
ENGROSSED HOUSE BILL 2952

State of Washington

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By Representatives Sheahan, Campbell, McMorris, Sterk, Sheldon, Hargrove, Schoesler, Foreman, Thompson, Hymes, Goldsmith, Pennington, L. Thomas, Smith, Backlund, Silver, Johnson, Carrell, Robertson, Blanton, Pelesky, Sherstad and Mulliken

Read first time 2-10-96.

1 AN ACT Relating to increasing penalties for crimes against family
2 or household members; amending RCW 9A.36.050, 9A.36.070, 9A.46.110,
3 9A.52.070, 9A.48.090, 10.99.040, 26.09.300, and 26.50.110; creating a
4 new section; and prescribing penalties.

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

6 **Sec. 1.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to
7 read as follows:

8 (1) A person is guilty of reckless endangerment in the second
9 degree when he recklessly engages in conduct not amounting to reckless
10 endangerment in the first degree but which creates a substantial risk
11 of death or serious physical injury to another person.

12 (2) Reckless endangerment in the second degree is a gross
13 misdemeanor unless the person commits the crime against a family or
14 household member as defined in RCW 10.99.020, in which case it is a
15 class C felony.

16 **Sec. 2.** RCW 9A.36.070 and 1975 1st ex.s. c 260 s 9A.36.070 are
17 each amended to read as follows:

1 (1) A person is guilty of coercion if by use of a threat he compels
2 or induces a person to engage in conduct which the latter has a legal
3 right to abstain from, or to abstain from conduct which he has a legal
4 right to engage in.

5 (2) "Threat" as used in this section means:

6 (a) To communicate, directly or indirectly, the intent immediately
7 to use force against any person who is present at the time; or

8 (b) Threats as defined in RCW 9A.04.110(25)(a), (b), or (c).

9 (3) Coercion is a gross misdemeanor unless the person commits the
10 crime against a family or household member as defined in RCW 10.99.020,
11 in which case it is a class C felony.

12 **Sec. 3.** RCW 9A.46.110 and 1994 c 271 s 801 are each amended to
13 read as follows:

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

17 (a) He or she intentionally and repeatedly harasses or repeatedly
18 follows another person; and

19 (b) The person being harassed or followed is placed in fear that
20 the stalker intends to injure the person, another person, or property
21 of the person or of another person. The feeling of fear must be one
22 that a reasonable person in the same situation would experience under
23 all the circumstances; and

24 (c) The stalker either:

25 (i) Intends to frighten, intimidate, or harass the person; or

26 (ii) Knows or reasonably should know that the person is afraid,
27 intimidated, or harassed even if the stalker did not intend to place
28 the person in fear or intimidate or harass the person.

29 (2)(a) It is not a defense to the crime of stalking under
30 subsection (1)(c)(i) of this section that the stalker was not given
31 actual notice that the person did not want the stalker to contact or
32 follow the person; and

33 (b) It is not a defense to the crime of stalking under subsection
34 (1)(c)(ii) of this section that the stalker did not intend to frighten,
35 intimidate, or harass the person.

36 (3) It shall be a defense to the crime of stalking that the
37 defendant is a licensed private ((detective)) investigator acting

1 within the capacity of his or her license as provided by chapter 18.165
2 RCW.

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

7 (5) A person who stalks another person is guilty of a gross
8 misdemeanor except that the person is guilty of a class C felony if any
9 of the following applies: (a) The stalker has previously been
10 convicted in this state or any other state of any crime of harassment,
11 as defined in RCW 9A.46.060, of the same victim or members of the
12 victim's family or household or any person specifically named in a
13 protective order; (b) the stalking violates any protective order
14 protecting the person being stalked; (c) the stalker has previously
15 been convicted of a gross misdemeanor or felony stalking offense under
16 this section for stalking another person; (d) the stalker was armed
17 with a deadly weapon, as defined in RCW 9.94A.125, while stalking the
18 person; (e) the stalker's victim is or was a law enforcement officer,
19 judge, juror, attorney, victim advocate, legislator, or community
20 correction's officer, and the stalker stalked the victim to retaliate
21 against the victim for an act the victim performed during the course of
22 official duties or to influence the victim's performance of official
23 duties; ~~((e))~~ (f) the stalker's victim is a current, former, or
24 prospective witness in an adjudicative proceeding, and the stalker
25 stalked the victim to retaliate against the victim as a result of the
26 victim's testimony or potential testimony; or (g) the stalker's victim
27 is a family or household member as defined in RCW 10.99.020.

