

HOUSE BILL REPORT

HB 2457

As Passed House:
February 8, 2018

Title: An act relating to timelines in criminal cases involving domestic violence.

Brief Description: Concerning timelines in criminal cases involving domestic violence.

Sponsors: Representatives Goodman and Klippert.

Brief History:

Committee Activity:

Public Safety: 1/15/18, 1/25/18 [DP].

Floor Activity:

Passed House: 2/8/18, 98-0.

Brief Summary of Bill

- Specifies timeframes for which domestic violence no-contact orders entered as a condition of sentence remain in effect.
- Extends the maximum time that a superior court may suspend a non-felony domestic violence sentence to five years.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

Background:

Domestic Violence No-Contact Orders.

Domestic Violence offenses are certain crimes committed by one family member or household member against another. While a domestic violence case is pending, or upon conviction, the court may issue a no-contact order prohibiting the defendant from having contact with the victim or knowingly coming or remaining within a specified location.

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.

Willful violation of a domestic violence no-contact order is a crime punishable as a gross misdemeanor, and becomes a felony offense under some circumstances.

When a defendant is found guilty of a crime involving domestic violence and a condition of the sentence restricts the defendant's ability to have contact with the victim, the no-contact condition must be recorded and a written certified copy of the no-contact order must be provided to the victim. Statute does not identify a specific period of time for which domestic violence no-contact orders remain in effect. A recent Washington State Court of Appeals case, *State v. Granath*, held that post-conviction domestic violence no-contact orders expire when the defendant has completed all other conditions of the sentence.

Suspended Sentences in Domestic Violence Cases.

A court may suspend the imposition or execution of a criminal sentence and direct that the suspension continue as long as the defendant complies with conditions of probation imposed by the court. The court retains jurisdiction over the defendant during this time and may modify or revoke its order suspending the sentence if the defendant violates or fails to carry out any of the court's conditions.

A court of limited jurisdiction may suspend a sentence for a non-felony domestic violence offense for up to five years. Non-felony domestic violence sentences in cases heard in superior courts may be suspended for up to two years.

Summary of Bill:

Time periods are designated for which domestic violence no-contact orders remain in effect. In non-felony cases, a domestic violence no-contact order remains in effect for a fixed period of time as determined by the court, not to exceed five years from the date of sentencing or disposition. In felony cases, a no-contact order remains in effect for a fixed period of time determined by the court, not to exceed the adult maximum sentence. If the defendant remains subject to imprisonment, community supervision, conditional release, probation, or parole beyond the time period designated by the court, the order remains in effect until expiration of that condition. The court may modify an order to extend its expiration date, subject to these time limitations.

Superior courts may suspend imposition of a non-felony domestic violence sentence and place the defendant on probation for five years, rather than up to two years.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This proposal is in response to a recent Washington State Court of Appeals case holding that no-contact orders issued by the court expire upon expiration of other parts of the

sentence. This decision is not in line with Legislative intent or the forms issued by the Administrative Office of the Courts, and it has caused enormous confusion in the courts. There is currently an appeal pending at the Washington Supreme Court (court). The goal is to make sure victims of domestic violence have the protection of a no-contact order according to its terms, regardless of when the person is released from confinement. Since the court decision, the district court has made plans to recall thousands of no-contact orders, and there is uncertainty for victims, defendants, and law enforcement as to whether orders are in effect. The order should remain in effect for the statutory maximum sentence allowed for the crime. If this clarification is not made to the statute, the way cases are negotiated will change, and alternative methods like stacking offenses and keeping cases open for many years will be utilized, at great consequence to offenders. With respect to suspended sentences, the district courts have the authority to suspend non-felony sentences for five years, but the same offense in a superior court can be suspended for only two years.

Statistics show that most violators of no-contact orders make contact with victims at the earliest opportunity. With 90 percent of the homicides in the State of Washington, there are no-contact orders in place. There is not enough enforcement in place to protect victims of domestic violence. Protection orders are only as good as a piece of paper. Victims are afraid to call 9-1-1 for fear of retaliation and inadequate protection when an abuser makes contact. There are instances in which abusers have offended multiple times with the same victim with little repercussion, and have made threats to hurt family members. Children need to be protected as well, as there are 10 million children impacted by domestic violence in America. There should be a registry of repeat domestic violence offenders like the registry for convicted sex offenders. Women should be able to know when they are entering into an abusive relationship.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; David Martin, King County Prosecuting Attorney's Office; Don Estes; and Stephanie Bailey.

Persons Signed In To Testify But Not Testifying: None.