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HOUSE BILL 1241

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State of Washington

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By Representatives Leavitt, Reeves, Reed, Morgan, and Bronoske

Read first time 01/11/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to harassment; amending RCW 9A.46.020, 9A.90.120,  
2 and 40.24.030; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.46.020 and 2011 c 64 s 1 are each amended to read  
5 as follows:

6 (1) A person is guilty of harassment if the person, with intent  
7 to harass or intimidate any other person, and under circumstances not  
8 constituting cyber harassment, makes a communication and the  
9 communication:

10 (a) (~~Without lawful authority, the person knowingly threatens:~~  
11 ~~(i) To cause~~) (i) Uses any lewd, lascivious, indecent, or  
12 obscene words, images, or language, or suggests the commission of any  
13 lewd or lascivious act;  
14 (ii) Contains a threat to inflict bodily injury immediately or in  
15 the future to the person threatened or to any other person; (~~or~~  
16 ~~(ii) To cause physical damage to~~) (iii) Contains a threat to  
17 damage, immediately or in the future, the property of ((a)) the  
18 person ((other than the actor)) threatened or of any other person;  
19 (~~or~~

1       ~~((iii) To))~~ (iv) Contains a threat to subject the person  
2 threatened or any other person to physical confinement or restraint;  
3 or

4       ~~((iv) Maliciously to))~~ (v) Contains a threat to maliciously do  
5 any other act which is intended to substantially harm the person  
6 threatened or ~~((another))~~ any other person with respect to ~~((his or~~  
7 ~~her))~~ the threatened person's physical or mental health or safety;  
8 and

9       (b) ~~((The person by words or conduct places the person threatened~~  
10 ~~in reasonable fear that the threat will be carried out. "Words or~~  
11 ~~conduct" includes, in addition to any other form of communication or~~  
12 ~~conduct, the sending of an electronic communication))~~ With respect to  
13 any offense committed under the circumstances identified in (a) of  
14 this subsection:

15       (i) Would cause a reasonable person to suffer emotional distress  
16 or to fear for the safety of the person threatened; or

17       (ii) Reasonably caused the threatened person to suffer emotional  
18 distress or fear for the threatened person's safety.

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

21       (b) A person who harasses another is guilty of a class C felony  
22 if any of the following apply: (i) The person has previously been  
23 convicted in this or any other state of any crime of harassment, as  
24 defined in RCW 9A.46.060, of the same victim or members of the  
25 victim's family or household or any person specifically named in a  
26 no-contact or no-harassment order; (ii) the person harasses another  
27 person under subsection (1)(a) ~~((i))~~ (ii) of this section by  
28 threatening to kill the person threatened or any other person; (iii)  
29 the person harasses a criminal justice participant or election  
30 official who is performing ~~((his or her))~~ official duties at the time  
31 the threat is made; or (iv) the person harasses a criminal justice  
32 participant or election official because of an action taken or  
33 decision made by the criminal justice participant or election  
34 official during the performance of ~~((his or her))~~ official duties.  
35 For the purposes of (b)(iii) and (iv) of this subsection, the fear  
36 from the threat must be a fear that a reasonable criminal justice  
37 participant or election official would have under all the  
38 circumstances. Threatening words do not constitute harassment if it  
39 is apparent to the criminal justice participant or election official

1 that the person does not have the present and future ability to carry  
2 out the threat.

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

8 (4) For purposes of this section, a criminal justice participant  
9 includes any (a) federal, state, or local law enforcement agency  
10 employee; (b) federal, state, or local prosecuting attorney or deputy  
11 prosecuting attorney; (c) staff member of any adult corrections  
12 institution or local adult detention facility; (d) staff member of  
13 any juvenile corrections institution or local juvenile detention  
14 facility; (e) community corrections officer, probation, or parole  
15 officer; (f) member of the indeterminate sentence review board; (g)  
16 advocate from a crime victim/witness program; or (h) defense  
17 attorney.

18 (5) For the purposes of this section, an election official  
19 includes any staff member of the office of the secretary of state or  
20 staff member of a county auditor's office, regardless of whether the  
21 member is employed on a temporary or part-time basis, whose duties  
22 relate to voter registration or the processing of votes as provided  
23 in Title 29A RCW.

24 (6) The penalties provided in this section for harassment do not  
25 preclude the victim from seeking any other remedy otherwise available  
26 under law.

