

# FINAL BILL REPORT

## ESHB 2702

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C 186 L 92  
*Synopsis As Enacted*

**Brief Description:** Modifying the criminal code provisions regarding harassment.

By House Committee on Judiciary (originally sponsored by Representatives R. Johnson, Belcher, Paris, Schmidt, Anderson, Roland, Bray, Jacobsen, Spanel, Scott, Leonard, Sheldon, Wynne, Lisk, Ebersole, Brough, Basich, R. King, Valle, Zellinsky, Kremen, Hochstatter, Wineberry, Winsley, Van Luven, Forner, P. Johnson, Bowman, Pruitt, Fraser, Tate, Ogden, J. Kohl, McLean, Wood and Rasmussen).

House Committee on Judiciary  
House Committee on Appropriations  
Senate Committee on Law & Justice

**Background:** A person is guilty of the crime of "harassment" if the person threatens to: 1) cause bodily injury to the victim or another person; 2) cause physical damage to another person's property; 3) subject the person threatened to physical confinement; or 4) maliciously do any other act intended to substantially harm the person threatened. The victim must be placed in reasonable fear that the harasser will carry out the threat.

A person is guilty of the crime of "making telephone calls to harass" if the person telephones the victim and threatens the victim with bodily harm.

The crimes of harassment and telephone harassment do not punish an offender for making threats to kill any more severely than they do for making threats to hurt a person.

The crime of harassment does not cover cases in which the victim is continuously followed or "stalked" by someone who does not make overt threats of harm. A victim may, under some circumstances, obtain a civil antiharassment order and then prosecute if the stalker violates that order. Violations of civil antiharassment orders are gross misdemeanors.

The crimes of harassment and telephone harassment are gross misdemeanors unless the defendant has previously been convicted of any crime of harassment against the same victim

or the victim's family or household members or any person specifically named in a no-contact order or a no-harassment order. In these cases the crimes are class C felonies.

Crimes of "harassment" which will elevate the gross misdemeanor to a class C felony are numerous: examples include assault, rape, criminal trespass, malicious mischief, kidnapping, rape of child, child molestation, burglary in the first degree, and telephone harassment.

Victims of harassment are not notified of their harasser's release from prison or a state mental hospital.

During the 1991 legislative session, the Legislature enacted extensive provisions governing licensure of private detectives.

**Summary:** A new crime of "stalking" is created. A person is guilty of "stalking" if, without lawful authority the person intentionally and repeatedly follows the victim to the victim's home, school, place of employment, business, or any other location, or follows the victim while the victim is in transit between locations. The crime of stalking does not apply where the behavior amounts to a felony attempt to commit some other crime.

The stalker must either: (1) know or reasonably should know that the victim being followed is frightened, intimidated or harassed; or (2) must intend to frighten, intimidate or harass the victim.

The victim must be intimidated, harassed or placed in fear that the stalker intends to injure the victim or property of the victim being followed or that the stalker intends to injure another person or another person's property. The fear must be one a reasonable person would experience under the same circumstances.

A stalker is guilty of a gross misdemeanor unless the stalker has previously been convicted of a crime of harassment of the same victim or members of the victim's family or household or anyone named in a no-contact order or anti-harassment protection order; violates a court order protecting the person being stalked; or has been convicted of stalking other people. In these situations, stalking is a class C felony. The crime of "stalking" is included in the list of "crimes of harassment."

It is a defense to a charge of "stalking" that the defendant is a licensed private detective acting within the capacity of his or her license.

If a person threatens to kill the victim or another person, the harasser is guilty of a class C felony under the "harassment" and "telephone calls to harass" statutes.

The Department of Corrections or the Department of Social and Health Services must notify the victim and law enforcement when a person who was charged or convicted of felony harassment is released from prison or a mental hospital.

***Votes on Final Passage:***

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|--------|----|---|-------------------|
| House  | 97 | 0 |                   |
| Senate | 46 | 0 | (Senate amended)  |
| House  | 95 | 0 | (House concurred) |

***Effective:*** June 11, 1992