

HOUSE BILL REPORT

EHB 2236

As Passed House
February 10, 1994

Title: An act relating to stalking.

Brief Description: Stalking or harassing.

Sponsors: Representatives R. Johnson, Long, Quall, J. Kohl, Wineberry, Pruitt, Kremen and Johanson.

Brief History:

Reported by House Committee on:
Judiciary, February 1, 1994, DP;
Passed House, February 10, 1994, 95-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 15 members:
Representatives Appelwick, Chair; Johanson, Vice Chair;
Padden, Ranking Minority Member; Ballasiotes, Assistant
Ranking Minority Member; Campbell; Chappell; Eide; Forner;
J. Kohl; Long; Morris; H. Myers; Schmidt; Scott and Tate.

Staff: Pat Shelledy (786-7149).

Background: A person commits the crime of stalking if the person without lawful authority, intentionally and repeatedly follows another person to that person's home, school, place of employment, business or any other location, or follows the person while the person is in transit between locations, and the person being followed is intimidated, harassed or frightened that the stalker intends to injure the victim.

Stalking is a gross misdemeanor, except it is a class C felony under certain circumstances. One circumstance in which stalking is a class C felony is when the stalker has previously been charged with a "crime of harassment" committed against the victim and then violates a court order issued in that proceeding by stalking the victim. Several crimes, including stalking, are included in the list of what constitutes a "crime of harassment," however violating a protection order is not currently listed as a crime of harassment.

Juveniles charged with felony stalking may still be considered "minor or first" offenders if they are under age 16.

Since the stalking statute was enacted in 1992, law enforcement officials and prosecutors have discovered problems implementing the statute and have made several suggestions for improving the statute.

Summary of Bill: The elements of the crime of stalking are changed and clarified. First, a person is guilty of stalking if the person harasses or repeatedly follows another person in violation of the statute. The terms "follows," "harasses" and "repeatedly" are defined. The definition of "follows" expressly provides that it is not necessary to prove that the alleged stalker followed the victim in transit from one location to another. It is a defense that the presence of the alleged stalker was coincidental.

Stalking is a class C felony if: the stalker violates any protective order protecting the victim being stalked; the stalker was armed with a deadly weapon while stalking the victim; or the stalker's victim is or was a law enforcement officer, judge, juror, attorney or community correction's officer, or is a current, former or prospective witness, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties. These new criteria for filing felony stalking are in addition to existing criteria.

Violation of a temporary or permanent protective order is a crime of harassment.

A juvenile charged with felony stalking may not be characterized as a minor or first offender under the juvenile offender disposition grid.

Fiscal Note: Requested January 24, 1994.

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

Testimony For: The changes will provide additional protection for domestic violence victims who are stalked in violation of their protective orders.

Testimony Against: This statute is very susceptible to abuse by vindictive ex-spouses and over zealous prosecutors. Broadening the statute and increasing the penalties will increase the risk of abuse and its consequences.

Witnesses: Mary Pontarolo, Washington State Coalition Against Domestic Violence (pro); and R.W. Ryan, citizen (con).