

HOUSE BILL REPORT

SSB 6602

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to extortion in the second degree.

Brief Description: Revising the crime of extortion in the second degree.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Costa, Long, Poulsen and Kastama).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/26/02 [DP].

Brief Summary of Substitute Bill

- Adds the element of wrongfulness to the crime of extortion in the second degree.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Jim Morishima (786-7191).

Background:

Extortion means knowingly obtaining or attempting to obtain property or services by threat. A person commits extortion in the second degree if he or she commits extortion by means of certain types of threats. Extortion in the second degree is a class C felony, seriousness level III.

A recent decision by Division I of the Washington Court of Appeals invalidated extortion in the second degree. *State v. Pauling*, 108 Wn.App. 445 (2001). According to the court, the broad definition of threat impinged on a defendant's right to free speech because the definition was broad enough to encompass both protected and unprotected

forms of speech. The court ruled that the crime might have survived constitutional scrutiny if it had been limited to wrongful threats or if it had affirmative defenses that limited its reach.

Summary of Bill:

A person is guilty of extortion in the second degree if he or she commits extortion by means of a wrongful threat.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: This is a rarely used statute. The Court of Appeals ruled that the word "wrongful" needs to be inserted in the statute. This will help distinguish between lawful threats and wrongful threats.

Testimony Against: None.

Testified: Tom McBride, Washington Association of Prosecuting Attorneys.