28 (6) As used in this section:

29 (a) "Follows" means deliberately maintaining visual or physical
30 proximity to a specific person over a period of time. A finding that
31 the alleged stalker repeatedly and deliberately appears at the person's
32 home, school, place of employment, business, or any other location to
33 maintain visual or physical proximity to the person is sufficient to
34 find that the alleged stalker follows the person. It is not necessary
35 to establish that the alleged stalker follows the person while in
36 transit from one location to another.

37 (b) "Harasses" means unlawful harassment as defined in RCW
38 10.14.020.

1 (c) "Protective order" means any temporary or permanent court order
2 prohibiting or limiting violence against, harassment of, contact or
3 communication with, or physical proximity to another person.

4 (d) "Repeatedly" means on two or more separate occasions.

5 **Sec. 4.** RCW 9A.52.070 and 1979 ex.s. c 244 s 12 are each amended
6 to read as follows:

7 (1) A person is guilty of criminal trespass in the first degree if
8 he knowingly enters or remains unlawfully in a building.

9 (2) Criminal trespass in the first degree is a gross misdemeanor
10 unless the person commits the crime against a family or household
11 member as defined in RCW 10.99.020, in which case it is a class C
12 felony.

13 **Sec. 5.** RCW 9A.48.090 and 1975 1st ex.s. c 260 s 9A.48.090 are
14 each amended to read as follows:

15 (1) A person is guilty of malicious mischief in the third degree if
16 he knowingly and maliciously causes physical damage to the property of
17 another, under circumstances not amounting to malicious mischief in the
18 first or second degree.

19 (2) Malicious mischief in the third degree is a class C felony if
20 the person commits the crime against a family or household member as
21 defined in RCW 10.99.020 regardless of the cost of the damage to the
22 property. If the crime is not committed against a family or household
23 member malicious mischief in the third degree is a gross misdemeanor if
24 the damage to the property is in an amount exceeding fifty dollars;
25 otherwise, it is a misdemeanor.

26 **Sec. 6.** RCW 10.99.040 and 1995 c 246 s 23 are each amended to read
27 as follows:

28 (1) Because of the serious nature of domestic violence, the court
29 in domestic violence actions:

30 (a) Shall not dismiss any charge or delay disposition because of
31 concurrent dissolution or other civil proceedings;

32 (b) Shall not require proof that either party is seeking a
33 dissolution of marriage prior to instigation of criminal proceedings;

34 (c) Shall waive any requirement that the victim's location be
35 disclosed to any person, other than the attorney of a criminal
36 defendant, upon a showing that there is a possibility of further

1 violence: PROVIDED, That the court may order a criminal defense
2 attorney not to disclose to his or her client the victim's location;
3 and

4 (d) Shall identify by any reasonable means on docket sheets those
5 criminal actions arising from acts of domestic violence.

6 (2) Because of the likelihood of repeated violence directed at
7 those who have been victims of domestic violence in the past, when any
8 person charged with or arrested for a crime involving domestic violence
9 is released from custody before arraignment or trial on bail or
10 personal recognizance, the court authorizing the release may prohibit
11 that person from having any contact with the victim. The jurisdiction
12 authorizing the release shall determine whether that person should be
13 prohibited from having any contact with the victim. If there is no
14 outstanding restraining or protective order prohibiting that person
15 from having contact with the victim, the court authorizing release may
16 issue, by telephone, a no-contact order prohibiting the person charged
17 or arrested from having contact with the victim. In issuing the order,
18 the court shall consider the provisions of RCW 9.41.800. The no-
19 contact order shall also be issued in writing as soon as possible.

