
SUBSTITUTE HOUSE BILL 2702

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives R. Johnson, Belcher, Paris, Schmidt, Anderson, Roland, Bray, Jacobsen, Spanel, Scott, Leonard, Sheldon, Wynne, Lisk, Ebersole, Brough, Basich, R. King, Valle, Zellinsky, Kremen, Hochstatter, Wineberry, Winsley, Van Luven, Forner, P. Johnson, Bowman, Pruitt, Fraser, Tate, Ogden, J. Kohl, McLean, Wood and Rasmussen)

Read first time 02/07/92.

1 AN ACT Relating to harassment; amending RCW 9A.46.020, 9A.46.030,
2 9A.46.060, 9A.46.100, 9.61.230, and 9.94A.155; adding a new section to
3 chapter 9A.46 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.46 RCW
6 to read as follows:

7 (1) A person "stalks" another person if, without lawful authority
8 and without the other person's permission:

9 (a) The stalker, for the purpose of observing, watching, or
10 tracking that other person, knowingly, deliberately, methodically, and
11 repeatedly, follows that other person to that person's home, school,
12 place of employment, business, or any other location, or follows the
13 person while the person is in transit between locations;

1 (b) The stalker knows or reasonably should know that the person
2 being followed is aware that the stalker is following the person;

3 (c) The person being followed is placed in fear that the stalker
4 intends to injure the person being followed or another person; and

5 (d) That fear is a fear a reasonable person would have under
6 similar circumstances.

7 (2) A person who stalks another person is guilty of a gross
8 misdemeanor except that the person is guilty of a class C felony if
9 either of the following applies: (a) The stalker has previously been
10 convicted in this state or any other state of any crime of harassment,
11 as defined in RCW 9A.46.060, of the same victim or members of the
12 victim's family or household or any person specifically named in a no-
13 contact order or no-harassment order; or (b) the person violates a
14 court order issued pursuant to RCW 9A.46.040 protecting the person
15 being stalked.

16 **Sec. 2.** RCW 9A.46.020 and 1985 c 288 s 2 are each amended to read
17 as follows:

18 (1) A person is guilty of harassment if:

19 (a) Without lawful authority, the person knowingly threatens:

20 (i) To cause bodily injury in the future to the person threatened
21 or to any other person; or

22 (ii) To cause physical damage to the property of a person other
23 than the actor; or

24 (iii) To subject the person threatened or any other person to
25 physical confinement or restraint; or

26 (iv) Maliciously to do any other act which is intended to
27 substantially harm the person threatened or another with respect to his
28 or her physical or mental health or safety; and

1 (b) The person by words or conduct places the person threatened in
2 reasonable fear that the threat will be carried out.

3 (2) A person who harasses another is guilty of a gross misdemeanor
4 punishable under chapter 9A.20 RCW, ~~((unless))~~ except that the person
5 is guilty of a class C felony if either of the following applies: (a)
6 The person has previously been convicted in this or any other state of
7 any crime of harassment, as defined in RCW 9A.46.060, of the same
8 victim or members of the victim's family or household or any person
9 specifically named in a no-contact or no-harassment order(~~(, in which~~
10 case the person is guilty of a class C felony punishable under chapter
11 9A.20 RCW)); or (b) the person harasses another person under subsection
12 (1)(a)(i) of this section by threatening to kill the person threatened
13 or any other person.

14 (3) The penalties provided in this section for harassment do not
15 preclude the victim from seeking any other remedy otherwise available
16 under law.

17 **Sec. 3.** RCW 9A.46.030 and 1985 c 288 s 3 are each amended to read
18 as follows:

19 Any harassment offense committed as set forth in RCW 9A.46.020 or
20 section 1 of this act may be deemed to have been committed where the
21 conduct occurred or at the place from which the threat or threats were
22 made or at the place where the threats were received.

23 **Sec. 4.** RCW 9A.46.060 and 1988 c 145 s 15 are each amended to read
24 as follows:

25 As used in this chapter, "harassment" may include but is not
26 limited to any of the following crimes:

27 (1) Harassment (RCW 9A.46.020);

28 (2) Malicious harassment (RCW 9A.36.080);

- 1 (3) Telephone harassment (RCW 9.61.230);
- 2 (4) Assault in the first degree (RCW 9A.36.011);
- 3 (5) Assault in the second degree (RCW 9A.36.021);
- 4 (6) Simple assault [Assault in the fourth degree] (RCW 9A.36.041);
- 5 (7) Reckless endangerment [in the second degree] (RCW 9A.36.050);
- 6 (8) Extortion in the first degree (RCW 9A.56.120);
- 7 (9) Extortion in the second degree (RCW 9A.56.130);
- 8 (10) Coercion (RCW 9A.36.070);
- 9 (11) Burglary in the first degree (RCW 9A.52.020);
- 10 (12) Burglary in the second degree (RCW 9A.52.030);
- 11 (13) Criminal trespass in the first degree (RCW 9A.52.070);
- 12 (14) Criminal trespass in the second degree (RCW 9A.52.080);
- 13 (15) Malicious mischief in the first degree (RCW 9A.48.070);
- 14 (16) Malicious mischief in the second degree (RCW 9A.48.080);
- 15 (17) Malicious mischief in the third degree (RCW 9A.48.090);
- 16 (18) Kidnapping in the first degree (RCW 9A.40.020);
- 17 (19) Kidnapping in the second degree (RCW 9A.40.030);
- 18 (20) Unlawful imprisonment (RCW 9A.40.040);
- 19 (21) Rape in the first degree (RCW 9A.44.040);
- 20 (22) Rape in the second degree (RCW 9A.44.050);
- 21 (23) Rape in the third degree (RCW 9A.44.060);
- 22 (24) Indecent liberties (RCW 9A.44.100);
- 23 (25) Rape of a child in the first degree (RCW 9A.44.073);
- 24 (26) Rape of a child in the second degree (RCW 9A.44.076);
- 25 (27) Rape of a child in the third degree (RCW 9A.44.079);
- 26 (28) Child molestation in the first degree (RCW 9A.44.083);
- 27 (29) Child molestation in the second degree (RCW 9A.44.086);
- 28 ((and))
- 29 (30) Child molestation in the third degree (RCW 9A.44.089); and
- 30 (31) Stalking (RCW 9A.46.--- (section 1 of this act)).

