

HOUSE BILL REPORT

SSB 6422

As Passed House:

March 5, 2002

Title: An act relating to crimes involving property of another person.

Brief Description: Defining "property of another" for purposes of crimes against property.

Sponsors: By Senate Committee on Judiciary (originally sponsored by Senators Costa and McCaslin).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/27/02 [DP].

Floor Activity:

Passed House: 3/5/02, 97-0.

Brief Summary of Substitute Bill

- Defines "property of another" as property in which an actor possesses anything less than exclusive ownership.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Jim Morishima (786-7191).

Background:

A person who knowingly and maliciously causes physical damage to the property of another is guilty of malicious mischief. The degree of the crime depends, in part, on the value of the property destroyed. If the property has a value of over \$1,500, the person is guilty of malicious mischief in the first degree (class B felony, seriousness level II). If the property has a value of over \$250, but not exceeding \$1,500, the person is guilty of malicious mischief in the second degree (class C felony, seriousness level I). If the property has a value of \$250 or less, the person is guilty of malicious mischief in the

third degree (gross misdemeanor or misdemeanor, depending on the value of the property).

The term "property of another" is not defined in statute. Division II of the Washington Court of Appeals recently ruled that property of another does not include community property. State v. Coria, 105 Wn.App. 51 (2001). Community property is property owned by a married couple. Each spouse owns an undivided, fully vested, one-half interest of all community property. Therefore, according to the Court of Appeals, a person who knowingly and maliciously causes physical damage to co-possessed community property is not guilty of malicious mischief. In making its ruling, the court pointed to the definition of "property of another" in the theft context and how partnership property is not contained in that definition because of the joint nature of partnership property ownership.

Summary of Substitute Bill:

"Property of another" is defined as property in which the actor possesses anything less than exclusive ownership.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill contains an emergency clause and takes effect immediately.

Testimony For: This is a relatively common crime. The problem addressed by this bill occurs in domestic violence situations and in partnerships. This bill has no fiscal impact because it returns things to the way they were before the court ruling.

Testimony Against: None.

Testified: Tom McBride, Washington Association of Prosecuting Attorneys.