

FINAL BILL REPORT

SSB 6422

C 32 L 02
Synopsis as Enacted

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

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

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: One of the elements of malicious mischief, as it is currently defined in Washington law, involves causing physical damage to the property of another. The malicious mischief statute contains no definition of "property of another."

In a recent Washington case, *State v. Coria*, the defendant was convicted of malicious mischief for destroying property belonging to his wife and himself. The Court of Appeals, Division Two, reversed the conviction holding that co-owned, co-possessioned community property does not constitute "property of another" for purposes of the malicious mischief statute. The court stated "... from a plain reading of the statute it is impossible to tell whether the legislature meant 'exclusively the property of another' or 'partially the property of another.'" It concluded the statute is ambiguous and the question of whether it should be a crime to destroy property equally co-owned and co-possessioned by another is a determination for the Legislature.

Courts in California, Illinois, and Iowa have held that criminal charges are viable when one spouse damages jointly owned marital property. The term "property of another" or a similar term was determined to include any property in which the defendant had anything less than exclusive ownership.

Summary: For purposes of the arson, reckless burning, and malicious mischief chapter, the term "property of another" means property in which the actor possesses anything less than exclusive ownership.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: March 12, 2002