

SENATE BILL REPORT

HB 1636

As Reported By Senate Committee On:
Law & Justice, April 3, 1997

Title: An act relating to the crime of harassment.

Brief Description: Specifying imminence of threat to bodily harm for crime of harassment.

Sponsors: Representatives Ballasiotes, Costa, Tokuda, Keiser, Ogden and Blalock.

Brief History:

Committee Activity: Law & Justice: 3/24/97, 4/3/97 [DP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, McCaslin and Stevens.

Staff: Martin Lovinger (786-7443)

Background: There are several ways a person can commit the crime of harassment. A person is guilty of harassment if: (a) without lawful authority, the person knowingly threatens to cause bodily injury in the future to the person threatened or to any other person; and (b) the person places the other person in reasonable fear that the threat will be carried out. Harassment is usually a gross misdemeanor. It is a felony if the person harasses another by threatening to kill that person or any other person.

Recently, an appellate court interpreting the language in the harassment statute determined that a threat to cause *immediate* harm can constitute an assault, but not harassment, because harassment requires a threat to cause harm in the future. *City of Seattle v. Allen*. The court stated that, to prove harassment the prosecutor must prove that the threat was to cause injury at a different time or place than the time or place where the offender made the threat.

Under *Allen*, a threat to kill immediately probably would not constitute felony harassment. Depending upon the circumstances, a threat to kill immediately could be charged as assault in the fourth degree, a gross misdemeanor, or a higher degree of assault. A person who threatens another with a deadly weapon would probably be charged with assault in the second degree, a class B felony.

Summary of Bill: Criminal harassment includes a threat to cause bodily injury immediately.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill eliminates a discrepancy that allows a threat of future harm to be charged as a felony, but a threat of immediate harm to only be charged as a misdemeanor. If the threat of immediate harm does not involve actual physical contact, a conviction may be difficult to obtain. This bill addresses an appellate court decision.

Testimony Against: None.

Testified: PRO: Representative Ballasiotes, prime sponsor; Representative Costa; Robin Fox, King County Prosecutor's Office, WA Association of Prosecuting Attorneys.