**Fiscal Note:** Available.

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