

# SENATE BILL REPORT

## SSB 6422

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As Passed Senate, February 13, 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:** Senate Committee on Judiciary (originally sponsored by Senators Costa and McCaslin).

**Brief History:**

**Committee Activity:** Judiciary: 1/28/02, 2/5/02 [DPS].

Passed Senate: 2/13/02, 49-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6422 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Johnson, Long, McCaslin, Poulsen, Roach and Thibaudeau.

**Staff:** Lidia Mori (786-7755)

**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-possessed 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-possessed 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 of Bill:** 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.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Malicious mischief requires malice or evil intent. An emergency clause is needed because as it stands now, some people are unprotected. In the Washington case, *State v. Coria*, the court looked closely at the partnership statutes.

**Testimony Against:** None.

**Testified:** PRO: Tom McBride, WA Assn. of Prosecuting Attorneys; Debbie Wilke, WA Assn. of County Officials.