

# SENATE BILL REPORT

## SB 6398

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As Reported by Senate Committee On:  
Judiciary, January 29, 2010

**Title:** An act relating to the definition of threat.

**Brief Description:** Adding the definition of threat to malicious harassment provisions.

**Sponsors:** Senators Kline, McDermott, Keiser, Hobbs, Murray, Jacobsen, Kohl-Welles and Gordon.

**Brief History:**

**Committee Activity:** Judiciary: 1/12/10, 1/22/10, 1/29/10 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6398 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; Carrell, Gordon, Hargrove, Kohl-Welles and Roach.

**Staff:** Karen Campbell (786-7448)

**Background:** The definition of threat to do bodily injury in the Criminal Code means to communicate, directly or indirectly, the intent to cause bodily injury in the future to the person threatened or to any other person. On November 24, 2008, the Court of Appeals decided, in an unpublished opinion, that there was insufficient evidence to support a crime of malicious harassment because the threat to cause bodily injury was immediate instead of a threat to do harm in the future. The court based its decision on the fact that the statutory definition of "threat" does not include immediate threats to cause bodily harm.

**Summary of Bill (Recommended Substitute):** A definition of threat which includes both immediate and future bodily harm is added to the malicious harassment statute and removed from the general definition section of the criminal code. The definition of threat, in the malicious harassment statute, is expanded to include immediate and future threats to property.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute):** The definition of threat, as set forth in the malicious harassment statute, states

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as follows: “Threat means to communicate, directly or indirectly, the intent to cause bodily injury immediately or in the future to the person threatened or to any other person; or cause physical damage immediately or in the future to the property of a person threatened or that of any other person.”

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: It is necessary to include threats to do immediate bodily harm in order to adequately prosecute hate crimes. In practice, malicious threats do take the form of immediate harm, not just future harm. It is common to see individuals, acting as a group, making immediate threats to harm those protected by the malicious harassment statute. The change in the statute is necessary to prosecute individuals or groups who make immediate threats and to prevent the spread of hate-based behavior.

**Persons Testifying:** PRO: Michael Hogan, King County Prosecuting Attorney's Office; Hilary G. Bernstein, Anti-Defamation League.