

# SENATE BILL REPORT

## ESHB 2771

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As Reported By Senate Committee On:  
Technology & Communications, February 26, 2004

**Title:** An act relating to the prevention of cyberstalking.

**Brief Description:** Prohibiting cyberstalking.

**Sponsors:** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Sommers, Lantz, Cody, Nixon, Morrell, Hankins, Tom, Kirby, Delvin, Mielke, Pearson, McMahan, Moeller, Dickerson, McIntire, Kenney, Kessler, Conway, Darneille, Sullivan, Schual-Berke, Kagi and Ormsby).

**Brief History:**

**Committee Activity:** Technology & Communications: 2/26/04 [DP].

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### SENATE COMMITTEE ON TECHNOLOGY & COMMUNICATIONS

**Majority Report:** Do pass.

Signed by Senators Schmidt, Chair; Esser, Vice Chair; Berkey, Eide, McCaslin, Poulsen and Stevens.

**Staff:** William Bridges (786-7424)

**Background:** There are three criminal laws in Washington that prohibit harassment and stalking by electronic communication or telephone: criminal harassment, stalking, and telephone harassment. The crime of criminal harassment generally prohibits unlawful threats to persons or property. The crime of stalking generally prohibits intentional or repeated harassment that instills a fear of harm to persons or property. The crime of telephone harassment generally prohibits the use of a telephone to harass, intimidate, torment, or embarrass other persons under one of the following conditions:

- Using lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act;
- Calling anonymously, repeatedly, or at an extremely inconvenient hour, whether or not conversation occurs; or
- Threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

**Summary of Bill:** The crime of cyberstalking is created. A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to the other person or a third party via the internet or electronic mail:

- Using lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;

- Anonymously or repeatedly whether or not conversation occurs; or
- Threatening to inflict injury on the person or property of the person contacted or any member of his or her family or household.

"Electronic communication" is defined as the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. The term includes electronic mail, internet based communications, pager service, and electronic text messaging.

Cyberstalking is generally a gross misdemeanor. However, the crime is a class C felony with a seriousness level of III if:

- The offender has a previous conviction for any of several listed crimes, including stalking, harassment, and telephone harassment, against the same victim, members of the victim's family, or persons named in a no-contact or no-harassment order; or
- The offender committed the crime by threatening to kill another person.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except for section 3, which, because of amendments made in a previous legislative session, takes effect July 1, 2004.

**Testimony For:** Cyberstalking is violence against women by the use of new technologies. A constituent of the Senate and House prime sponsors was a victim of cyberstalking. For over five years, an anonymous stalker sent malicious e-mails to the victim and the victim's co-workers. The stalker pretended to be the victim in on-line chat rooms and posted her home and work phone numbers so that men seeking sexual liaisons could call her. Law enforcement officials attempted to help her but they claimed no laws had been broken. The bill has been reviewed by sheriffs, police chiefs, prosecutors, and others.

**Testimony Against:** None.

**Testified:** Sen. Kohl-Welles, prime sponsor of Senate companion bill (pro); Suzanne Brown McBride, Wash. Coalition of Sexual Assault Programs (pro); Joelle Ligon (pro).