27 **Sec. 2.** RCW 9A.90.120 and 2022 c 231 s 1 are each amended to  
28 read as follows:

29 (1) A person is guilty of cyber harassment if the person, with  
30 intent to harass or intimidate any other person, and under  
31 circumstances not constituting ~~((telephone))~~ harassment, makes an  
32 electronic communication to that person or a third party and the  
33 communication:

34 (a)(i) Uses any lewd, lascivious, indecent, or obscene words,  
35 images, or language, or suggests the commission of any lewd or  
36 lascivious act;

37 (ii) ~~((Is made anonymously or repeatedly;~~  
38 ~~((iii)))~~ Contains a threat to inflict bodily injury immediately or  
39 in the future on the person threatened or to any other person; ~~((or~~

1       ~~(iv))~~ (iii) Contains a threat to damage, immediately or in the  
2 future, the property of the person threatened or of any other person;

3       (iv) Contains a threat to subject the person threatened or any  
4 other person to physical confinement or restraint; or

5       (v) Contains a threat to maliciously do any other act which is  
6 intended to substantially harm the person threatened or any other  
7 person with respect to the threatened person's physical or mental  
8 health or safety; and

9       (b) With respect to any offense committed under the circumstances  
10 identified in (a) (~~(iii) or (iv)~~) of this subsection:

11       (i) Would cause a reasonable person (~~(, with knowledge of the~~  
12 ~~sender's history,~~) to suffer emotional distress or to fear for the  
13 safety of the person threatened; or

14       (ii) Reasonably caused the threatened person to suffer emotional  
15 distress or fear for the threatened person's safety.

16       (2)(a) Except as provided in (b) of this subsection, cyber  
17 harassment is a gross misdemeanor.

18       (b) A person who commits cyber harassment is guilty of a class C  
19 felony if any of the following apply:

20       (i) The person has previously been convicted in this or any other  
21 state of any crime of harassment, as defined in RCW 9A.46.060, of the  
22 same victim or members of the victim's family or household or any  
23 person specifically named in a no-contact or no-harassment order;

24       (ii) The person cyber harasses another person under subsection  
25 (1)(a) (~~(iii)~~) (ii) of this section by threatening to kill the  
26 person threatened or any other person;

27       (iii) The person cyber harasses a criminal justice participant or  
28 election official who is performing the participant's official duties  
29 or election official's official duties at the time the communication  
30 is made;

31       (iv) The person cyber harasses a criminal justice participant or  
32 election official because of an action taken or decision made by the  
33 criminal justice participant or election official during the  
34 performance of the participant's official duties or election  
35 official's official duties; or

36       (v) The person commits cyber harassment in violation of any  
37 protective order protecting the victim.

38       (3) Any criminal justice participant or election official who is  
39 a target for threats or harassment prohibited under subsection  
40 (2)(b)(iii) or (iv) of this section, and any family members residing

1 with the participant or election official, shall be eligible for the  
2 address confidentiality program created under RCW 40.24.030.

3 (4) For purposes of this section, a criminal justice participant  
4 includes any:

5 (a) Federal, state, or municipal court judge;

6 (b) Federal, state, or municipal court staff;

7 (c) Federal, state, or local law enforcement agency employee;

8 (d) Federal, state, or local prosecuting attorney or deputy  
9 prosecuting attorney;

10 (e) Staff member of any adult corrections institution or local  
11 adult detention facility;

12 (f) Staff member of any juvenile corrections institution or local  
13 juvenile detention facility;

14 (g) Community corrections officer, probation officer, or parole  
15 officer;

16 (h) Member of the indeterminate sentence review board;

17 (i) Advocate from a crime victim/witness program; or

18 (j) Defense attorney.

19 (5) For the purposes of this section, an election official  
20 includes any staff member of the office of the secretary of state or  
21 staff member of a county auditor's office, regardless of whether the  
22 member is employed on a temporary or part-time basis, whose duties  
23 relate to voter registration or the processing of votes as provided  
24 in Title 29A RCW.

25 (6) The penalties provided in this section for cyber harassment  
26 do not preclude the victim from seeking any other remedy otherwise  
27 available under law.

28 (7) Any offense committed under this section may be deemed to  
29 have been committed either at the place from which the communication  
30 was made or at the place where the communication was received.

31 (8) For purposes of this section, "electronic communication"  
32 means the transmission of information by wire, radio, optical cable,  
33 electromagnetic, or other similar means. "Electronic communication"  
34 includes, but is not limited to, email, internet-based  
35 communications, pager service, and electronic text messaging.

36 **Sec. 3.** RCW 40.24.030 and 2022 c 231 s 5 are each amended to  
37 read as follows:

38 (1)(a) An adult person, a parent or guardian acting on behalf of  
39 a minor, or a guardian acting on behalf of an incapacitated person,

1 as defined in RCW 11.88.010, (b) any election official as  
2 (~~described~~) defined in RCW 9A.46.020 who is a target for threats or  
3 harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any  
4 election official as defined in RCW 9A.90.120 who is a target for  
5 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or  
6 (iv), and any family members residing with him or her, and (c) any  
7 criminal justice participant as defined in RCW 9A.46.020 who is a  
8 target for threats or harassment prohibited under RCW 9A.46.020(2)(b)  
9 (iii) or (iv) and any criminal justice participant as defined in RCW  
10 9A.90.120 who is a target for threats or harassment prohibited under  
11 RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing  
12 with him or her, may apply to the secretary of state to have an  
13 address designated by the secretary of state serve as the person's  
14 address or the address of the minor or incapacitated person. The  
15 secretary of state shall approve an application if it is filed in the  
16 manner and on the form prescribed by the secretary of state and if it  
17 contains:

