

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1206

Chapter 64, Laws of 2011

(partial veto)

62nd Legislature
2011 Regular Session

HARASSMENT--CRIMINAL JUSTICE PARTICIPANTS

EFFECTIVE DATE: 07/22/11

Passed by the House March 3, 2011
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 4, 2011
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved April 14, 2011, 10:22 a.m.,
with the exception of Section 3 and
Section 4 which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1206** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 14, 2011

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1206

Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By House General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt, and Schmick)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to harassment against criminal justice
2 participants; amending RCW 9A.46.020; reenacting and amending RCW
3 40.24.030; adding a new section to chapter 9.94A RCW; prescribing
4 penalties; and providing an expiration date.

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

6 **Sec. 1.** RCW 9A.46.020 and 2003 c 53 s 69 are each amended to read
7 as follows:

8 (1) A person is guilty of harassment if:

9 (a) Without lawful authority, the person knowingly threatens:

10 (i) To cause bodily injury immediately or in the future to the
11 person threatened or to any other person; or

12 (ii) To cause physical damage to the property of a person other
13 than the actor; or

14 (iii) To subject the person threatened or any other person to
15 physical confinement or restraint; or

16 (iv) Maliciously to do any other act which is intended to
17 substantially harm the person threatened or another with respect to his
18 or her physical or mental health or safety; and

1 (b) The person by words or conduct places the person threatened in
2 reasonable fear that the threat will be carried out. "Words or
3 conduct" includes, in addition to any other form of communication or
4 conduct, the sending of an electronic communication.

5 (2)(a) Except as provided in (b) of this subsection, a person who
6 harasses another is guilty of a gross misdemeanor.

7 (b) A person who harasses another is guilty of a class C felony if
8 ~~((either))~~ any of the following ~~((applies))~~ apply: (i) The person has
9 previously been convicted in this or any other state of any crime of
10 harassment, as defined in RCW 9A.46.060, of the same victim or members
11 of the victim's family or household or any person specifically named in
12 a no-contact or no-harassment order; ~~((or))~~ (ii) the person harasses
13 another person under subsection (1)(a)(i) of this section by
14 threatening to kill the person threatened or any other person; ~~((iii))~~
15 the person harasses a criminal justice participant who is performing
16 his or her official duties at the time the threat is made; or (iv) the
17 person harasses a criminal justice participant because of an action
18 taken or decision made by the criminal justice participant during the
19 performance of his or her official duties. For the purposes of
20 (b)(iii) and (iv) of this subsection, the fear from the threat must be
21 a fear that a reasonable criminal justice participant would have under
22 all the circumstances. Threatening words do not constitute harassment
23 if it is apparent to the criminal justice participant that the person
24 does not have the present and future ability to carry out the threat.

25 (3) Any criminal justice participant who is a target for threats or
26 harassment prohibited under subsection (2)(b)(iii) or (iv) of this
27 section, and any family members residing with him or her, shall be
28 eligible for the address confidentiality program created under RCW
29 40.24.030.

30 (4) For purposes of this section, a criminal justice participant
31 includes any (a) federal, state, or local law enforcement agency
32 employee; (b) federal, state, or local prosecuting attorney or deputy
33 prosecuting attorney; (c) staff member of any adult corrections
34 institution or local adult detention facility; (d) staff member of any
35 juvenile corrections institution or local juvenile detention facility;
36 (e) community corrections officer, probation, or parole officer; (f)
37 member of the indeterminate sentence review board; (g) advocate from a
38 crime victim/witness program; or (h) defense attorney.

1 (5) The penalties provided in this section for harassment do not
2 preclude the victim from seeking any other remedy otherwise available
3 under law.

4 **Sec. 2.** RCW 40.24.030 and 2008 c 312 s 3 and 2008 c 18 s 2 are
5 each reenacted and amended to read as follows:

6 (1)(a) An adult person, a parent or guardian acting on behalf of a
7 minor, or a guardian acting on behalf of an incapacitated person, as
8 defined in RCW 11.88.010, and (b) any criminal justice participant as
9 defined in RCW 9A.46.020 who is a target for threats or harassment
10 prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), and any family
11 members residing with him or her, may apply to the secretary of state
12 to have an address designated by the secretary of state serve as the
13 person's address or the address of the minor or incapacitated person.
14 The secretary of state shall approve an application if it is filed in
15 the manner and on the form prescribed by the secretary of state and if
16 it contains:

