
HOUSE BILL 2441

State of Washington

55th Legislature

1998 Regular Session

By Representatives Scott, Sheahan, Costa, Radcliff, Constantine, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Cooke, Gardner, Kenney, Thompson, Wood, Conway, Anderson and Butler

Read first time 01/14/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to harassment and stalking through the use of
2 electronic communications; amending RCW 9A.46.020, 9A.46.110, and
3 10.14.020; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of this act to clarify that
6 electronic communications are included in the types of conduct and
7 actions that can constitute the crimes of harassment and stalking. It
8 is not the intent of the legislature, by adoption of this act, to
9 restrict in any way the types of conduct or actions that can constitute
10 harassment or stalking.

11 **Sec. 2.** RCW 9A.46.020 and 1997 c 105 s 1 are each amended to read
12 as follows:

13 (1) A person is guilty of harassment if:

14 (a) Without lawful authority, the person knowingly threatens:

15 (i) To cause bodily injury immediately or in the future to the
16 person threatened or to any other person; or

17 (ii) To cause physical damage to the property of a person other
18 than the actor; or

1 (iii) To subject the person threatened or any other person to
2 physical confinement or restraint; or

3 (iv) Maliciously to do any other act which is intended to
4 substantially harm the person threatened or another with respect to his
5 or her physical or mental health or safety; and

6 (b) The person by words or conduct places the person threatened in
7 reasonable fear that the threat will be carried out. "Words or
8 conduct" includes, in addition to any other form of communication or
9 conduct, the sending of an electronic communication.

10 (2) A person who harasses another is guilty of a gross misdemeanor
11 punishable under chapter 9A.20 RCW, except that the person is guilty of
12 a class C felony if either of the following applies: (a) The person
13 has previously been convicted in this or any other state of any crime
14 of harassment, as defined in RCW 9A.46.060, of the same victim or
15 members of the victim's family or household or any person specifically
16 named in a no-contact or no-harassment order; or (b) the person
17 harasses another person under subsection (1)(a)(i) of this section by
18 threatening to kill the person threatened or any other person.

19 (3) The penalties provided in this section for harassment do not
20 preclude the victim from seeking any other remedy otherwise available
21 under law.

22 **Sec. 3.** RCW 9A.46.110 and 1994 c 271 s 801 are each amended to
23 read as follows:

24 (1) A person commits the crime of stalking if, without lawful
25 authority and under circumstances not amounting to a felony attempt of
26 another crime:

27 (a) He or she intentionally and repeatedly harasses or repeatedly
28 follows another person; and

29 (b) The person being harassed or followed is placed in fear that
30 the stalker intends to injure the person, another person, or property
31 of the person or of another person. The feeling of fear must be one
32 that a reasonable person in the same situation would experience under
33 all the circumstances; and

34 (c) The stalker either:

35 (i) Intends to frighten, intimidate, or harass the person; or

36 (ii) Knows or reasonably should know that the person is afraid,
37 intimidated, or harassed even if the stalker did not intend to place
38 the person in fear or intimidate or harass the person.

1 (2)(a) It is not a defense to the crime of stalking under
2 subsection (1)(c)(i) of this section that the stalker was not given
3 actual notice that the person did not want the stalker to contact or
4 follow the person; and

5 (b) It is not a defense to the crime of stalking under subsection
6 (1)(c)(ii) of this section that the stalker did not intend to frighten,
7 intimidate, or harass the person.

8 (3) It shall be a defense to the crime of stalking that the
9 defendant is a licensed private ((detective)) investigator acting
10 within the capacity of his or her license as provided by chapter 18.165
11 RCW.

12 (4) Attempts to contact or follow the person after being given
13 actual notice that the person does not want to be contacted or followed
14 constitutes prima facie evidence that the stalker intends to intimidate
15 or harass the person. "Contact" includes, in addition to any other
16 form of contact or communication, the sending of an electronic
17 communication to the person.

18 (5) A person who stalks another person is guilty of a gross
19 misdemeanor except that the person is guilty of a class C felony if any
20 of the following applies: (a) The stalker has previously been
21 convicted in this state or any other state of any crime of harassment,
22 as defined in RCW 9A.46.060, of the same victim or members of the
23 victim's family or household or any person specifically named in a
24 protective order; (b) the stalking violates any protective order
25 protecting the person being stalked; (c) the stalker has previously
26 been convicted of a gross misdemeanor or felony stalking offense under
27 this section for stalking another person; (d) the stalker was armed
28 with a deadly weapon, as defined in RCW 9.94A.125, while stalking the
29 person; (e) the stalker's victim is or was a law enforcement officer,
30 judge, juror, attorney, victim advocate, legislator, or community
31 correction's officer, and the stalker stalked the victim to retaliate
32 against the victim for an act the victim performed during the course of
33 official duties or to influence the victim's performance of official
34 duties; or (f) the stalker's victim is a current, former, or
35 prospective witness in an adjudicative proceeding, and the stalker
36 stalked the victim to retaliate against the victim as a result of the
37 victim's testimony or potential testimony.

38 (6) As used in this section:

1 (a) "Follows" means deliberately maintaining visual or physical
2 proximity to a specific person over a period of time. A finding that
3 the alleged stalker repeatedly and deliberately appears at the person's
4 home, school, place of employment, business, or any other location to
5 maintain visual or physical proximity to the person is sufficient to
6 find that the alleged stalker follows the person. It is not necessary
7 to establish that the alleged stalker follows the person while in
8 transit from one location to another.

9 (b) "Harasses" means unlawful harassment as defined in RCW
10 10.14.020.

11 (c) "Protective order" means any temporary or permanent court order
12 prohibiting or limiting violence against, harassment of, contact or
13 communication with, or physical proximity to another person.

14 (d) "Repeatedly" means on two or more separate occasions.

15 **Sec. 4.** RCW 10.14.020 and 1995 c 127 s 1 are each amended to read
16 as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Unlawful harassment" means a knowing and willful course of
20 conduct directed at a specific person which seriously alarms, annoys,
21 harasses, or is detrimental to such person, and which serves no
22 legitimate or lawful purpose. The course of conduct shall be such as
23 would cause a reasonable person to suffer substantial emotional
24 distress, and shall actually cause substantial emotional distress to
25 the petitioner, or, when the course of conduct is contact by a person
26 over age eighteen that would cause a reasonable parent to fear for the
27 well-being of their child.

28 (2) "Course of conduct" means a pattern of conduct composed of a
29 series of acts over a period of time, however short, evidencing a
30 continuity of purpose. "Course of conduct" includes, in addition to
31 any other form of communication, contact, or conduct, the sending of an
32 electronic communication. Constitutionally protected activity is not
33 included within the meaning of "course of conduct."

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