20 (3) At the time of arraignment the court shall determine whether a
21 no-contact order shall be issued or extended. If a no-contact order is
22 issued or extended, the court may also include in the conditions of
23 release a requirement that the defendant submit to electronic
24 monitoring. If electronic monitoring is ordered, the court shall
25 specify who shall provide the monitoring services, and the terms under
26 which the monitoring shall be performed. Upon conviction, the court
27 may require as a condition of the sentence that the defendant reimburse
28 the providing agency for the costs of the electronic monitoring.

29 (4)(a) Willful violation of a court order issued under subsection
30 (2) or (3) of this section is a (~~gross misdemeanor~~) class C felony
31 punishable under chapter 9A.20 RCW. Upon conviction and in addition to
32 other penalties provided by law, the court may require that the
33 defendant submit to electronic monitoring. The court shall specify who
34 shall provide the electronic monitoring services and the terms under
35 which the monitoring must be performed. The court also may include a
36 requirement that the defendant pay the costs of the monitoring. The
37 court shall consider the ability of the convicted person to pay for
38 electronic monitoring.

1 ~~((Any assault that is a violation of an order issued under this~~
2 ~~section and that does not amount to assault in the first or second~~
3 ~~degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable~~
4 ~~under chapter 9A.20 RCW, and any conduct in violation of a protective~~
5 ~~order issued under this section that is reckless and creates a~~
6 ~~substantial risk of death or serious physical injury to another person~~
7 ~~is a class C felony punishable under chapter 9A.20 RCW.~~

8 ~~(e))~~) The written order releasing the person charged or arrested
9 shall contain the court's directives and shall bear the legend:
10 "Violation of this order is a criminal offense under chapter 10.99 RCW
11 and will subject a violator to arrest; any assault or reckless
12 endangerment that is a violation of this order is a felony. You can be
13 arrested even if any person protected by the order invites or allows
14 you to violate the order's prohibitions. You have the sole
15 responsibility to avoid or refrain from violating the order's
16 provisions. Only the court can change the order." A certified copy of
17 the order shall be provided to the victim. If a no-contact order has
18 been issued prior to charging, that order shall expire at arraignment
19 or within seventy-two hours if charges are not filed. Such orders need
20 not be entered into the computer-based criminal intelligence
21 information system in this state which is used by law enforcement
22 agencies to list outstanding warrants.

23 (5) Whenever an order prohibiting contact is issued, modified, or
24 terminated under subsection (2) or (3) of this section, the clerk of
25 the court shall forward a copy of the order on or before the next
26 judicial day to the appropriate law enforcement agency specified in the
27 order. Upon receipt of the copy of the order the law enforcement
28 agency shall forthwith enter the order for one year or until the
29 expiration date specified on the order into any computer-based criminal
30 intelligence information system available in this state used by law
31 enforcement agencies to list outstanding warrants. Entry into the law
32 enforcement information system constitutes notice to all law
33 enforcement agencies of the existence of the order. The order is fully
34 enforceable in any jurisdiction in the state.

35 **Sec. 7.** RCW 26.09.300 and 1995 c 246 s 27 are each amended to read
36 as follows:

37 (1) Whenever a restraining order is issued under this chapter, and
38 the person to be restrained knows of the order, a violation of the

1 provisions restricting the person from acts or threats of violence or
2 of a provision excluding the person from the residence, workplace,
3 school, or day care of another is a (~~misdemeanor~~) class C felony
4 punishable under chapter 9A.20 RCW.

