
HOUSE BILL 3122

State of Washington

59th Legislature

2006 Regular Session

By Representatives Kagi, Walsh, Dickerson, Darneille, Ericks, Ormsby and Roberts

Read first time 01/20/2006. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the safety of child protective, child welfare,
2 and adult protective services workers; amending RCW 9A.46.110; adding
3 a new section to chapter 74.04 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that employees of the
6 department of social and health services who provide child protective,
7 child welfare, and adult protective services are sometimes faced with
8 highly volatile, hostile, and/or threatening situations during the
9 course of performing their official duties. The legislature finds that
10 the work group convened by the department of social and health services
11 pursuant to chapter 389, Laws of 2005, has made various recommendations
12 regarding policies and protocols to address the safety of workers. The
13 legislature intends to implement the work group's recommendations for
14 statutory changes in recognition of the sometimes hazardous nature of
15 employment in child protective, child welfare, and adult protective
16 services.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.04 RCW
18 to read as follows:

1 (1) For purposes of this section only, "assault" means an
2 unauthorized touching of a child protective, child welfare, or adult
3 protective services worker employed by the department of social and
4 health services resulting in physical injury to the employee.

5 (2) In recognition of the hazardous nature of employment in child
6 protective, child welfare, and adult protective services, the
7 legislature hereby provides a supplementary program to reimburse
8 employees of the department, for some of their costs attributable to
9 their being the victims of assault while in the course of discharging
10 their assigned duties. This program shall be limited to the
11 reimbursement provided in this section.

12 (3) An employee is only entitled to receive the reimbursement
13 provided in this section if the secretary of social and health
14 services, or the secretary's designee, finds that each of the following
15 has occurred:

16 (a) A person has assaulted the employee while the employee was in
17 the course of performing his or her official duties and, as a result
18 thereof, the employee has sustained demonstrated physical injuries
19 which have required the employee to miss days of work;

20 (b) The assault cannot be attributable to any extent to the
21 employee's negligence, misconduct, or failure to comply with any rules
22 or conditions of employment; and

23 (c) The department of labor and industries has approved the
24 employee's workers' compensation application pursuant to chapter 51.32
25 RCW.

26 (4) The reimbursement authorized under this section shall be as
27 follows:

28 (a) The employee's accumulated sick leave days shall not be reduced
29 for the workdays missed;

30 (b) For each workday missed for which the employee is not eligible
31 to receive compensation under chapter 51.32 RCW, the employee shall
32 receive full pay; and

33 (c) In respect to workdays missed for which the employee will
34 receive or has received compensation under chapter 51.32 RCW, the
35 employee shall be reimbursed in an amount which, when added to that
36 compensation, will result in the employee receiving full pay for the
37 workdays missed.

1 (5) Reimbursement under this section may not last longer than three
2 hundred sixty-five consecutive days after the date of the injury.

3 (6) The employee shall not be entitled to the reimbursement
4 provided in subsection (4) of this section for any workday for which
5 the secretary, or the secretary's designee, finds that the employee has
6 not diligently pursued his or her compensation remedies under chapter
7 51.32 RCW.

8 (7) The reimbursement shall only be made for absences which the
9 secretary, or the secretary's designee, believes are justified.

10 (8) While the employee is receiving reimbursement under this
11 section, he or she shall continue to be classified as a state employee
12 and the reimbursement amount shall be considered as salary or wages.

13 (9) All reimbursement payments required to be made to employees
14 under this section shall be made by the department. The payments shall
15 be considered as a salary or wage expense and shall be paid by the
16 department in the same manner and from the same appropriations as other
17 salary and wage expenses of the department.

18 (10) Should the legislature revoke the reimbursement authorized
19 under this section or repeal this section, no affected employee is
20 entitled thereafter to receive the reimbursement as a matter of
21 contractual right.

22 **Sec. 3.** RCW 9A.46.110 and 2003 c 53 s 70 are each amended to read
23 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,

1 intimidated, or harassed even if the stalker did not intend to place
2 the person in fear or intimidate or harass the person.

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

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

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

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

19 (5)(a) Except as provided in (b) of this subsection, a person who
20 stalks another person is guilty of a gross misdemeanor.

21 (b) A person who stalks another is guilty of a class C felony if
22 any of the following applies: (i) The stalker has previously been
23 convicted in this state or any other state of any crime of harassment,
24 as defined in RCW 9A.46.060, of the same victim or members of the
25 victim's family or household or any person specifically named in a
26 protective order; (ii) the stalking violates any protective order
27 protecting the person being stalked; (iii) the stalker has previously
28 been convicted of a gross misdemeanor or felony stalking offense under
29 this section for stalking another person; (iv) the stalker was armed
30 with a deadly weapon, as defined in RCW 9.94A.602, while stalking the
31 person; (v) the stalker's victim is or was a law enforcement officer,
32 judge, juror, attorney, victim advocate, legislator, ~~((or))~~ community
33 correction's officer, or an employee of the child protective, child
34 welfare, or adult protective services division within the department of
35 social and health services, and the stalker stalked the victim to
36 retaliate against the victim for an act the victim performed during the
37 course of official duties or to influence the victim's performance of
38 official duties; or (vi) the stalker's victim is a current, former, or

1 prospective witness in an adjudicative proceeding, and the stalker
2 stalked the victim to retaliate against the victim as a result of the
3 victim's testimony or potential testimony.

4 (6) As used in this section:

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

13 (b) "Harasses" means unlawful harassment as defined in RCW
14 10.14.020.

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

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

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