

Domestic Violence

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Domestic violence occurs when various crimes, such as assault, stalking, malicious mischief, kidnapping, unlawful imprisonment and rape, are committed by one family or household member against another.

Overview

There are hundreds of victims of domestic violence (DV) each year. The toll in injury, suffering, and death does not affect just adult spouses or partners, but also the children, friends, and families of the victims. DV laws provide civil and criminal remedies to victims of domestic violence. Under Washington statutes, law enforcement called to a DV situation must arrest the abuser if:

- The incident involves a person 16 years or older;
- Who has allegedly assaulted a family or household member within the preceding four hours;
- The officer believes an assault has occurred which resulted in bodily injury to the victim;
- Physical action occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death.

In the civil context, a person who is a victim of domestic violence may petition the court for a DV protection order or for a restraining order. A DV protection order prohibits the alleged abuser from having any contact with the victim, from threatening, harassing, stalking or molesting the victim or other family members, and from harassing the victim in person, by telephone, email or mail. The order can also exclude the alleged abuser from the victim's home, work, school, or the school or daycare of the victim's children.

In family law actions such as divorce, paternity, legal separation, petition for a parenting plan or a parenting plan modification, the victim may request a restraining order. Restraining orders are first entered on a temporary basis, but may be made permanent. Restraining orders may order the alleged abuser to stay away from the victim in ways similar to those of a DV protection order. If the abuser violates a protection order or restraining order, the police must enforce the order by arresting the abuser. If injuries from the abuse require medical care or prevent the victim from going to work, the victim may be entitled to money from the state Crime Victims' Compensation program.

The Address Confidentiality Program (ACP) allows victims of domestic violence, sexual assault, or stalking to have an alternative address designated as his or her substitute mailing address filed with the Secretary of State's Office to protect against potential abuse from those who would track a public address.

Legislative History

In 2006, the legislature passed ESHB 2848 which provided that communications made between a domestic violence victim and domestic violence advocate were privileged and could not be disclosed without the consent of the victim. The legislature also passed SHB 2576 that established a new civil order called the sexual assault protection order (SAPO) similar to a domestic violence protection order (DVPO). A SAPO allows a person to file a petition who (1) may not otherwise qualify as a family member for purposes of obtaining a domestic violence protection order; and (2) who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration, including a single incident. The petition must be

accompanied by an affidavit stating specific statements or actions made at the time of the sexual assault or subsequently thereafter that give rise to a reasonable fear of future dangerous acts.

In 2008, the Legislature passed several pieces of DV legislation. SHB 1421 ensured that a victim's records contained under the Address Confidentiality Program (ACP) could be released only by the Secretary of State pursuant to court order. It also provided that a court order for information regarding ACP participants could be issued only upon a probable cause finding by a judicial officer that the release of the ACP participant's information was legally necessary in the course of a criminal investigation or prosecution, or the release prevented an immediate risk to a minor according to the statutory requirements of Washington's child welfare system.

HB 1520 provided that law enforcement officers, prosecuting attorneys, and other government officials could not ask or require a victim of an alleged sex offense to submit to a polygraph exam as a condition of proceeding with the investigation of the offense, and that the victim's refusal to take a polygraph exam could not by itself prevent the investigation, charging, or prosecution of the offense.

SHB 1642 made it a gross misdemeanor for a person subject to a no-contact, protection, or restraining order who knows of the order and then violates a restraint provision prohibiting contact with or any acts or threats of violence against, or stalking of, a protected party.

SHB 2602 provided that an employee could take reasonable leave from work or leave on a reduced leave schedule for specified activities related to the employee or family member being a victim of domestic violence, sexual assault, or stalking. The employee may choose to use sick leave and other paid time off, compensatory time, or unpaid leave time in order to seek legal or law enforcement assistance, seek treatment by a health care provider for physical or mental injuries, obtain services from a domestic violence shelter, rape crisis center or other social services program or participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or family members. SSB 6500 allows state employees to receive leave under the Washington State Leave Sharing Program (which allows state employees to donate annual leave, sick leave, or personal holidays to fellow state employees) if the employee is a victim of domestic violence, sexual assault, or stalking.

SB 5953 authorized persons to be charged with assault in the second degree when they assault another by strangulation, defined as compressing or attempting to compress a person's neck, thereby obstructing or intending to obstruct the person's blood flow or ability to breathe. Assault in the second degree is a class B felony and as a level IV felony. This crime is punishable by three to nine months of confinement for a first offense.

Issues and Outlook

House Republicans should continue to emphasize that violence in the home is a terrible crime and work to provide innocent victims of DV the protections and procedures they need to ensure their safety. Potential legislation could include proposals to increase the punishments of those who commit acts of felony DV, create more effective legal remedies for those seeking protection against DV, and establish more coordinated and rapid community responses. Proposals should also ensure that those accused of domestic violence are given more adequate protections and remedies against false allegations of DV. There will be proposals introduced dealing with providing enhanced funding for support and advocacy services for victims and children living in homes with DV. It is important for Members to consider such proposals in the context of demonstrated need and the resources available to fund such measures.