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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1206

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State of Washington

62nd Legislature

2011 Regular Session

**By** House General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt, and Schmick)

READ FIRST TIME 02/23/11.

1 AN ACT Relating to harassment against criminal justice  
2 participants; amending RCW 9A.46.020; reenacting and amending RCW  
3 40.24.030; adding a new section to chapter 9.94A RCW; prescribing  
4 penalties; and providing an expiration date.

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

6 **Sec. 1.** RCW 9A.46.020 and 2003 c 53 s 69 are each amended to read  
7 as follows:

8 (1) A person is guilty of harassment if:

9 (a) Without lawful authority, the person knowingly threatens:

10 (i) To cause bodily injury immediately or in the future to the  
11 person threatened or to any other person; or

12 (ii) To cause physical damage to the property of a person other  
13 than the actor; or

14 (iii) To subject the person threatened or any other person to  
15 physical confinement or restraint; or

16 (iv) Maliciously to do any other act which is intended to  
17 substantially harm the person threatened or another with respect to his  
18 or her physical or mental health or safety; and

1 (b) The person by words or conduct places the person threatened in  
2 reasonable fear that the threat will be carried out. "Words or  
3 conduct" includes, in addition to any other form of communication or  
4 conduct, the sending of an electronic communication.

5 (2)(a) Except as provided in (b) of this subsection, a person who  
6 harasses another is guilty of a gross misdemeanor.

7 (b) A person who harasses another is guilty of a class C felony if  
8 ~~((either))~~ any of the following ~~((applies))~~ apply: (i) The person has  
9 previously been convicted in this or any other state of any crime of  
10 harassment, as defined in RCW 9A.46.060, of the same victim or members  
11 of the victim's family or household or any person specifically named in  
12 a no-contact or no-harassment order; ~~((or))~~ (ii) the person harasses  
13 another person under subsection (1)(a)(i) of this section by  
14 threatening to kill the person threatened or any other person; ~~((iii))~~  
15 the person harasses a criminal justice participant who is performing  
16 his or her official duties at the time the threat is made; or (iv) the  
17 person harasses a criminal justice participant because of an action  
18 taken or decision made by the criminal justice participant during the  
19 performance of his or her official duties. For the purposes of  
20 (b)(iii) and (iv) of this subsection, the fear from the threat must be  
21 a fear that a reasonable criminal justice participant would have under  
22 all the circumstances. Threatening words do not constitute harassment  
23 if it is apparent to the criminal justice participant that the person  
24 does not have the present and future ability to carry out the threat.

25 (3) Any criminal justice participant who is a target for threats or  
26 harassment prohibited under subsection (2)(b)(iii) or (iv) of this  
27 section, and any family members residing with him or her, shall be  
28 eligible for the address confidentiality program created under RCW  
29 40.24.030.

30 (4) For purposes of this section, a criminal justice participant  
31 includes any (a) federal, state, or local law enforcement agency  
32 employee; (b) federal, state, or local prosecuting attorney or deputy  
33 prosecuting attorney; (c) staff member of any adult corrections  
34 institution or local adult detention facility; (d) staff member of any  
35 juvenile corrections institution or local juvenile detention facility;  
36 (e) community corrections officer, probation, or parole officer; (f)  
37 member of the indeterminate sentence review board; (g) advocate from a  
38 crime victim/witness program; or (h) defense attorney.

1       (5) The penalties provided in this section for harassment do not  
2 preclude the victim from seeking any other remedy otherwise available  
3 under law.

4       **Sec. 2.** RCW 40.24.030 and 2008 c 312 s 3 and 2008 c 18 s 2 are  
5 each reenacted and amended to read as follows:

6       (1)(a) An adult person, a parent or guardian acting on behalf of a  
7 minor, or a guardian acting on behalf of an incapacitated person, as  
8 defined in RCW 11.88.010, and (b) any criminal justice participant as  
9 defined in RCW 9A.46.020 who is a target for threats or harassment  
10 prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), and any family  
11 members residing with him or her, may apply to the secretary of state  
12 to have an address designated by the secretary of state serve as the  
13 person's address or the address of the minor or incapacitated person.  
14 The secretary of state shall approve an application if it is filed in  
15 the manner and on the form prescribed by the secretary of state and if  
16 it contains:

17       (~~(a)~~) (i) A sworn statement, under penalty of perjury, by the  
18 applicant that the applicant has good reason to believe (~~(i)~~) (A)  
19 that the applicant, or the minor or incapacitated person on whose  
20 behalf the application is made, is a victim of domestic violence,  
21 sexual assault, trafficking, or stalking(~~(i)~~) and (~~(ii)~~) that the  
22 applicant fears for his or her safety or his or her children's safety,  
23 or the safety of the minor or incapacitated person on whose behalf the  
24 application is made; or (B) that the applicant, as a criminal justice  
25 participant as defined in RCW 9A.46.020, is a target for threats or  
26 harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

27       (~~(b)~~) (ii) If applicable, a sworn statement, under penalty of  
28 perjury, by the applicant, that the applicant has reason to believe  
29 they are a victim of (A) domestic violence, sexual assault, or stalking  
30 perpetrated by an employee of a law enforcement agency, or (B) threats  
31 or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv);

32       (~~(c)~~) (iii) A designation of the secretary of state as agent for  
33 purposes of service of process and for the purpose of receipt of mail;

34       (~~(d)~~) (iv) The residential address and any telephone number where  
35 the applicant can be contacted by the secretary of state, which shall  
36 not be disclosed because disclosure will increase the risk of (A)

1 domestic violence, sexual assault, trafficking, or stalking, or (B)  
2 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or  
3 (iv);

4 ~~((e))~~ (v) The signature of the applicant and of any individual or  
5 representative of any office designated in writing under RCW 40.24.080  
6 who assisted in the preparation of the application, and the date on  
7 which the applicant signed the application.

8 (2) Applications shall be filed with the office of the secretary of  
9 state.

10 (3) Upon filing a properly completed application, the secretary of  
11 state shall certify the applicant as a program participant. Applicants  
12 shall be certified for four years following the date of filing unless  
13 the certification is withdrawn or invalidated before that date. The  
14 secretary of state shall by rule establish a renewal procedure.

15 (4) A person who knowingly provides false or incorrect information  
16 upon making an application or falsely attests in an application that  
17 disclosure of the applicant's address would endanger (a) the  
18 applicant's safety or the safety of the applicant's children or the  
19 minor or incapacitated person on whose behalf the application is made,  
20 or ~~((who knowingly provides false or incorrect information upon making~~  
21 ~~an application))~~ (b) the safety of any criminal justice participant as  
22 defined in RCW 9A.46.020 who is a target for threats or harassment  
23 prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or any family  
24 members residing with him or her, shall be ~~((punishable))~~ punished  
25 under RCW 40.16.030 or other applicable statutes.

26 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW  
27 to read as follows:

28 The sentencing guidelines commission shall report to the  
29 appropriate committees of the legislature by December 1, 2011, and  
30 every year thereafter, on the number of prosecutions under RCW  
31 9A.46.020(2)(b) (iii) and (iv).

32 NEW SECTION. Sec. 4. Sections 1 through 3 of this act expire July  
33 1, 2018.

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