

# HOUSE BILL REPORT

## SSB 6398

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**As Passed House:**  
February 28, 2010

**Title:** An act relating to the definition of threat.

**Brief Description:** Adding the definition of threat to malicious harassment provisions.

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kline, McDermott, Keiser, Hobbs, Murray, Jacobsen, Kohl-Welles and Gordon).

**Brief History:**

**Committee Activity:**

Public Safety & Emergency Preparedness: 2/17/10, 2/23/10 [DP].

**Floor Activity:**

Passed House: 2/28/10, 96-0.

**Brief Summary of Substitute Bill**

- Defines "threat" for the offense of malicious harassment as the direct or indirect communication of the intent to cause bodily injury or physical damage immediately or in the future.

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### HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** Do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

**Staff:** Alexa Silver (786-7190).

**Background:**

A person is guilty of malicious harassment if he or she maliciously and intentionally commits certain acts because of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap. Those acts include:

- causing physical injury;
- causing physical damage or destruction of property; and

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- threatening a specific person or group of people and placing them in reasonable fear of harm to person or property.

Words alone do not rise to the level of malicious harassment unless the circumstances indicate that the words are a threat. Threatening words do not rise to the level of malicious harassment if it is apparent that the person making the threat does not have the ability to carry it out.

"Threat" is defined in the criminal code as directly or indirectly communicating the intent to cause bodily injury in the future to any person or to cause physical damage to property. In 2008 the Court of Appeals issued an opinion in which it found insufficient evidence of a threat under the malicious harassment statute, because the statute covers only threats to cause bodily injury in the future rather than immediately.

Malicious harassment is a class C felony with a seriousness level of IV. A victim may also bring a civil action against the harasser for actual damages, punitive damages up to \$10,000, and reasonable attorneys' fees and costs.

**Summary of Bill:**

For the purposes of the offense of malicious harassment, the term "threat" means to communicate, either directly or indirectly, the intent to cause bodily injury to any person immediately or in the future. "Threat" also means to communicate, either directly or indirectly, the intent to cause physical damage to the property of any person immediately or in the future.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill provides a commonsense definition of "threat" to mean a statement that a person intends some harm either in the immediate future or the longer distance future. This clarification is necessary because the Legislature phrased the definition to apply only to doing harm in the future. Most malicious harassment cases involve an immediate threat, and King County prosecutors treat the definition of "threat" as the bill reads. An example of a threat to do harm in the future occurred in the case of a man who was arrested and threatened to retaliate after getting out of prison. An example of a threat to do harm immediately occurred in the case of a man who shouted obscenities and slurs through an intercom and then threw an object at a window with a person behind it.

(Opposed) None.

**Persons Testifying:** Senator Kline, prime sponsor; and Zach Carstensen, Jewish Federation of Seattle.

**Persons Signed In To Testify But Not Testifying:** None.