

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: 10/11/21

AGENDA ITEM:	
Amending the municipal code to add a crime of exposing minor child to domestic violence and a nonmerger clause for domestic violence crimes	
PREPARED BY:	DIRECTOR APPROVAL:
Jon Walker	
DEPARTMENT:	
Legal	
ATTACHMENTS:	
BUDGET CODE:	AMOUNT:
SUMMARY:	

Domestic violence is a serious problem and is particularly damaging to children who are exposed to it. According to the Office on Women’s Health of the United States Department of Health and Human Services:

Many children exposed to violence in the home are also victims of physical abuse. Children who witness domestic violence or are victims of abuse themselves are at serious risk for long-term physical and mental health problems. Children who witness violence between parents may also be at greater risk of being violent in their future relationships. If you are a parent who is experiencing abuse, it can be difficult to know how to protect your child.

This ordinance creates a separate crime for individuals who commit an act of domestic violence that is witnessed by a minor child. In witnessing a crime of domestic violence, the child is a victim and should be treated as such. This would allow the city to prosecute both underlying domestic violence crime (e.g. assault) and the separate crime of exposing a child to it. Due to its seriousness the crime of exposing a minor child to domestic violence, it carries a mandatory minimum of 15 days in jail. The mandatory minimum can be waived or reduced if (1) the prosecutor recommends it after reviewing relevant factors or (2) the municipal court enters written findings that the mandatory minimum is not appropriate after considering relevant factors.

The ordinance also includes a nonmerger clause. There is a presumption in Washington law that a person may be convicted of only one crime stemming from a single act, but a legislative body may allow an accused to be convicted of more than one crime stemming from a single act. Staff recommends that Council adopt the nonmerger language as that will permit a domestic violence perpetrator to be held accountable not only for the damage caused by the underlying crime, such as an assault, but for the damage caused by exposing a child to domestic violence, as these a two separate societal harms.

RECOMMENDED MOTION: I move to adopt Ordinance No. _____.

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, AMENDING CHAPTER 6.56 OF THE MUNICIPAL CODE TO
ADD A CRIME OF EXPOSING A MINOR CHILD TO DOMESTIC VIOLENCE
AND PROVIDING FOR NONMERGER OF DOMESTIC VIOLENCE CRIMES**

WHEREAS, domestic violence has serious consequences for the safety and well-being of residents of Marysville; and

WHEREAS, children who witness domestic violence or are victims of abuse themselves are at serious risk for long-term physical and mental health problems; and

WHEREAS, children who witness violence between parents may also be at greater risk of being violent in their future relationships; and

WHEREAS, holding perpetrators of domestic violence accountable enhances public health and safety.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE,
WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Two sections are added to chapter 6.56 of the municipal code as set forth in Exhibit A.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

SECTION 3. Upon approval by the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

SECTION 4. Effective Date. This ordinance shall become effective five days after the date of its publication by summary.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2021.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
_____, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

Date of publication: _____

Effective Date (5 days after publication): _____

EXHIBIT A

6.56.030 Exposing Minor Child to Domestic Violence

(1) A person commits the crime of exposing a minor child to domestic violence when he or she:

(a) Commits a crime of domestic violence, as defined in RCW 10.99.020; and

(b) The crime is committed in the immediate presence of, or is witnessed by, the suspect's or the victim's minor child, minor stepchild, or a minor child residing within the household of the suspect or victim. A minor child or minor stepchild is a person who is, on the date of the violation, under the age of 18 years.

(c) For the purposes of this section, "witnessed" means that the crime is seen or directly perceived in any other manner by the minor child.

(2) Exposing a minor child to domestic violence is a gross misdemeanor. A person convicted of exposing a minor child to domestic violence shall serve not less than 15 days in confinement unless:

(a) The city prosecutor recommends a sentence of less than 15 days after considering factors relevant to the case including prior domestic violence offenses committed by the defendant, the level of violence witnessed by the children, ages of the children, whether or not the child resides full time in home with the perpetrator, and any history of violence in the home or between the defendant and victim; or

(b) The municipal court enters written findings that a sentence of 15 days or more would not serve the interests of justice. Factors to be considered by the court include prior domestic violence offenses committed by the defendant, the level of violence witnessed by the children, ages of the children, whether or not the child resides full time in home with the perpetrator, and any history of violence in the home or between the defendant and victim.

(3) A mandatory minimum jail sentence under this section will be consecutive to any other sentence arising from the same incident.

6.56.040 Nonmerger of domestic violence crimes.

Every person who, in the commission of a crime of domestic violence, shall commit any other crime(s), may be punished for the other crime(s) as well as for the crime of domestic violence, and may be prosecuted for each crime separately.