

SENATE BILL REPORT

ESSB 5245

As Amended by House, March 1, 2022

Title: An act relating to the safety of crime victims.

Brief Description: Concerning the safety of crime victims.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Brown, Wilson, L., Rolfes and Wagoner).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/26/21, 2/05/21 [DPS-WM].

Ways & Means: 2/17/21, 2/19/21 [DPS (HSRR)].

Floor Activity: Passed Senate: 3/3/21, 49-0; 1/12/22, 48-0.

Passed House: 3/1/22, 93-1.

Brief Summary of Engrossed First Substitute Bill

- Adds certain crimes to the list of offenses eligible for notification by the Department of Corrections.
- Prohibits application of certain victim and witness notification requirements if a person was granted release due to resentencing proceedings.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5245 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Gildon, Ranking Member; Dozier, McCune, Saldaña and Wilson, C.

Staff: Kelsey-anne Fung (786-7479)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5245 as recommended by Committee on Human Services, Reentry & Rehabilitation be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Capital; Robinson, Vice Chair, Operating & Revenue; Wilson, L., Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Schoesler, Assistant Ranking Member, Capital; Braun, Carlyle, Conway, Darneille, Dhingra, Gildon, Hasegawa, Hunt, Keiser, Liias, Mullet, Muzzall, Pedersen, Van De Wege, Wagoner, Warnick and Wellman.

Staff: Kayla Hammer (786-7305)

Background: Victim and Witness Notification Program. The Washington State Department of Corrections (DOC) must send written notice of parole, release, community custody, work release placement, furlough, or escape to certain persons. Except for escape and emergency furloughs, such notice must be provided at least 30 days in advance. This notice requirement applies to incarcerated individuals convicted of a violent offense, a sex offense, a domestic violence court order violation, or felony harassment. The list of persons to whom the notice must be sent includes:

- the chief of police of the city in which the incarcerated individual will reside or be placed in work release;
- the sheriff of the county in which the incarcerated individual will reside or be placed in work release;
- the sheriff of the county where the incarcerated individual was convicted, if DOC does not know where the person will reside;
- the State Patrol, only if the incarcerated individual is a sex offender; and
- if notice has been requested in writing, to:
 1. any victim or next of kin if the crime is a homicide;
 2. any witness who testified against the incarcerated individual in any court proceedings involving a violent offense;
 3. any person specified in writing by the prosecuting attorney; and
 4. any person who has requested notice, at least 60 days prior to release, about a sex offender.

Information regarding victims, next of kin, witnesses, or person specified by the prosecuting attorney and the notice itself are confidential. Whenever DOC mails notice and the notice is returned as undeliverable, DOC must attempt alternative methods of notification, including a telephone call to the person's last known telephone number. DOC must also provide immediate notification if there has been an escape, and notification if the person has been recaptured.

Victims Council. Through DOC internal policy, DOC maintains a victims council to address issues relevant to protecting the safety of victims and survivors. The council meets quarterly and, by majority vote of its members, makes recommendations to the DOC

secretary on existing or proposed programs and practices as they affect crime victims and proposes changes to statutes, administrative rules, or DOC policy. The council consists of one victim or survivor not representing an agency or organization, and representatives from community, state, and local agencies and organizations that support the broad needs of victims and survivors, represent different crime categories, and represent diverse ethnic backgrounds and broad geographic areas, both rural and urban. DOC victim services program employees provide support staff for the council.

Felony Resentencing. Legislation enacted in 2020 authorizes the prosecutor of the county in which a person was sentenced to petition the sentencing court or the sentencing court's successor to resentence the person if the original sentence no longer advances the interests of justice. The prosecuting attorney must make reasonable efforts to notify victims and survivors of victims, of the petition for resentencing and the date of the resentencing hearing. The court must provide an opportunity for victims and survivors of victims of any crimes for which a person has been convicted to present a statement personally or by representation.

Summary of Engrossed First Substitute Bill: DOC's victim and witness notification program is expanded to include notification regarding incarcerated individuals convicted of domestic violence, assault in the third degree, unlawful imprisonment, vehicular homicide by disregard for the safety of others, or controlled substance homicide.

The victim and witness notification requirements of the statute do not apply if a person's release is ordered by the court pursuant to resentencing proceedings.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: The victim notification piece of this bill is common sense reform, and a simply tweak to DOC notification procedures. The second piece is creating a process to protect those victims who are at extreme risk and extreme poverty, who may be afraid to go to court to testify, even with a protection order. A protection order is just a piece of paper and does not protect victims.

OTHER: This bill expands crimes eligible for DOC notification to victims and witnesses. Adding controlled substance homicide and vehicular homicide will create consistency so all the homicides are eligible for notification. Adding domestic violence offenses recognizes

that these crimes carry the greatest risk of recidivism and often are the result of a long history of abuse. Adding assault in the third degree and unlawful imprisonment ensures that the actual behavior and impact on victims is reflected in notification requirements even when more serious offenses have been pled down. These expansions are necessary to ensure victims feel safe and have adequate time to pursue protection orders and other safety precautions.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Sharon Brown, Prime Sponsor.

OTHER: Sheila Lewallen, Washington State Department of Corrections.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): None.

Persons Testifying (Ways & Means): PRO: Senator Sharon Brown, Prime Sponsor.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Updates underlying statutes to reflect changes made during the 2021 legislative session.
- Removes the prohibition on application of certain victim and witness notification requirements if a person was granted release due to resentencing proceedings.
- Exempts from disclosure under the Public Records Act certain information and records revealing the existence of a notification or requests for notification relating to a person's custody or supervision status, upcoming hearing, case disposition, or service of a protection order.
- Delays the effective date to July 1, 2022.