

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2702

Chapter 186, Laws of 1992

52nd Legislature
1992 Regular Session

STALKING DEFINED AND PENALTIES SET

EFFECTIVE DATE: 6/11/92

Passed by the House March 7, 1992
Yeas 95 Nays 0

JOE KING
**Speaker of the
House of Representatives**

Passed by the Senate March 3, 1992
Yeas 46 Nays 0

JOEL PRITCHARD
President of the Senate

Approved April 2, 1992

BOOTH GARDNER
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 2702 as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

April 2, 1992 - 11:09 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2702

AS AMENDED BY THE SENATE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1992 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives R. Johnson, Belcher, Paris, Schmidt, Anderson, Roland, Bray, Jacobsen, Spanel, Scott, Leonard, Sheldon, Wynne, Lisk, Ebersole, Brough, Basich, R. King, Valle, Zellinsky, Kremen, Hochstatter, Wineberry, Winsley, Van Luven, Forner, P. Johnson, Bowman, Pruitt, Fraser, Tate, Ogden, J. Kohl, McLean, Wood and Rasmussen)

Read first time 02/07/92.

1 AN ACT Relating to harassment; amending RCW 9A.46.020, 9A.46.030,
2 9A.46.060, 9A.46.100, 9.61.230, 9.94A.155, 10.77.205, and 71.05.425;
3 adding a new section to chapter 9A.46 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.46 RCW
6 to read as follows:

7 (1) A person commits the crime of stalking if, without lawful
8 authority and under circumstances not amounting to a felony attempt of
9 another crime:

10 (a) He or she intentionally and repeatedly follows another person
11 to that person's home, school, place of employment, business, or any
12 other location, or follows the person while the person is in transit
13 between locations; and

1 (b) The person being followed is intimidated, harassed, or placed
2 in fear that the stalker intends to injure the person or property of
3 the person being followed or of another person. The feeling of fear,
4 intimidation, or harassment must be one that a reasonable person in the
5 same situation would experience under all the circumstances; and

6 (c) The stalker either:

7 (i) Intends to frighten, intimidate, or harass the person being
8 followed; or

9 (ii) Knows or reasonably should know that the person being followed
10 is afraid, intimidated, or harassed even if the stalker did not intend
11 to place the person in fear or intimidate or harass the person.

12 (2)(a) It is not a defense to the crime of stalking under
13 subsection (1)(c)(i) of this section that the stalker was not given
14 actual notice that the person being followed did not want the stalker
15 to contact or follow the person; and

16 (b) It is not a defense to the crime of stalking under subsection
17 (1)(c)(ii) of this section that the stalker did not intend to frighten,
18 intimidate, or harass the person being followed.

19 (3) It shall be a defense to the crime of stalking that the
20 defendant is a licensed private detective acting within the capacity of
21 his or her license as provided by chapter 18.165 RCW.

22 (4) Attempts to contact or follow the person after being given
23 actual notice that the person does not want to be contacted or followed
24 constitutes prima facie evidence that the stalker intends to intimidate
25 or harass the person.

26 (5) A person who stalks another person is guilty of a gross
27 misdemeanor except that the person is guilty of a class C felony if any
28 of the following applies: (a) The stalker has previously been
29 convicted in this state or any other state of any crime of harassment,
30 as defined in RCW 9A.46.060, of the same victim or members of the

1 victim's family or household or any person specifically named in a no-
2 contact order or no-harassment order; (b) the person violates a court
3 order issued pursuant to RCW 9A.46.040 protecting the person being
4 stalked; or (c) the stalker has previously been convicted of a gross
5 misdemeanor or felony stalking offense under this section for stalking
6 another person.

7 **Sec. 2.** RCW 9A.46.020 and 1985 c 288 s 2 are each amended to read
8 as follows:

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

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

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

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

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

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

20 (b) The person by words or conduct places the person threatened in
21 reasonable fear that the threat will be carried out.

22 (2) A person who harasses another is guilty of a gross misdemeanor
23 punishable under chapter 9A.20 RCW, ~~((unless))~~ except that the person
24 is guilty of a class C felony if either of the following applies: (a)
25 The person has previously been convicted in this or any other state of
26 any crime of harassment, as defined in RCW 9A.46.060, of the same
27 victim or members of the victim's family or household or any person
28 specifically named in a no-contact or no-harassment order~~((, in which~~
29 ~~case the person is guilty of a class C felony punishable under chapter~~

1 9A.20-RCW)); or (b) the person harasses another person under subsection
2 (1)(a)(i) of this section by threatening to kill the person threatened
3 or any other person.

