

HOUSE BILL REPORT

E2SSB 5635

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

Title: An act relating to enhancing victims' rights.

Brief Description: Concerning victims' rights.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Braun, Dhingra, Frame, Wilson, C. and Wilson, L.).

Brief History:

Committee Activity:

Community Safety, Justice, & Reentry: 2/14/24, 2/19/24 [DPA].

Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)

- Expands the statutory rights provided to victims, survivors of victims, and witnesses of crimes in certain proceedings to include the rights to have the victim's safety considered in determinations of bail and other conditions of pretrial release, to have the victim's availability considered at the court's discretion when setting a trial date, and to be informed of available victim notification services.

HOUSE COMMITTEE ON COMMUNITY SAFETY, JUSTICE, & REENTRY

Majority Report: Do pass as amended. 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: Corey Patton (786-7388).

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 Washington Constitution grants crime victims basic and fundamental rights, while additional rights are further enumerated in statute. A reasonable effort must be made to ensure that victims, survivors of victims, and witnesses of crimes have access to such rights in adult and juvenile criminal proceedings and sexually violent predator commitment proceedings. Examples of statutory rights include the following:

- with respect to victims of violent and sex crimes, the right to have a crime victim advocate from a crime victim or witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the victim, and at any judicial proceedings related to criminal acts committed against the victim;
- with respect to victims and survivors of victims, the right to be physically present in court during trial, or if subpoenaed to testify, to be scheduled as early as practical in the proceedings in order to be physically present during trial after testifying and not to be excluded solely because they have testified; and
- with respect to victims and survivors of victims, the right to be informed by the prosecuting attorney of the date, time, and place of the trial and of the sentencing hearing for felony convictions upon request by a victim or survivor.

Summary of Amended Bill:

The statutory rights of victims, survivors of victims, and witnesses of crimes are expanded to include the following:

- the right to have the victim's safety considered in bail determinations and any determinations of whether to impose other conditions of pretrial release;
- the right to have the written input of the victim or the victim's family considered at the court's discretion when setting a trial date, provided that such input may not impair the parties' rights to present an effective prosecution or defense and the court must explain the reason for any delay if the trial date cannot be set in a reasonable time frame; and
- the right to be informed of victim notification services which may be available and can provide notification regarding the offender's place of incarceration, release from confinement, or escape.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill: (1) requires a reasonable effort to be made to ensure that the victim's safety is considered in bail determinations and any determinations of whether to impose other conditions of pretrial release, rather than only in bail determinations; and (2) makes nonsubstantive grammatical changes to ensure the amendatory language in the bill is consistent with the underlying statutory language.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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 bill is intended to grant protections to victims that are no less vigorous than the protections we grant to criminal defendants. Victims have to navigate a difficult and complicated process, and we often lose victim participation in prosecutions due to court delays. This bill will ensure that victims' voices are heard when setting trial dates, their safety is considered at bail determinations, and they are notified of how to track offenders' incarceration and release status.

(Opposed) This bill is unnecessary because court rules already allow courts to evaluate the risk to victims when ordering release conditions and to consider victims' availability when setting trial dates. Courts may conclude that this bill requires even more emphasis on these factors. This will make it increasingly difficult for defendants to obtain reasonable bail pending trial on serious charges, which particularly disadvantages poor defendants and may cause them to sit in custody for years while awaiting trial. Bail is usually based on nothing more than the prosecutor's allegations.

Persons Testifying: (In support) Senator John Braun, prime sponsor; and Julie Huffman, Seattle City Attorney's Office.

(Opposed) David Trieweiler, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.