

HOUSE BILL REPORT

HB 2048

As Reported by House Committee On:
Community Safety, Justice, & Reentry

Title: An act relating to supervision of domestic violence in criminal sentencing.

Brief Description: Concerning supervision of domestic violence in criminal sentencing.

Sponsors: Representatives Mosbrucker, Goodman, Graham, Doglio and Davis.

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 1/11/24, 1/18/24 [DPS].

Brief Summary of Substitute Bill

- Removes the requirement under the Sentencing Reform Act (SRA) that domestic violence was "pleaded and proven" in provisions relating to supervision of individuals convicted of specified domestic violence offenses.
- Requires the Department of Corrections to conduct an audit of its supervisory obligations for specified domestic violence offenses.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Goodman, Chair; Simmons, Vice Chair; Mosbrucker, Ranking Minority Member; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse, Graham and Ramos.

Staff: Michelle Rusk (786-7153).

Background:

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.

The Sentencing Reform Act and Domestic Violence Offenses.

The Sentencing Reform Act (SRA) provides the framework for sentencing of persons convicted of felony offenses. A crime of domestic violence is defined by statute to mean certain crimes when committed by one family member, household member, or intimate partner against another. The SRA further defines domestic violence as physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury, or assault, sexual assault, or stalking of one intimate partner or family or household member by another.

Pleaded and Proven.

Several provisions of the SRA relating to domestic violence include a requirement that domestic violence was "pleaded and proven," including provisions related to supervision of people convicted of certain domestic violence offenses.

The Department of Corrections (DOC) must supervise certain individuals who are sentenced to probation in superior court for specified offenses. Specifically, the DOC must supervise individuals who have:

- a current conviction for a repetitive domestic violence offense where domestic violence has been pleaded and proven after August 1, 2011; and
- a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011.

The DOC must also supervise an individual sentenced to community custody, regardless of their risk classification, if the individual has a current conviction for:

- a domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011; or
- a domestic violence felony offense where domestic violence has been pleaded and proven.

Summary of Substitute Bill:

Pleaded and Proven Standard Removed.

The requirement under the SRA that domestic violence was "pleaded and proven" is eliminated in provisions relating to supervision of individuals convicted of certain domestic violence offenses.

Audit.

The DOC must conduct an audit and report on its supervisory obligations with respect to specified domestic violence offenses. The audit must identify: (1) the number of individuals for whom a Washington court ordered supervision by the department for

specified offenses; (2) the number of individuals within the number identified in the foregoing section 1 for whom supervision was ordered but did not or has not occurred; and (3) the reason or reasons why the DOC did not undertake supervision if the numbers identified in the foregoing sections 1 and 2 are not the same.

The audit and report must cover the time period between July 1, 2022, and June 30, 2024, and must be reported to the appropriate committees of the Legislature by December 1, 2024.

Substitute Bill Compared to Original Bill:

The substitute bill:

- restores provisions in the SRA requiring that domestic violence was pleaded and proven relating to: (1) the calculation of offender score; (2) eligibility for certain sentencing alternatives; (3) required risk assessments; and (4) the definition of "recidivist offenses"; and
- requires the DOC to conduct an audit and report on certain supervisory obligations.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on January 19, 2024.

Effective Date of Substitute Bill: 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 policy is about domestic violence and the why of this policy is that survivors, although brave and strong, are also broken. Fear follows crime, despite what we do. Even as we have abusers in prisons, the fear remains with survivors and victims on the outside. Supervision of a perpetrator is critical. This policy ensures that at every level possible, felony repeat-offenders are supervised once they leave and transition from confinement.

This policy is aimed at clarifying the Legislature's intent for the DOC to supervise certain domestic violence offenders. Today, lawyers, judges, and individuals in domestic violence cases enter sentencing with the expectation that if there are qualifying domestic violence convictions, there will be DOC supervision. This is based on the understanding of the law, written agreements, and court orders. However, the reality of what happens is too often different. We have individuals committing qualifying domestic violence offenses and sometimes they are not supervised. This issue arises from administrative issues like what does "pleaded and proven" mean? Supervision may be denied or closed because of how things are stated in different ways.

We have corresponded with the DOC since 2018 about this issue and documenting case after case. There is consensus that removing "pleaded and proven" from the supervision section will greatly reduce confusion. This bill should focus narrowly on supervision and we do not want unintended consequences.

(Opposed) None.

Persons Testifying: Representative Gina Mosbrucker, prime sponsor; and David Martin, King County Prosecuting Attorney's Office.

Persons Signed In To Testify But Not Testifying: None.