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

7 **Sec. 3.** RCW 9A.46.030 and 1985 c 288 s 3 are each amended to read
8 as follows:

9 Any harassment offense committed as set forth in RCW 9A.46.020 or
10 section 1 of this act may be deemed to have been committed where the
11 conduct occurred or at the place from which the threat or threats were
12 made or at the place where the threats were received.

13 **Sec. 4.** RCW 9A.46.060 and 1988 c 145 s 15 are each amended to read
14 as follows:

15 As used in this chapter, "harassment" may include but is not
16 limited to any of the following crimes:

- 17 (1) Harassment (RCW 9A.46.020);
- 18 (2) Malicious harassment (RCW 9A.36.080);
- 19 (3) Telephone harassment (RCW 9.61.230);
- 20 (4) Assault in the first degree (RCW 9A.36.011);
- 21 (5) Assault in the second degree (RCW 9A.36.021);
- 22 (6) Simple assault [Assault in the fourth degree] (RCW 9A.36.041);
- 23 (7) Reckless endangerment [in the second degree] (RCW 9A.36.050);
- 24 (8) Extortion in the first degree (RCW 9A.56.120);
- 25 (9) Extortion in the second degree (RCW 9A.56.130);
- 26 (10) Coercion (RCW 9A.36.070);
- 27 (11) Burglary in the first degree (RCW 9A.52.020);
- 28 (12) Burglary in the second degree (RCW 9A.52.030);

- 1 (13) Criminal trespass in the first degree (RCW 9A.52.070);
2 (14) Criminal trespass in the second degree (RCW 9A.52.080);
3 (15) Malicious mischief in the first degree (RCW 9A.48.070);
4 (16) Malicious mischief in the second degree (RCW 9A.48.080);
5 (17) Malicious mischief in the third degree (RCW 9A.48.090);
6 (18) Kidnapping in the first degree (RCW 9A.40.020);
7 (19) Kidnapping in the second degree (RCW 9A.40.030);
8 (20) Unlawful imprisonment (RCW 9A.40.040);
9 (21) Rape in the first degree (RCW 9A.44.040);
10 (22) Rape in the second degree (RCW 9A.44.050);
11 (23) Rape in the third degree (RCW 9A.44.060);
12 (24) Indecent liberties (RCW 9A.44.100);
13 (25) Rape of a child in the first degree (RCW 9A.44.073);
14 (26) Rape of a child in the second degree (RCW 9A.44.076);
15 (27) Rape of a child in the third degree (RCW 9A.44.079);
16 (28) Child molestation in the first degree (RCW 9A.44.083);
17 (29) Child molestation in the second degree (RCW 9A.44.086);
18 ((and))
19 (30) Child molestation in the third degree (RCW 9A.44.089); and
20 (31) Stalking (RCW 9A.46.--- (section 1 of this act)).

21 **Sec. 5.** RCW 9A.46.100 and 1985 c 288 s 10 are each amended to read
22 as follows:

23 As used in RCW 9.61.230 ((or)), 9A.46.020, or section 1 of this
24 act, a person has been "convicted" at such time as a plea of guilty has
25 been accepted or a verdict of guilty has been filed, notwithstanding
26 the pendency of any future proceedings including but not limited to
27 sentencing, posttrial motions, and appeals.

1 **Sec. 6.** RCW 9.61.230 and 1985 c 288 s 11 are each amended to read
2 as follows:

3 Every person who, with intent to harass, intimidate, torment or
4 embarrass any other person, shall make a telephone call to such other
5 person:

6 (1) Using any lewd, lascivious, profane, indecent, or obscene words
7 or language, or suggesting the commission of any lewd or lascivious
8 act; or

9 (2) Anonymously or repeatedly or at an extremely inconvenient hour,
10 whether or not conversation ensues; or

11 (3) Threatening to inflict injury on the person or property of the
12 person called or any member of his or her family or household;

13 shall be guilty of a gross misdemeanor, ~~((unless))~~ except that the
14 person is guilty of a class C felony if either of the following
15 applies: (a) That person has previously been convicted of any crime of
16 harassment, as defined in RCW 9A.46.060, with the same victim or member
17 of the victim's family or household or any person specifically named in
18 a no-contact or no-harassment order in this or any other state ~~((, in~~
19 ~~which case the person is guilty of a class C felony punishable under~~
20 ~~chapter 9A.20 RCW))~~; or

21 (b) That person harasses another person under subsection (3) of
22 this section by threatening to kill the person threatened or any other
23 person.