18 (i) A sworn statement, under penalty of perjury, by the applicant  
19 that the applicant has good reason to believe (A) that the applicant,  
20 or the minor or incapacitated person on whose behalf the application  
21 is made, is a victim of domestic violence, sexual assault,  
22 trafficking, or stalking and that the applicant fears for his or her  
23 safety or his or her children's safety, or the safety of the minor or  
24 incapacitated person on whose behalf the application is made; (B)  
25 that the applicant, as an election official as (~~described~~) defined  
26 in RCW 9A.46.020 is a target for threats or harassment prohibited  
27 under RCW 9A.46.020(2)(b) (iii) or (iv) and any election official as  
28 defined in RCW 9A.90.120, is a target for threats or harassment  
29 prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); or (C) that the  
30 applicant, as a criminal justice participant as defined in RCW  
31 9A.46.020, is a target for threats or harassment prohibited under RCW  
32 9A.46.020(2)(b) (iii) or (iv), or that the applicant, as a criminal  
33 justice participant as defined in RCW 9A.90.120 is a target for  
34 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or  
35 (iv);

36 (ii) If applicable, a sworn statement, under penalty of perjury,  
37 by the applicant, that the applicant has reason to believe they are a  
38 victim of (A) domestic violence, sexual assault, or stalking  
39 perpetrated by an employee of a law enforcement agency, or(~~+~~) (B)

1 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or  
2 (iv) or 9A.46.020(2)(b) (iii) or (iv);

3 (iii) A designation of the secretary of state as agent for  
4 purposes of service of process and for the purpose of receipt of  
5 mail;

6 (iv) The residential address and any telephone number where the  
7 applicant can be contacted by the secretary of state, which shall not  
8 be disclosed because disclosure will increase the risk of (A)  
9 domestic violence, sexual assault, trafficking, or stalking, or (B)  
10 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or  
11 (iv) or 9A.46.020(2)(b) (iii) or (iv);

12 (v) The signature of the applicant and of any individual or  
13 representative of any office designated in writing under RCW  
14 40.24.080 who assisted in the preparation of the application, and the  
15 date on which the applicant signed the application.

16 (2) Applications shall be filed with the office of the secretary  
17 of state.

18 (3) Upon filing a properly completed application, the secretary  
19 of state shall certify the applicant as a program participant.  
20 Applicants shall be certified for four years following the date of  
21 filing unless the certification is withdrawn or invalidated before  
22 that date. The secretary of state shall by rule establish a renewal  
23 procedure.

24 (4)(a) During the application process, the secretary of state  
25 shall provide each applicant a form to direct the department of  
26 licensing to change the address of registration for vehicles or  
27 vessels solely or jointly registered to the applicant and the address  
28 associated with the applicant's driver's license or identicard to the  
29 applicant's address as designated by the secretary of state upon  
30 certification in the program. The directive to the department of  
31 licensing is only valid if signed by the applicant. The directive may  
32 only include information required by the department of licensing to  
33 verify the applicant's identity and ownership information for  
34 vehicles and vessels. This information is limited to the:

35 (i) Applicant's full legal name;

36 (ii) Applicant's Washington driver's license or identicard  
37 number;

38 (iii) Applicant's date of birth;

39 (iv) Vehicle identification number and license plate number for  
40 each vehicle solely or jointly registered to the applicant; and

1 (v) Hull identification number or vessel document number and  
2 vessel decal number for each vessel solely or jointly registered to  
3 the applicant.

4 (b) Upon certification of the applicants, the secretary of state  
5 shall transmit completed and signed directives to the department of  
6 licensing.

7 (c) Within 30 days of receiving a completed and signed directive,  
8 the department of licensing shall update the applicant's address on  
9 registration and licensing records.

10 (d) Applicants are not required to sign the directive to the  
11 department of licensing to be certified as a program participant.

12 (5) A person who knowingly provides false or incorrect  
13 information upon making an application or falsely attests in an  
14 application that disclosure of the applicant's address would endanger

15 (a) the applicant's safety or the safety of the applicant's children  
16 or the minor or incapacitated person on whose behalf the application  
17 is made, (b) the safety of any election official as described in RCW  
18 9A.90.120 who is a target for threats or harassment prohibited under  
19 RCW 9A.90.120(2)(b) (iii) or (iv), or (c) the safety of any criminal  
20 justice participant as defined in RCW 9A.46.020 who is a target for  
21 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or  
22 (iv) or of any criminal justice participant as defined in RCW  
23 9A.90.120 who is a target for threats or harassment prohibited under  
24 RCW 9A.90.120(2)(b) (iii) or (iv), or any family members residing  
25 with him or her, shall be punished under RCW 40.16.030 or other  
26 applicable statutes.

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