

HOUSE BILL REPORT

HB 2441

As Passed House:

February 10, 1998

Title: An act relating to harassment and stalking through the use of electronic communications.

Brief Description: Clarifying that electronic communications are included in the crimes of harassment and stalking.

Sponsors: Representatives Scott, Sheahan, Costa, Radcliff, Constantine, Hatfield, O'Brien, Dickerson, Ogden, Cooper, Cooke, Gardner, Kenney, Thompson, Wood, Conway, Anderson and Butler.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/30/98, 2/4/98 [DP].

Floor Activity:

Passed House: 2/10/98, 96-0.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 10 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell and Sullivan.

Staff: Yvonne Walker (786-7841).

Background: *Crime of Harassment.* Currently, the crime of harassment includes threatening words or conduct which place a person threatened in reasonable fear that the threat will be carried out.

Crime of Stalking. Currently, the crime of stalking includes the repeated harassment or following of a person which puts that person in fear of injury to him or herself, another, or his, her, or another's property. In addition, the stalker must either intend to frighten, intimidate, or harass the person, or must reasonably have known that his or her actions would lead to such fear, intimidation, or harassment. An attempt to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes *prima facie* evidence that the stalker intends to intimidate or harass the person.

Civil Harassment Protection. A civil anti-harassment order may be made by a court, upon showing that a person has engaged in an "course of conduct" aimed at "unlawful harassment" of another person. Currently, "course of conduct" is defined to mean "a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose." However, "course of conduct" does not include constitutionally protected activity.

Summary of Bill:

Section 1. *Legislative Intent.* States that intent is to clarify that electronic communications are included in the types of conduct and actions which may constitute the crimes of harassment and stalking, but that this act is not meant in any way to limit what may constitute those crimes.

Section 2. Amends RCW 9A.46.020(1)(b) as follows:

Crime of Harassment « Definition of "Words or Conduct." Clarifies that "words or conduct" which places a threatened person in reasonable fear that the threat will be carried out includes, "in addition to any other form of communication or conduct, the sending of an electronic communication."

Section 3. Amends RCW 9A.46.110(4) as follows:

Crime of Stalking « Definition of "Contact." An attempt to contact a person after being given actual notice that the person does not want to be contacted is *prima facie* evidence that the stalker intends to intimidate or harass the person. This bill clarifies that "contact" includes the sending of an electronic communication to the person contacted.

Section 4. Amends RCW 10.14.020(2) as follows:

Civil Harassment Protection « Definition of "Course of Conduct." Adds sending of an electronic communication, in addition to any other form of communication, to the definition of "course of conduct," for use in determining whether a civil anti-harassment order should be issued.

Appropriation: None.

Fiscal Note: Requested on January 22, 1998.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Places "cyberstalking" within the crimes of harassment and stalking. Similar laws have been adopted in nine other states. This bill is imperative for use in prosecutions of harassment and stalking. Voice mail may be saved, and electronic mail

can be followed or traced back, thus enabling prosecutors to present evidence of such acts as a course of conduct encompassed by the harassment and stalking laws.

Testimony Against: None.

Testified: Representative Pat Scott, prime sponsor and Glenn Dunnam, Chief of Police, city of Yelm, representing the Washington Association of Sheriffs and Police Chiefs.