



MONTANA
COALITION AGAINST
DOMESTIC AND SEXUAL
VIOLENCE

HB 611
Senate Judiciary
3/22/05

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No AB 611

In its original form, this bill would've put teeth into the PFMA statutes for the first time. HB 611, in its original form, took the loophole out of the statute by eliminating the option to charge a PFMA offender with misdemeanor after misdemeanor after misdemeanor, and never receive a truly stepped up penalty for the offense. The bill had made a second and third PFMA offense a felony. As the statute is, as of the 3rd offense, an offender *can* be charged with a felony, but this almost never happens, and as a result, offenders are back on the street almost immediately after arrest and victims and their children have no respite, no pocket of safety from which to decide how to change or escape the circumstances of their lives. Here's some evidence: You may recall the strangulation bill that was before this committee, the bill that sought to make strangulation in the course of a PFMA a felony. The fiscal note reflected that offenders would spend 41 months in prison. That's almost four years. Nobody in the domestic violence service community believed a PFMA offender ever did that kind of time for a felony PFMA. I asked Director Slaughter about it and he pointed out that the estimated prison time under the assumptions was based on the amount of time done by perpetrators of strangulation and similar crimes outside the PFMA context. That is, crimes between non-intimates. I asked why not base the fiscal note on the prison time for felony PFMA offenders and he said, because no one gets charged with PFMA felonies. No one goes to prison for them.

Interestingly, in the course of this conversation, Director Slaughter also pointed out to me the reason why the 4th DUI offense is a felony. He told me (these numbers may not be exact) that back in the mid-90s when the DUI laws were getting tougher, they calculated how many first time offenders there were – about 4000. How many people got 2nd DUIs? about 2000. How many 3rd DUIs? about 1000. How many 4th offenses – 220. The fourth offense isn't the felony because 3 DUIs are understandable, but because that was the number of felony DUI offenders we could *afford* to lock up.

Another fact: In Montana, the 2nd animal cruelty offense is a felony. Beat your dog twice, it's a felony. Beat your wife twice, three times, four times, it's a misdemeanor.

So, because domestic violence is so prevalent, cost seems to keep us from getting serious about it. In its original form, this bill had 8 million dollar fiscal note. I'm sure it was somewhat inflated, but the truth is there are a lot of PFMA repeat offenders. And there probably will continue to be if we can't address problem more seriously. It's just an ugly reality if it's the case that we can't treat the crime seriously because we can't afford to.

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The Centers for Disease Control and Prevention (CDC) has determined that domestic violence is the leading cause of injury among women and one of women's most serious health problems. Research shows that coordinated responses from the justice system that include initial harsh penalties, followed by mandatory participation in a batterers' intervention program and monitoring by a probation officer, followed by referral back to the court for harsher penalties if sentencing is not followed are the most effective means of decreasing recidivism among this class of offenders. It is particularly effective with young offenders who learn from start that this is no slap on wrist, a scold and a wink, kind of crime.

We think House Judiciary appreciated the problem, but didn't feel they could pass a bill with an 8 million dollar fiscal note. Yet, they wanted to do something. So they amended the bill to increase fines and jail time for misdemeanor PFMA offenses. It's a small step toward addressing a big problem, but worth taking.

We encourage your support on HB 611.

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