17 (~~(a)~~) (i) A sworn statement, under penalty of perjury, by the
18 applicant that the applicant has good reason to believe (~~(i)~~) (A)
19 that the applicant, or the minor or incapacitated person on whose
20 behalf the application is made, is a victim of domestic violence,
21 sexual assault, trafficking, or stalking(~~(i)~~) and (~~(ii)~~) that the
22 applicant fears for his or her safety or his or her children's safety,
23 or the safety of the minor or incapacitated person on whose behalf the
24 application is made; or (B) that the applicant, as a criminal justice
25 participant as defined in RCW 9A.46.020, is a target for threats or
26 harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

27 (~~(b)~~) (ii) If applicable, a sworn statement, under penalty of
28 perjury, by the applicant, that the applicant has reason to believe
29 they are a victim of (A) domestic violence, sexual assault, or stalking
30 perpetrated by an employee of a law enforcement agency, or (B) threats
31 or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

32 (~~(c)~~) (iii) A designation of the secretary of state as agent for
33 purposes of service of process and for the purpose of receipt of mail;

34 (~~(d)~~) (iv) The residential address and any telephone number where
35 the applicant can be contacted by the secretary of state, which shall
36 not be disclosed because disclosure will increase the risk of (A)

1 domestic violence, sexual assault, trafficking, or stalking, or (B)
2 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or
3 (iv);

4 ~~((e))~~ (v) The signature of the applicant and of any individual or
5 representative of any office designated in writing under RCW 40.24.080
6 who assisted in the preparation of the application, and the date on
7 which the applicant signed the application.

8 (2) Applications shall be filed with the office of the secretary of
9 state.

10 (3) Upon filing a properly completed application, the secretary of
11 state shall certify the applicant as a program participant. Applicants
12 shall be certified for four years following the date of filing unless
13 the certification is withdrawn or invalidated before that date. The
14 secretary of state shall by rule establish a renewal procedure.

15 (4) A person who knowingly provides false or incorrect information
16 upon making an application or falsely attests in an application that
17 disclosure of the applicant's address would endanger (a) the
18 applicant's safety or the safety of the applicant's children or the
19 minor or incapacitated person on whose behalf the application is made,
20 or ~~((who knowingly provides false or incorrect information upon making~~
21 ~~an application))~~ (b) the safety of any criminal justice participant as
22 defined in RCW 9A.46.020 who is a target for threats or harassment
23 prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or any family
24 members residing with him or her, shall be ~~((punishable))~~ punished
25 under RCW 40.16.030 or other applicable statutes.

26 ***NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW**
27 **to read as follows:**

28 **The sentencing guidelines commission shall report to the**
29 **appropriate committees of the legislature by December 1, 2011, and**
30 **every year thereafter, on the number of prosecutions under RCW**
31 **9A.46.020(2)(b) (iii) and (iv).**

**Sec. 3 was vetoed. See message at end of chapter.*

32 ***NEW SECTION. Sec. 4. Sections 1 through 3 of this act expire July**
33 **1, 2018.**

**Sec. 4 was vetoed. See message at end of chapter.*

Passed by the House March 3, 2011.
Passed by the Senate April 4, 2011.
Approved by the Governor April 14, 2011, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State April 14, 2011.

Note: Governor's explanation of partial veto is as follows:

"I have approved, except for Section 3 and Section 4, Engrossed Second Substitute House Bill No. 1206 entitled:

"AN ACT Relating to harassment against criminal justice participants."

Section 3 directs the sentencing guidelines commission to report to the appropriate committees of the legislature by December 1, 2011, and annually thereafter, the number of prosecutions for criminal harassment of a criminal justice participant. Several bills now before the legislature either eliminate the sentencing guidelines commission or eliminate it as a regularly standing commission. The data identified in this section will be retained by a yet to be identified agency. Therefore, I am vetoing Section 3 and the appropriate committees of the legislature may request the data from the appropriate agency.

Section 4 causes the act to expire July 1, 2018. I believe the legislature should monitor the impact of the act and affirmatively take action to amend or repeal particular aspects of the act at a future date, if needed. Therefore, I am vetoing Section 4.

For these reasons, I have vetoed Section 3 and Section 4 of Engrossed Second Substitute House Bill No. 1206.

With the exception of Section 3 and Section 4, Engrossed Second Substitute House Bill No. 1206 is approved."