1 **Sec. 5.** RCW 9A.46.100 and 1985 c 288 s 10 are each amended to read
2 as follows:

3 As used in RCW 9.61.230 (~~(or)~~), 9A.46.020, or section 1 of this
4 act, a person has been "convicted" at such time as a plea of guilty has
5 been accepted or a verdict of guilty has been filed, notwithstanding
6 the pendency of any future proceedings including but not limited to
7 sentencing, posttrial motions, and appeals.

8 **Sec. 6.** RCW 9.61.230 and 1985 c 288 s 11 are each amended to read
9 as follows:

10 Every person who, with intent to harass, intimidate, torment or
11 embarrass any other person, shall make a telephone call to such other
12 person:

13 (1) Using any lewd, lascivious, profane, indecent, or obscene words
14 or language, or suggesting the commission of any lewd or lascivious
15 act; or

16 (2) Anonymously or repeatedly or at an extremely inconvenient hour,
17 whether or not conversation ensues; or

18 (3) Threatening to inflict injury on the person or property of the
19 person called or any member of his or her family or household;

20 shall be guilty of a gross misdemeanor, (~~(unless)~~) except that the
21 person is guilty of a class C felony if either of the following
22 applies: (a) That person has previously been convicted of any crime of
23 harassment, as defined in RCW 9A.46.060, with the same victim or member
24 of the victim's family or household or any person specifically named in
25 a no-contact or no-harassment order in this or any other state(~~(, in~~
26 ~~which case the person is guilty of a class C felony punishable under~~
27 ~~chapter 9A.20 RCW))); or~~

1 (b) That person harasses another person under subsection (3) of
2 this section by threatening to kill the person threatened or any other
3 person.

4 **Sec. 7.** RCW 9.94A.155 and 1990 c 3 s 121 are each amended to read
5 as follows:

6 (1) At the earliest possible date, and in no event later than ten
7 days before release except in the event of escape or emergency
8 furloughs as defined in RCW 72.66.010, the department of corrections
9 shall send written notice of parole, community placement, work release
10 placement, furlough, or escape about a specific inmate convicted of a
11 violent offense ~~((or))~~, a sex offense as defined by RCW 9.94A.030, or
12 a felony harassment offense as defined by RCW 9A.46.020 or section 1 of
13 this act, to all of the following:

14 (a) The chief of police of the city, if any, in which the inmate
15 will reside or in which placement will be made in a work release
16 program; and

17 (b) The sheriff of the county in which the inmate will reside or in
18 which placement will be made in a work release program.

19 (2) The same notice as required by subsection (1) of this section
20 shall be sent to the following if such notice has been requested in
21 writing about a specific inmate convicted of a violent offense ~~((or))~~,
22 a sex offense as defined by RCW 9.94A.030, or a felony harassment
23 offense as defined by RCW 9.94A.020 or section 1 of this act:

24 (a) The victim of the crime for which the inmate was convicted or
25 the victim's next of kin if the crime was a homicide;

26 (b) Any witnesses who testified against the inmate in any court
27 proceedings involving the violent offense; and

28 (c) Any person specified in writing by the prosecuting attorney.

1 Information regarding victims, next of kin, or witnesses requesting the
2 notice, information regarding any other person specified in writing by
3 the prosecuting attorney to receive the notice, and the notice are
4 confidential and shall not be available to the inmate.

5 (3) If an inmate convicted of a violent offense ~~((or))~~, a sex
6 offense as defined by RCW 9.94A.030, or a felony harassment offense as
7 defined by RCW 9A.46.020 or section 1 of this act, escapes from a
8 correctional facility, the department of corrections shall immediately
9 notify, by the most reasonable and expedient means available, the chief
10 of police of the city and the sheriff of the county in which the inmate
11 resided immediately before the inmate's arrest and conviction. If
12 previously requested, the department shall also notify the witnesses
13 and the victim of the crime for which the inmate was convicted or the
14 victim's next of kin if the crime was a homicide. If the inmate is
15 recaptured, the department shall send notice to the persons designated
16 in this subsection as soon as possible but in no event later than two
17 working days after the department learns of such recapture.

18 (4) If the victim, the victim's next of kin, or any witness is
19 under the age of sixteen, the notice required by this section shall be
20 sent to the parents or legal guardian of the child.

21 (5) The department of corrections shall send the notices required
22 by this chapter to the last address provided to the department by the
23 requesting party. The requesting party shall furnish the department
24 with a current address.

25 (6) For purposes of this section the following terms have the
26 following meanings:

27 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

28 (b) "Next of kin" means a person's spouse, parents, siblings and
29 children.

1 (7) Nothing in this section shall impose any liability upon a chief
2 of police of a city or sheriff of a county for failing to request in
3 writing a notice as provided in subsection (1) of this section.

4 NEW SECTION. **Sec. 8.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.