

HOUSE BILL REPORT

HB 1011

As Passed Legislature

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, Morris, Hurst, Conway, McIntire, Kessler, Keiser, Mitchell, Ballasiotes, Dickerson, Cody, Haigh, Rockefeller, Lantz and Wood.

Brief History:

Committee Activity:

Judiciary: 1/19/99, 2/2/99 [DP].

Floor Activity:

Passed House: 2/10/99, 95-0.

Passed Senate: 4/7/99, 45-0.

Passed Legislature.

Brief Summary of Bill

- Clarifies that electronic communications are included in the crime of harassment.
- Clarifies that electronic communications are included in the crime of stalking.
- Clarifies that electronic communications are included in the definition of unlawful harassment for purposes of obtaining a protection order.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Carrell, Republican Co-Chair; Constantine, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Cox; Dickerson; Edmonds; Esser; Kastama; Lantz; McDonald and Schindler.

Staff: Jim Morishima (786-7191).

Background:

A person who is harassed by another may obtain relief in two ways. First, the person may bring criminal charges against the person doing the harassing. Second, the person may obtain a civil antiharassment protection order against the person doing the harassing.

I. Criminal Sanctions:

There are two crimes that deal directly with harassment: criminal harassment and criminal stalking.

A. Criminal Harassment:

A person is guilty of criminal harassment if he or she threatens to harm another person and places the threatened person in reasonable fear that the threat will be carried out by "words or conduct."

B. Criminal Stalking:

A person is guilty of criminal stalking if he or she repeatedly harasses or follows another person and places that person in reasonable fear of harm. In order to be guilty of stalking, the stalker must intend to place the person in fear of harm. An attempt to "contact" the person after being given actual notice that the person does not want to be contacted constitutes *prima facie* evidence that the stalker intends to place the person in reasonable fear of harm.

II. Antiharassment Protection Orders:

A person being harassed by another may petition a court for an antiharassment protection order. The court must grant the petition if it finds that unlawful harassment exists. Unlawful harassment means a "course of conduct" aimed at a person which alarms, annoys, harasses, or is detrimental to that person and serves no other lawful purpose. "Course of conduct" means a pattern of conduct evidencing a continuity of purpose. "Course of conduct" does not include any constitutionally protected activity.

Summary of Bill:

I. Criminal Sanctions:

A. Criminal Harassment:

"Words or conduct" that place the person in reasonable fear that the threat will be carried out include, in addition to any other form of communication or conduct, the sending of an electronic communication.

B. Criminal Stalking:

"Contact" after the stalker is given notice that the person being stalked does not want to be contacted includes, in addition to any other form of contact or communication, the sending of an electronic communication.

II. Antiharassment Protection Orders:

"Course of conduct" for purposes of defining "unlawful harassment" includes, in addition to any other form of contact or communication, the sending of an electronic communication.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Nine other states have similar laws relating to "cyberstalking." This bill is necessary because of the increased usage of electronic communications in this state.

Testimony Against: This bill may present problems of proof in that it may be difficult to ascertain the actual sender of an electronic communication.

Testified: (In support) Representative Scott, prime sponsor; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Lisa Scott, attorney.