

CERTIFICATION OF ENROLLMENT

HOUSE BILL 3122

59th Legislature
2006 Regular Session

Passed by the House March 6, 2006
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 3, 2006
Yeas 46 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 3122** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 3122

AS AMENDED BY THE SENATE

Passed Legislature - 2006 Regular Session

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; creating new sections; and
4 providing an expiration date.

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

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

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

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

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

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

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

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

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

28 (4) The reimbursement authorized under this section shall be as
29 follows:

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

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

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

1 compensation, will result in the employee receiving full pay for the
2 workdays missed.

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

5 (6) The employee shall not be entitled to the reimbursement
6 provided in subsection (4) of this section for any workday for which
7 the secretary, or the secretary's designee, finds that the employee has
8 not diligently pursued his or her compensation remedies under chapter
9 51.32 RCW.

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

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

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

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

24 **Sec. 3.** RCW 9A.46.110 and 2003 c 53 s 70 are each amended to read
25 as follows:

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

29 (a) He or she intentionally and repeatedly harasses or repeatedly
30 follows another person; and

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

36 (c) The stalker either:

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

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

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

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

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

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

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

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

1 official duties; or (vi) the stalker's victim is a current, former, or
2 prospective witness in an adjudicative proceeding, and the stalker
3 stalked the victim to retaliate against the victim as a result of the
4 victim's testimony or potential testimony.

5 (6) As used in this section:

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

14 (b) "Harasses" means unlawful harassment as defined in RCW
15 10.14.020.

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

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

20 NEW SECTION. **Sec. 4.** The department of social and health services
21 shall report to the governor and the appropriate committees of the
22 legislature by December 1, 2006, on the implementation of those
23 recommendations contained in the department's October 2005 report
24 entitled child protective services - staff safety.

25 NEW SECTION. **Sec. 5.** Section 4 of this act expires January 1,
26 2007.

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