
SUBSTITUTE HOUSE BILL 1319

State of Washington

60th Legislature

2007 Regular Session

By House Committee on Public Safety & Emergency Preparedness
(originally sponsored by Representatives O'Brien, Pearson, Dickerson,
Blake, Kenney and Ormsby; by request of Department of Corrections)

READ FIRST TIME 02/12/07.

1 AN ACT Relating to the protection of employees, contract staff, and
2 volunteers of a correctional agency from stalking; and amending RCW
3 9A.46.110.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9A.46.110 and 2006 c 95 s 3 are each amended to read
6 as follows:

7 (1) A person commits the crime of stalking if, without lawful
8 authority and under circumstances not amounting to a felony attempt of
9 another crime:

10 (a) He or she intentionally and repeatedly harasses or repeatedly
11 follows another person; and

12 (b) The person being harassed or followed is placed in fear that
13 the stalker intends to injure the person, another person, or property
14 of the person or of another person. The feeling of fear must be one
15 that a reasonable person in the same situation would experience under
16 all the circumstances; and

17 (c) The stalker either:

18 (i) Intends to frighten, intimidate, or harass the person; or

1 (ii) Knows or reasonably should know that the person is afraid,
2 intimidated, or harassed even if the stalker did not intend to place
3 the person in fear or intimidate or harass the person.

4 (2)(a) It is not a defense to the crime of stalking under
5 subsection (1)(c)(i) of this section that the stalker was not given
6 actual notice that the person did not want the stalker to contact or
7 follow the person; and

8 (b) It is not a defense to the crime of stalking under subsection
9 (1)(c)(ii) of this section that the stalker did not intend to frighten,
10 intimidate, or harass the person.

11 (3) It shall be a defense to the crime of stalking that the
12 defendant is a licensed private investigator acting within the capacity
13 of his or her license as provided by chapter 18.165 RCW.

14 (4) Attempts to contact or follow the person after being given
15 actual notice that the person does not want to be contacted or followed
16 constitutes prima facie evidence that the stalker intends to intimidate
17 or harass the person. "Contact" includes, in addition to any other
18 form of contact or communication, the sending of an electronic
19 communication to the person.

20 (5)(a) Except as provided in (b) of this subsection, a person who
21 stalks another person is guilty of a gross misdemeanor.

22 (b) A person who stalks another is guilty of a class C felony if
23 any of the following applies: (i) The stalker has previously been
24 convicted in this state or any other state of any crime of harassment,
25 as defined in RCW 9A.46.060, of the same victim or members of the
26 victim's family or household or any person specifically named in a
27 protective order; (ii) the stalking violates any protective order
28 protecting the person being stalked; (iii) the stalker has previously
29 been convicted of a gross misdemeanor or felony stalking offense under
30 this section for stalking another person; (iv) the stalker was armed
31 with a deadly weapon, as defined in RCW 9.94A.602, while stalking the
32 person; (v) the stalker's victim is or was a law enforcement officer,
33 judge, juror, attorney, victim advocate, legislator, community
34 correction's officer, an employee, contract staff person, or volunteer
35 of a correctional agency, or an employee of the child protective, child
36 welfare, or adult protective services division within the department of
37 social and health services, and the stalker stalked the victim to
38 retaliate against the victim for an act the victim performed during the

1 course of official duties or to influence the victim's performance of
2 official duties; or (vi) the stalker's victim is a current, former, or
3 prospective witness in an adjudicative proceeding, and the stalker
4 stalked the victim to retaliate against the victim as a result of the
5 victim's testimony or potential testimony.

6 (6) As used in this section:

7 (a) "Correctional agency" means any state, county, or municipally
8 operated agency with the authority to direct the release of a person
9 serving a sentence or term of confinement and includes but is not
10 limited to the department of corrections, the indeterminate sentence
11 review board, and the department of social and health services.

12 (b) "Follows" means deliberately maintaining visual or physical
13 proximity to a specific person over a period of time. A finding that
14 the alleged stalker repeatedly and deliberately appears at the person's
15 home, school, place of employment, business, or any other location to
16 maintain visual or physical proximity to the person is sufficient to
17 find that the alleged stalker follows the person. It is not necessary
18 to establish that the alleged stalker follows the person while in
19 transit from one location to another.

20 ((+b+)) (c) "Harasses" means unlawful harassment as defined in RCW
21 10.14.020.

22 ((+e+)) (d) "Protective order" means any temporary or permanent
23 court order prohibiting or limiting violence against, harassment of,
24 contact or communication with, or physical proximity to another person.

25 ((+d+)) (e) "Repeatedly" means on two or more separate occasions.

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