

SENATE BILL REPORT

EHB 2236

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 24, 1994

Brief Description: Stalking or harassing.

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

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Ludwig, Vice Chairman; Hargrove, Nelson, Roach and Schow.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 23, 1994; February 24, 1994

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 if certain circumstances exist. The circumstances in which stalking is a class C felony are (1) when the stalker has previously been charged with a "crime of harassment" committed against the victim; (2) when the stalker violated an antiharassment protection order; or (3) the stalker has a prior conviction for stalking. A number of crimes are included in the list of what constitutes a "crime of harassment;" however, violating a protection order is not currently included in the list.

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:

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.

SUMMARY OF PROPOSED COMMITTEE AMENDMENT:

Stalking of victim advocates or legislators in retaliation for actions performed during the course of official duties is a class C felony. Stalking of current, former, or potential witnesses remains a class C felony but is moved into a separate subsection.

The statement that it is a defense that the presence of the stalker was coincidental is stricken from the definition of "follow." The elements of stalking are amended to clarify that the victim must have been placed in fear of injury.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The bill clarifies the elements of the crime of stalking and remedies problems that have been experienced in enforcing the law.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Representative Rob Johnson, prime sponsor; Mary Pontarolo, WA State Coalition Against Domestic Violence; Ann Simons, WA Women United