24 **Sec. 7.** RCW 9.94A.155 and 1990 c 3 s 121 are each amended to read
25 as follows:

26 (1) At the earliest possible date, and in no event later than ten
27 days before release except in the event of escape or emergency
28 furloughs as defined in RCW 72.66.010, the department of corrections
29 shall send written notice of parole, community placement, work release

1 placement, furlough, or escape about a specific inmate convicted of a
2 violent offense ((~~or~~)), a sex offense as defined by RCW 9.94A.030, or
3 a felony harassment offense as defined by RCW 9A.46.060 or section 1 of
4 this act, to all of the following:

5 (a) The chief of police of the city, if any, in which the inmate
6 will reside or in which placement will be made in a work release
7 program; and

8 (b) The sheriff of the county in which the inmate will reside or in
9 which placement will be made in a work release program.

10 (2) The same notice as required by subsection (1) of this section
11 shall be sent to the following if such notice has been requested in
12 writing about a specific inmate convicted of a violent offense ((~~or~~)),
13 a sex offense as defined by RCW 9.94A.030, or a felony harassment
14 offense as defined by RCW 9A.46.060 or section 1 of this act:

15 (a) The victim of the crime for which the inmate was convicted or
16 the victim's next of kin if the crime was a homicide;

17 (b) Any witnesses who testified against the inmate in any court
18 proceedings involving the violent offense; and

19 (c) Any person specified in writing by the prosecuting attorney.
20 Information regarding victims, next of kin, or witnesses requesting the
21 notice, information regarding any other person specified in writing by
22 the prosecuting attorney to receive the notice, and the notice are
23 confidential and shall not be available to the inmate.

24 (3) If an inmate convicted of a violent offense ((~~or~~)), a sex
25 offense as defined by RCW 9.94A.030, or a felony harassment offense as
26 defined by RCW 9A.46.060 or section 1 of this act, escapes from a
27 correctional facility, the department of corrections shall immediately
28 notify, by the most reasonable and expedient means available, the chief
29 of police of the city and the sheriff of the county in which the inmate
30 resided immediately before the inmate's arrest and conviction. If

1 previously requested, the department shall also notify the witnesses
2 and the victim of the crime for which the inmate was convicted or the
3 victim's next of kin if the crime was a homicide. If the inmate is
4 recaptured, the department shall send notice to the persons designated
5 in this subsection as soon as possible but in no event later than two
6 working days after the department learns of such recapture.

7 (4) If the victim, the victim's next of kin, or any witness is
8 under the age of sixteen, the notice required by this section shall be
9 sent to the parents or legal guardian of the child.

10 (5) The department of corrections shall send the notices required
11 by this chapter to the last address provided to the department by the
12 requesting party. The requesting party shall furnish the department
13 with a current address.

14 (6) For purposes of this section the following terms have the
15 following meanings:

16 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

17 (b) "Next of kin" means a person's spouse, parents, siblings and
18 children.

19 (7) Nothing in this section shall impose any liability upon a chief
20 of police of a city or sheriff of a county for failing to request in
21 writing a notice as provided in subsection (1) of this section.

22 **Sec. 8.** RCW 10.77.205 and 1990 c 3 s 104 are each amended to read
23 as follows:

24 (1)(a) At the earliest possible date, and in no event later than
25 ten days before conditional release, final discharge, authorized
26 furlough pursuant to RCW 10.77.163, or transfer to a less-restrictive
27 facility than a state mental hospital, the superintendent shall send
28 written notice of the conditional release, final discharge, authorized
29 furlough, or transfer of a person who has been found not guilty of a

1 sex ((~~or~~)), violent, or felony harassment offense by reason of insanity
2 and who is now in the custody of the department pursuant to this
3 chapter, to the following:

4 (i) The chief of police of the city, if any, in which the person
5 will reside; and

6 (ii) The sheriff of the county in which the person will reside.

7 (b) The same notice as required by (a) of this subsection shall be
8 sent to the following, if such notice has been requested in writing
9 about a specific person committed under this chapter:

10 (i) The victim of the crime for which the person was committed or
11 the victim's next of kin if the crime was a homicide;

12 (ii) Any witnesses who testified against the person in any court
13 proceedings; and

14 (iii) Any person specified in writing by the prosecuting attorney.
15 Information regarding victims, next of kin, or witnesses requesting the
16 notice, information regarding any other person specified in writing by
17 the prosecuting attorney to receive the notice, and the notice are
18 confidential and shall not be available to the person committed under
19 this chapter.

20 (c) In addition to the notice requirements of (a) and (b) of this
21 subsection, the superintendent shall comply with RCW 10.77.163.

22 (2) If a person who has been found not guilty of a sex ((~~or~~)),
23 violent, or felony harassment offense by reason of insanity and who is
24 committed under this chapter escapes, the superintendent shall
25 immediately notify, by the most reasonable and expedient means
26 available, the chief of police of the city and the sheriff of the
27 county in which the person resided immediately before the person's
28 arrest. If previously requested, the superintendent shall also notify
29 the witnesses and the victim, if any, of the crime for which the person
30 was committed or the victim's next of kin if the crime was a homicide.

