

HOUSE BILL REPORT

HB 2702

*As Reported By House Committee on:
Judiciary
Appropriations*

Title: An act relating to harassment.

Brief Description: Modifying the criminal code provisions regarding harassment.

Sponsor(s): 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.

Brief History:

Reported by House Committee on:
Judiciary, February 7, 1992, DPS;
Appropriations, February 9, 1992, DPS(JUD).

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Inslee; Locke; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Minority Report: *Do not pass.* Signed by 1 member: Representative Hargrove.

Staff: Pat Shelledy (786-7149).

Background: A person is guilty of the crime of "harassment" if the person threatens to: 1) cause bodily injury to the victim or another person, 2) cause physical damage to another person's property, 3) subject the person threatened to physical confinement; or 4) maliciously do any other act intended to substantially harm the person threatened. The victim must be placed in reasonable fear that the harasser will carry out the threat.

A person is guilty of the crime of "making telephone calls to harass" if the person threatens the victim with bodily harm over the phone.

The crimes of harassment and telephone calls to harass do not punish threats to kill the person more severely than threats to hurt the person.

The crime of harassment does not cover cases in which the victim is continuously followed or "stalked" by someone who does not make overt threats of harm. A victim may, under some circumstances, obtain a civil antiharassment order and then prosecute if the stalker violates that order. However, violations of civil antiharassment orders are only gross misdemeanors.

Harassment and telephone calls to harass are gross misdemeanors unless the defendant has previously been convicted of any crime of harassment against the same victim or the victim's family or household members or any person specifically named in a no-contact order or a no-harassment order, in which case the crimes are class C felonies.

Crimes of "harassment" which will elevate the gross misdemeanor to a class C felony are numerous: examples include assault, rape, criminal trespass, malicious mischief, kidnapping, rape of child, child molestation, burglary in the first degree, and telephone harassment.

Summary of Substitute Bill: A new crime of "stalking" is created. A person is guilty of "stalking" if without lawful authority or the other person's permission, the person, for the purpose of observing, watching, or tracking the victim, knowingly, deliberately, methodically, and repeatedly, follows the victim to the victim's home, school, place of employment, business, or any other location, or follows the victim while the victim is in transit between locations.

The stalker must know or reasonably should know that the victim being followed is aware that the stalker is following the victim.

The victim must be placed in reasonable fear the stalker intends to injure the person being followed or injure another person.

A stalker is guilty of a gross misdemeanor unless the stalker has previously been convicted of a crime of harassment of the same victim or members of the victim's family or household or anyone named in a no-contact order or antiharassment protection order.

If a person threatens to kill the victim or another person, the harasser is guilty of a class C felony under the "harassment" and "telephone calls to harass" statutes.

Substitute Bill Compared to Original Bill: The original bill is entirely rewritten. The original bill created three classes of the crime of harassment: first, second, and third degree. The class of crime depended on whether the person stalked the victim with a firearm and what degree of harm was threatened, as well as history of prior convictions.

Fiscal Note: Requested February 3, 1992. New fiscal note requested on February 8, 1992.

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

Testimony For: Victims of stalkers are subjected to constant and repeated surveillance by harassers who are obsessed with their victims. Current law does not protect the victims because the stalker may never overtly threaten the victim. Even if the victim ultimately obtains an antiharassment protection order, the stalker is not deterred because the maximum penalty is a gross misdemeanor.

Testimony Against: None.

Witnesses: (All in favor): Representative Rob Johnson, prime sponsor; Michael Rickert, Skagit County Prosecutor's Office; Lee Creighton, City of Olympia Prosecutor; Cindy Helms, victim of a stalker; Karen Ahrens, Olympia Police Department Victim Assistance Office; and Dawn Larsen, Washington State Coalition of Sexual Assault Programs.

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Judiciary be substituted therefor and the substitute bill do pass.* Signed by 25 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Brekke; Carlson; Dorn; Ebersole; Hine; Lisk; May; Mielke; Nealey; Peery; Pruitt; Rust; D. Sommers; H. Sommers; Valle; Vance; and Wang.

Staff: John Woolley (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Judiciary: No new changes were recommended.

Fiscal Note: Requested February 8, 1992.

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

Testimony For: The bill is required in light of compelling testimony of how stalkers instill fear in their victims, seriously impairing the victims' lives.

Testimony Against: None.

Witnesses: Lonnie Johns-Browne, Child Care Works for Washington (pro).