

SHB 1319 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED 04/11/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.46.110 and 2006 c 95 s 3 are each amended to read
4 as follows:

5 (1) A person commits the crime of stalking if, without lawful
6 authority and under circumstances not amounting to a felony attempt of
7 another crime:

8 (a) He or she intentionally and repeatedly harasses or repeatedly
9 follows another person; and

10 (b) The person being harassed or followed is placed in fear that
11 the stalker intends to injure the person, another person, or property
12 of the person or of another person. The feeling of fear must be one
13 that a reasonable person in the same situation would experience under
14 all the circumstances; and

15 (c) The stalker either:

16 (i) Intends to frighten, intimidate, or harass the person; or

17 (ii) Knows or reasonably should know that the person is afraid,
18 intimidated, or harassed even if the stalker did not intend to place
19 the person in fear or intimidate or harass the person.

20 (2)(a) It is not a defense to the crime of stalking under
21 subsection (1)(c)(i) of this section that the stalker was not given
22 actual notice that the person did not want the stalker to contact or
23 follow the person; and

24 (b) It is not a defense to the crime of stalking under subsection
25 (1)(c)(ii) of this section that the stalker did not intend to frighten,
26 intimidate, or harass the person.

27 (3) It shall be a defense to the crime of stalking that the
28 defendant is a licensed private investigator acting within the capacity
29 of his or her license as provided by chapter 18.165 RCW.

1 (4) Attempts to contact or follow the person after being given
2 actual notice that the person does not want to be contacted or followed
3 constitutes prima facie evidence that the stalker intends to intimidate
4 or harass the person. "Contact" includes, in addition to any other
5 form of contact or communication, the sending of an electronic
6 communication to the person.

7 (5)(a) Except as provided in (b) of this subsection, a person who
8 stalks another person is guilty of a gross misdemeanor.

9 (b) A person who stalks another is guilty of a class C felony if
10 any of the following applies: (i) The stalker has previously been
11 convicted in this state or any other state of any crime of harassment,
12 as defined in RCW 9A.46.060, of the same victim or members of the
13 victim's family or household or any person specifically named in a
14 protective order; (ii) the stalking violates any protective order
15 protecting the person being stalked; (iii) the stalker has previously
16 been convicted of a gross misdemeanor or felony stalking offense under
17 this section for stalking another person; (iv) the stalker was armed
18 with a deadly weapon, as defined in RCW 9.94A.602, while stalking the
19 person; (v)(A) the stalker's victim is or was a law enforcement
20 officer((τ))i judge((τ))i juror((τ))i attorney((τ))i victim
21 advocate((τ))i legislator((τ))i community correction's officer((τ))i an
22 employee, contract staff person, or volunteer of a correctional agency;
23 or an employee of the child protective, child welfare, or adult
24 protective services division within the department of social and health
25 services((τ))i and (B) the stalker stalked the victim to retaliate
26 against the victim for an act the victim performed during the course of
27 official duties or to influence the victim's performance of official
28 duties; or (vi) the stalker's victim is a current, former, or
29 prospective witness in an adjudicative proceeding, and the stalker
30 stalked the victim to retaliate against the victim as a result of the
31 victim's testimony or potential testimony.

32 (6) As used in this section:

33 (a) "Correctional agency" means a person working for the department
34 of natural resources in a correctional setting or any state, county, or
35 municipally operated agency with the authority to direct the release of
36 a person serving a sentence or term of confinement and includes but is
37 not limited to the department of corrections, the indeterminate

1 sentence review board, and the department of social and health
2 services.

3 (b) "Follows" means deliberately maintaining visual or physical
4 proximity to a specific person over a period of time. A finding that
5 the alleged stalker repeatedly and deliberately appears at the person's
6 home, school, place of employment, business, or any other location to
7 maintain visual or physical proximity to the person is sufficient to
8 find that the alleged stalker follows the person. It is not necessary
9 to establish that the alleged stalker follows the person while in
10 transit from one location to another.

11 ~~((b))~~ (c) "Harasses" means unlawful harassment as defined in RCW
12 10.14.020.

13 ~~((e))~~ (d) "Protective order" means any temporary or permanent
14 court order prohibiting or limiting violence against, harassment of,
15 contact or communication with, or physical proximity to another person.

16 ~~((d))~~ (e) "Repeatedly" means on two or more separate occasions."

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17 On page 1, line 2 of the title, after "stalking;" strike the
18 remainder of the title and insert "and amending RCW 9A.46.110."

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