

HOUSE BILL REPORT

HB 1472

As Reported by House Committee On: Public Safety

Title: An act relating to criminalizing damaging, destroying, tampering, or removing ballot return boxes or contents.

Brief Description: Criminalizing damaging, destroying, tampering, or removing ballot return boxes or contents.

Sponsors: Representatives Hudgins, Koster, Haler, Griffey, Manweller, Muri and Ormsby; by request of Secretary of State.

Brief History:

Committee Activity:

Public Safety: 1/30/17, 2/2/17 [DPS].

Brief Summary of Substitute Bill

- Provides that a person is guilty of Malicious Mischief if he or she causes, or creates a substantial risk of, an impairment to a service rendered to the public by damaging, destroying, or removing an official ballot deposit box or ballot drop box, or its contents.
- Raises the penalty for unlawful removal of a ballot from a voting center or ballot drop location from a gross misdemeanor to an unranked class C felony.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

Background:

Malicious Mischief.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person who knowingly and maliciously causes damage to the property of another is guilty of Malicious Mischief. The degree of the crime depends on the nature of the harm caused, the type of property involved, and the value of the property destroyed.

A person commits Malicious Mischief in the first degree, a class B felony offense, if he or she knowingly and maliciously:

- damages property with a value of over \$5,000;
- causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle, government property, or a public utility or mode of public transportation, power, or communication; or
- physically damages or tampers with an aircraft or its parts and impairs its safety, efficiency, or operation.

A person commits Malicious Mischief in the second degree, a class C felony offense, if he or she:

- damages property with a value of over \$750, but not exceeding \$5,000; or
- creates a substantial risk of interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle, government property, or a public utility or mode of public transportation, power, or communication.

Knowingly and maliciously damaging the property of another under circumstances not amounting to first or second degree Malicious Mischief, and graffiti, qualifies as Malicious Mischief in the third degree.

Unlawful Removal of a Ballot.

Any person who, without lawful authority, removes a ballot from a voting center or ballot drop location is guilty of a gross misdemeanor.

Criminal Penalties and Sentencing.

Maximum criminal penalties are established in statute as follows:

- For class A felonies, life imprisonment, a fine of up to \$50,000, or both imprisonment and a fine.
- For class B felonies, 10 years imprisonment, a fine of \$20,000, or both imprisonment and a fine.
- For class C felonies, five years imprisonment, a fine of \$10,000, or both imprisonment and a fine.
- For gross misdemeanors, 364 days, a fine of \$5,000, or both imprisonment and a fine.
- For misdemeanors, 90 days, a fine of \$1,000, or both imprisonment and a fine.

When a person is convicted of a ranked felony, the Sentencing Reform Act (SRA) applies and determines a specific sentence range within the statutory maximum. Sentence ranges are calculated using both a statutory severity designation for the offense, or its "seriousness level," and the convicted person's "offender score," which is based on the offender's criminal history. If a felony offense does not have a designated seriousness level under the SRA, the maximum period of confinement is one year regardless of the class of felony. These offenses are referred to as unranked felonies.

Summary of Substitute Bill:**Malicious Mischief.**

A person is guilty of Malicious Mischief in the first degree if he or she causes an interruption or impairment of service rendered to the public by, without lawful authority, physically damaging, destroying, or removing an official ballot deposit box or ballot drop box, or damaging, destroying, removing, or tampering with the ballot box's contents. Creating a substantial risk of interruption or impairment of service through such conduct is a second degree offense.

Unlawful Removal of a Ballot.

The penalty for unauthorized removal of a ballot from a voting center or ballot drop box location is elevated from a gross misdemeanor to an unranked class C felony.

Substitute Bill Compared to Original Bill:

The underlying provisions of the bill are retained; however, language specifying that removal of a ballot box or ballot must be "without permission" in order to be considered Malicious Mischief is removed, and instead it is specified that any of the prohibited conduct relating to ballot boxes and ballots must be taken "without lawful authority" in order to be considered Malicious Mischief.

Appropriation: None.**Fiscal Note:** Available.**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.**Staff Summary of Public Testimony:**

(In support) As the state increases its use of ballot boxes, it is necessary to ensure that they are being protected and that the electoral process is protected. Ballot boxes, which may be distributed at various locations throughout counties, are now the preferred method for ballot return in Washington. Over half of voters use ballot drop boxes, and two counties had over 77 percent of returns through this method during the last election. Voters need to have assurance that these ballot boxes are secure.

There are general statutes on the books that address these issues, but prosecutors that were consulted have recommended the changes in the bill to make these offenses easier to charge. This bill clearly defines penalties for these offenses, which are commensurate with federal penalties for mailbox tampering and with tampering with voting supplies at a voting center. The bill is designed to be properly calibrated so as to not include conduct like graffiti or

minor infractions, for example, dropping a small piece of trash like a popsicle stick in the ballot box.

(Opposed) None.

Persons Testifying: David Elliott, Office of the Secretary of State; and Dolores Gilmore, Washington Association of County Auditors.

Persons Signed In To Testify But Not Testifying: None.