

HOUSE BILL ANALYSIS

HB 1636

Title: An act relating to the crime of harassment.

Brief Description: Specifying imminence of threat to bodily harm for crime of harassment.

Sponsors: Representatives Ballasiotes, Costa, Tokuda, Keiser, Ogden and Blalock.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: There are several ways a person can commit the crime of harassment. A person is guilty of harassment if: (a) without lawful authority, the person knowingly threatens to cause bodily injury in the future to the person threatened or to any other person; and (b) the person places the other person in reasonable fear that the threat will be carried out. Harassment is usually a gross misdemeanor. It is a felony if the person harasses another by threatening to kill that person or any other person.

Recently, an appellate court interpreting the language in the harassment statute determined that a threat to cause *immediate* harm can constitute an assault, but not harassment, because harassment requires a threat to cause harm in the future. *City of Seattle v. Allen*, 80 Wn. App. 824 (1996). The court stated that to prove harassment, the prosecutor must prove that the threat was to cause injury at a different time or place than the time or place where the offender made the threat.

A person commits felony harassment when the person knowingly threatens to kill another person in the future and places that person in reasonable fear that the threat will be carried out. Under *Allen*, a threat to kill immediately probably would not constitute felony harassment. Depending upon the circumstances, a threat to kill immediately could be charged as assault in the fourth degree, a gross misdemeanor, or a higher degree of assault. A person who threatens another with a deadly weapon would probably be charged with assault in the second degree, a class B felony.

Summary of Bill: Criminal harassment includes a threat to cause bodily injury immediately or in the future.

Fiscal Note: Not requested.

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

Office of Program Research