



Washington State Attorney General
Rob McKenna
2009 Session — Supporting Law Enforcement: Domestic
Violence Sanctions

THE PROBLEM

25 years after the passage of the Domestic Violence Protection Act, our laws do not treat domestic violence with the seriousness it demands. Weakness in current law results in mild sentences for repeat offenders. Extra sentencing consideration is allowed for serial drug offenders, car thieves and other chronic criminals, but not for domestic abusers. This leaves too many victims unprotected.

BACKGROUND

- Repeat felony domestic violence offenders often begin their criminal behavior as misdemeanor domestic violence offenders, yet current law does not allow the scoring of those offenses when sentencing the worst offenders--those convicted of felony domestic violence.
- The lack of sentence multipliers for domestic violence felonies is a serious problem. Unlike drug, sex, burglary, car theft and felony traffic offenses, where multiplying penalties significantly increase an offender's sentence, the Sentencing Reform Act (SRA) does not multiply offender scores for felony crimes of domestic violence.
- Today the label of "domestic violence" means nothing when it comes to punishments, as the designation alone does not increase the sanction imposed.

ENSURING PUNISHMENT FOR DOMESTIC VIOLENCE OFFENDERS

The Attorney General's Office is requesting legislation to amend the appropriate RCWs and create a new section. The changes would:

- Score prior misdemeanor domestic violence history when sentencing felony domestic violence convictions and create a new list of enumerated serious domestic violence misdemeanor offenses.
- Multiplying, or counting more heavily, a certain class of prior domestic violence felony convictions by adding language to RCW 9.94A.525 (offender score calculation) that would give two points to the certain domestic violence crimes, including: Felony Violation No Contact Order/Protection Order (assault), Felony Harassment Domestic Violence, Felony Stalking Domestic Violence, Burglary 1 Domestic Violence, and Kidnapping 1 and 2 Domestic Violence.

- Amend 9.94A.030 (Sentencing Reform Act definitions) to add "domestic violence," defined as a criminal offense committed between a defendant and a victim having a relationship as defined in RCW 10.99.020 or 26.50.010.
- Make the designation of "Domestic Violence" mean something by requiring that it be plead and proven as an element of a particular offense. The benefit of pleading and proving domestic violence is significant as history at the felony level would be given new meaning and repeat offenders would receive tougher sentences

CASE STUDIES

Damon Overby: Accumulated eight domestic violence convictions for assaults on four women over an 18 year period. His latest offense involved attempting to strangle his girlfriend.

- Punishment under the current system: His domestic violence misdemeanor convictions did not "score," leading to a standard sentencing range of 9-12 months. He received 12 months of work release.
- Under our proposed reforms: Instead of an offender score of "3" his extensive prior domestic violence misdemeanors would generate a score of "9," likely extending his sentencing range to 51-60 months in custody.

Jeffrey Allison: A serial domestic violence offender and stalker who repeatedly threatened to kill his girlfriend, communicating threats in person by violating no-contact orders and electronically through text messaging and voice mail.

- Punishment under the current system: Allison pleaded guilty to a felony for violating a no-contact order and a misdemeanor for stalking. He had an offender score of "3" due to past prior convictions for four different felony offenses. Yet his misdemeanor history of domestic violence would not score. As a result, Allison received a 12 month suspended sentence, *spending no time behind bars*.
- Under our proposed reforms: Allison's domestic violence convictions for harassment and violating a no-contact order would contribute to his offender score. So instead of a "3," Mr. Allison would have an offender score of "5" and a new standard range of 33 to 43 months.

Harold Gillenwater: A notorious domestic abuser well known to the Seattle Police Department's domestic violence unit. He repeatedly violated a no-contact order, threatening to kill his victim. His rap sheet in King County spans five years and includes misdemeanors for assault, theft and property destruction.

- Punishment under the current system: For his latest felony conviction for violating a no contact order, his standard range with one prior felony conviction and a score of "2" was 13 to 17 months. He was sentenced to 13 months.

- Under our proposed reforms: Gillenwater's prior felony for violating a no contact order and his two prior domestic violence misdemeanor assault convictions would generate a score of "6." His likely sentencing range would be 22-29 months.