

HOUSE BILL REPORT

ESHB 2702

As Amended by the Senate

Title: An act relating to harassment.

Brief Description: Modifying the criminal code provisions regarding harassment.

Sponsor(s): 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).

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS;
Appropriations, February 9, 1992, DPS(JUD);
Passed House, February 17, 1992, 97-0;
Amended by Senate.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 1 member: Representative Hargrove.

Staff: Pat Shelledy (786-7149).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass.* Signed by 25 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking

Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Brekke; Carlson; Dorn; Ebersole; Hine; Lisk; May; Mielke; Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Valle; Vance; and Wang.

Staff: John Woolley (786-7154).

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 threatens the victim with bodily harm over the phone.

The crimes of harassment and telephone calls to harass do not punish threats to kill the person more severely than threats to hurt the 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. However, violations of civil antiharassment orders are only gross misdemeanors.

Harassment and telephone calls to harass 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 which case 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.

The Department of Corrections must notify the victim and law enforcement when a convicted sex or violent offender is released. If a person was charged with a sex or violent offense but was not convicted because the person was found not guilty by reason of insanity or being incompetent to stand trial, the person may be committed to a state mental hospital. When the person is released, the state mental

hospital must notify the victim and law enforcement. Victims of harassment are not notified of their harasser's release.

Summary of Bill: A new crime of "stalking" is created. A person is guilty of "stalking" if without lawful authority and under circumstances not amounting to a felony, attempts to commit another crime 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 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 frightened that the stalker intends to injure the person being followed or injure another person, or be intimidated or harassed. 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 antiharassment protection order; violates a court order protecting the person being stalked; or has been convicted of stalking other people. The crime of "stalking" is included in the list of "crimes of harassment."

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.

EFFECT OF SENATE AMENDMENT(S): It is a defense to the crime of stalking that a licensed private detective was acting within the scope of his or her license. A technical correction is made to a cross reference.

Fiscal Note: Requested February 3, 1992. New fiscal note requested on February 8, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Judiciary): Victims of stalkers are subjected to constant and repeated surveillance by harassers who are obsessed with their victims. Current law does not protect the victims because the stalker may never overtly threaten the victim. Even if the victim ultimately obtains an antiharassment protection order, the stalker is not deterred because the maximum penalty is a gross misdemeanor.

(Appropriations): The bill is required in light of compelling testimony of how stalkers instill fear in their victims, seriously impairing the victims' lives.

Testimony Against: (Judiciary): None.

(Appropriations): None.

Witnesses: (Judiciary - all in favor): Representative Rob Johnson, prime sponsor; Michael Rickert, Skagit County Prosecutor's Office; Lee Creighton, City of Olympia Prosecutor; Cindy Helms, victim of a stalker; Karen Ahrens, Olympia Police Department Victim Assistance Office; and Dawn Larsen, Washington State Coalition of Sexual Assault Programs.

(Appropriations): Lonnie Johns-Browne, Child Care Works for Washington (pro).

VOTE ON FINAL PASSAGE:

Yeas 97; Excused 1

Excused: Representative Hochstatter