1 The superintendent shall also notify appropriate persons pursuant to
2 RCW 10.77.165. If the person is recaptured, the secretary shall send
3 notice to the persons designated in this subsection as soon as possible
4 but in no event later than two working days after the department learns
5 of such recapture.

6 (3) If the victim, the victim's next of kin, or any witness is
7 under the age of sixteen, the notice required by this section shall be
8 sent to the parents or legal guardian of the child.

9 (4) The department shall send the notices required by this chapter
10 to the last address provided to the department by the requesting party.
11 The requesting party shall furnish the department with a current
12 address.

13 (5) For purposes of this section the following terms have the
14 following meanings:

15 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

16 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

17 (c) "Next of kin" means a person's spouse, parents, siblings, and
18 children;

19 (d) "Authorized furlough" means a furlough granted after compliance
20 with RCW 10.77.163;

21 (e) "Felony harassment offense" means a crime of harassment as
22 defined in RCW 9A.46.060 that is a felony.

23 **Sec. 9.** RCW 71.05.425 and 1990 c 3 s 109 are each amended to read
24 as follows:

25 (1)(a) Except as provided in subsection (2) of this section, at the
26 earliest possible date, and in no event later than ten days before
27 conditional release, final discharge, authorized leave under RCW
28 71.05.325(2), or transfer to a less-restrictive facility than a state
29 mental hospital, the superintendent shall send written notice of

1 conditional release, final discharge, authorized leave, or transfer of
2 a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following
3 dismissal of a sex ~~((e)r)~~, violent, or felony harassment offense
4 pursuant to RCW 10.77.090(3) to the following:

5 (i) The chief of police of the city, if any, in which the person
6 will reside; and

7 (ii) The sheriff of the county in which the person will reside.

8 (b) The same notice as required by (a) of this subsection shall be
9 sent to the following, if such notice has been requested in writing
10 about a specific person committed under RCW 71.05.280(3) or
11 71.05.320(2)(c) following dismissal of a sex ~~((e)r)~~, violent, or felony
12 harassment offense pursuant to RCW 10.77.090(3):

13 (i) The victim of the sex ~~((e)r)~~, violent ((erime)), or felony
14 harassment offense that was dismissed pursuant to RCW 10.77.090(3)
15 preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the
16 victim's next of kin if the crime was a homicide;

17 (ii) Any witnesses who testified against the person in any court
18 proceedings; and

19 (iii) Any person specified in writing by the prosecuting attorney.
20 Information regarding victims, next of kin, or witnesses requesting the
21 notice, information regarding any other person specified in writing by
22 the prosecuting attorney to receive the notice, and the notice are
23 confidential and shall not be available to the person committed under
24 this chapter.

25 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
26 following dismissal of a sex ~~((e)r)~~, violent, or felony harassment
27 offense pursuant to RCW 10.77.090(3) escapes, the superintendent shall
28 immediately notify, by the most reasonable and expedient means
29 available, the chief of police of the city and the sheriff of the
30 county in which the person resided immediately before the person's

1 arrest. If previously requested, the superintendent shall also notify
2 the witnesses and the victim of the sex ~~((or))~~, violent ~~((crime))~~, or
3 felony harassment offense that was dismissed pursuant to RCW
4 10.77.090(3) preceding commitment under RCW 71.05.280(3) or
5 71.05.320(2) or the victim's next of kin if the crime was a homicide.
6 In addition, the secretary shall also notify appropriate parties
7 pursuant to RCW 71.05.410. If the person is recaptured, the
8 superintendent shall send notice to the persons designated in this
9 subsection as soon as possible but in no event later than two working
10 days after the department learns of such recapture.

11 (3) If the victim, the victim's next of kin, or any witness is
12 under the age of sixteen, the notice required by this section shall be
13 sent to the parent or legal guardian of the child.

14 (4) The superintendent shall send the notices required by this
15 chapter to the last address provided to the department by the
16 requesting party. The requesting party shall furnish the department
17 with a current address.

18 (5) For purposes of this section the following terms have the
19 following meanings:

20 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

21 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

22 (c) "Next of kin" means a person's spouse, parents, siblings, and
23 children;

24 (d) "Felony harassment offense" means a crime of harassment as
25 defined in RCW 9A.46.060 that is a felony.

26 NEW SECTION. **Sec. 10.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

Passed the House March 7, 1992.
Passed the Senate March 3, 1992.
Approved by the Governor April 2, 1992.
Filed in Office of Secretary of State April 2, 1992.