
**Community Safety, Justice, & Reentry
Committee**

HB 1241

Brief Description: Addressing harassment.

Sponsors: Representatives Leavitt, Reeves, Reed, Morgan and Bronoske.

Brief Summary of Bill

- Modifies crimes of harassment and cyber harassment to cover conduct that is lewd or threatens bodily injury, property damage, confinement, or other malicious threats.
- Increases penalty for harassment of an election official to a class C felony.
- Allows election officials who are harassed to apply for the address confidentiality program.

Hearing Date: 1/17/23

Staff: Martha Wehling (786-7067).

Background:

Harassment.

A person commits the crime of harassment by threatening another person with the intent to harm that person. For the communication to constitute harassment it must threaten bodily injury, property damage, physical confinement or restraint, or a malicious act, and the threatened person must reasonably fear that the threat will be carried out. Actions that constitute harassment include any form of communication, including electronic.

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

Harassment is a gross misdemeanor unless the person has previously been convicted of harassment, includes a threat to kill another person, or the threatened person is a criminal justice participant. In those situations, harassment is a class C felony.

A "criminal justice participant" is any government agency employee, any government attorney, staff to corrections institutions or detention facilities, staff to juvenile corrections institutions or juvenile facilities, community corrections, probation, or parole officers, members of the indeterminate sentencing review board, advocates for crime victim or witness programs, or defense attorneys.

Cyber Harassment.

In 2022 the Legislature renamed the crime of cyberstalking "Cyber Harassment," changed components of the offense, created a new crime, and allowed election officials and criminal justice participants who have been the target of cyber harassment to apply for the address confidentiality program.

A person commits the crime of cyber harassment if the person makes an electronic communication with the intent to harass, intimidate, torment, or embarrass the threatened person. Cyber harassment excludes telephone communication, and must cause emotional distress or fear for the threatened person's safety, if the threatened person knows the threatening person's history. To qualify as cyber harassment, the communication must:

- use or suggest lewd, lascivious, indecent, or obscene words, images, or language;
- be made anonymously or repeatedly; or
- threaten to inflict bodily injury on the threatened person or a third party.

An "electronic communication" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. This includes, but is not limited to, electronic mail, internet-based communications, pager services, and text messaging.

Cyber harassment is a gross misdemeanor unless the person has previously been convicted of harassment, threatens to kill another person, threatens a criminal justice participant or election official, or violates a protective order. In those situations, cyber harassment is a class C felony.

For cyber harassment, a "criminal justice participant" includes all people identified in the harassment definition, and also includes judges and court staff. An "election official" is any staff member of the Secretary of the State or a county auditor's office, including temporary and part-time staff, whose duties relate to voter registration or the processing of votes.

Address Confidentiality Program.

The Address Confidentiality Program allows a person to apply to the Secretary of State for a separate address in order to keep the person's actual address confidential. The program is available for victims of domestic violence, sexual assault, trafficking, or stalking, who fear for their safety. A person may apply on their own behalf or on behalf of a minor or incapacitated person who are targets for threats or harassment because of their involvement in the criminal

justice system.

A criminal justice participant and family members are eligible for the address confidentiality program under both the harassment and cyber harassment statutes. An election official is only eligible for the address confidentiality program under the cyber harassment statute.

Summary of Bill:

Harassment is verbal or written communication, while cyber harassment is communication that is made in an electronic format, such as a text message or email. The crimes of harassment and cyber harassment are modified by adding elements to each crime and removing anonymous communication from cyber harassment. The element added to harassment includes communication that is lewd or obscene. The elements added to cyber harassment include threats of physical confinement or restraint or a malicious act.

For communication to qualify as harassment or cyber harassment, the person must intend to harass or intimidate the threatened person, and the communication must cause the threatened person to suffer emotional distress or fear for the threatened person's safety. The requirement that the threatened person have knowledge of the harasser's history is removed.

Election officials are included in the increased penalties in the harassment statute. When an election official is harassed, the crime is classified as a class C felony. The definition of "election official" added to the harassment statute is the same as the definition in the cyber harassment statute.

When an election official is harassed, the official may apply for the address confidentiality program.

Appropriation: None.

Fiscal Note: Requested on January 12, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.