5 (2) A person is deemed to have notice of a restraining order if:

6 (a) The person to be restrained or the person's attorney signed the
7 order;

8 (b) The order recites that the person to be restrained or the
9 person's attorney appeared in person before the court;

10 (c) The order was served upon the person to be restrained; or

11 (d) The peace officer gives the person oral or written evidence of
12 the order by reading from it or handing to the person a certified copy
13 of the original order, certified to be an accurate copy of the original
14 by a notary public or by the clerk of the court.

15 (3) A peace officer shall verify the existence of a restraining
16 order by:

17 (a) Obtaining information confirming the existence and terms of the
18 order from a law enforcement agency; or

19 (b) Obtaining a certified copy of the order, certified to be an
20 accurate copy of the original by a notary public or by the clerk of the
21 court.

22 (4) A peace officer shall arrest and take into custody, pending
23 release on bail, personal recognizance, or court order, a person
24 without a warrant when the officer has probable cause to believe that:

25 (a) A restraining order has been issued under this chapter;

26 (b) The respondent or person to be restrained knows of the order;
27 and

28 (c) The person to be arrested has violated the terms of the order
29 restraining the person from acts or threats of violence or excluding
30 the person from the residence.

31 (5) It is a defense to prosecution under subsection (1) of this
32 section that the court order was issued contrary to law or court rule.

33 (6) No peace officer may be held criminally or civilly liable for
34 making an arrest under subsection (4) of this section if the officer
35 acts in good faith and without malice.

36 **Sec. 8.** RCW 26.50.110 and 1995 c 246 s 14 are each amended to read
37 as follows:

1 (1) Whenever an order for protection is granted under this chapter
2 and the respondent or person to be restrained knows of the order, a
3 violation of the restraint provisions or of a provision excluding the
4 person from a residence, workplace, school, or day care is a (~~gross~~
5 ~~misdemeanor~~) class C felony. Upon conviction, and in addition to any
6 other penalties provided by law, the court may require that the
7 respondent submit to electronic monitoring. The court shall specify
8 who shall provide the electronic monitoring services, and the terms
9 under which the monitoring shall be performed. The order also may
10 include a requirement that the respondent pay the costs of the
11 monitoring. The court shall consider the ability of the convicted
12 person to pay for electronic monitoring.

13 (2) A peace officer shall arrest without a warrant and take into
14 custody a person whom the peace officer has probable cause to believe
15 has violated an order issued under this chapter that restrains the
16 person or excludes the person from a residence, workplace, school, or
17 day care, if the person restrained knows of the order. Presence of the
18 order in the law enforcement computer-based criminal intelligence
19 information system is not the only means of establishing knowledge of
20 the order.

21 (3) A violation of an order for protection shall also constitute
22 contempt of court, and is subject to the penalties prescribed by law.

23 ~~(4) ((Any assault that is a violation of an order issued under this~~
24 ~~chapter and that does not amount to assault in the first or second~~
25 ~~degree under RCW 9A.36.011 or 9A.36.021 is a class C felony, and any~~
26 ~~conduct in violation of a protective order issued under this chapter~~
27 ~~that is reckless and creates a substantial risk of death or serious~~
28 ~~physical injury to another person is a class C felony.~~

29 ~~(5))~~ Upon the filing of an affidavit by the petitioner or any
30 peace officer alleging that the respondent has violated an order for
31 protection granted under this chapter, the court may issue an order to
32 the respondent, requiring the respondent to appear and show cause
33 within fourteen days why the respondent should not be found in contempt
34 of court and punished accordingly. The hearing may be held in the
35 court of any county or municipality in which the petitioner or
36 respondent temporarily or permanently resides at the time of the
37 alleged violation.

1 NEW SECTION. **Sec. 9.** If specific funding for the impact to
2 superior courts and county jails of prosecuting crimes contained in
3 this act, referencing this act by bill or chapter number, is not
4 provided by June 30, 1996, in the supplemental omnibus appropriations
5 act, this act is null and void.

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