

SENATE BILL REPORT

SB 5148

As Reported by Senate Committee On:
Law & Justice, February 11, 2021

Title: An act relating to the harassment of election officials.

Brief Description: Concerning the harassment of election officials.

Sponsors: Senators Frockt, Hunt, Billig, Darneille, Das, Hasegawa, Kuderer, Lovelett, Pedersen, Saldaña, Salomon and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 2/08/21, 2/11/21 [DPS].

Brief Summary of First Substitute Bill

- Elevates the crime of harassment to a Class C felony when the harassment is directed at an election official with the Secretary of State or county auditor's office.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5148 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; McCune, Assistant Ranking Member; Darneille, Holy, Kuderer, Salomon and Wagoner.

Staff: Shani Bauer (786-7468)

Background: A person is guilty of harassment if:

- the person knowingly threatens to:
 1. cause bodily injury to another person;
 2. cause physical damage to the property of a person;
 3. subject another person to physical confinement or restraint; or

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4. maliciously do any other act intended to substantially harm a person's physical or mental health or safety; or
- the person, by words or conduct—including sending by electronic communication, places the person threatened in reasonable fear that the threat will be carried out.

Harassment is generally a gross misdemeanor, but will be a Class C felony if the person:

- has previously been convicted of harassment against the same victim or family member;
- harasses another by threatening to kill the person;
- harasses a criminal justice participant who is performing their official duties at the time the threat is made; or
- harasses a criminal justice participant because of an action taken or decision made by the participant during the performance of their official duties.

The fear from the threat must be a fear that a reasonable criminal justice participant would have under all the circumstances.

Criminal justice participant includes a law enforcement agency employee, prosecuting attorney, adult or juvenile corrections staff, member of the Indeterminate Sentence Review Board, crime victim advocate, or defense attorney.

Summary of Bill (First Substitute): A person who harasses another is guilty of a Class C felony if the person:

- harasses an election official who is performing their official duties at the time the threat is made; or
- harasses an election official because of an action taken or decision made by the election official during the performance of their official duties.

The fear from the threat must be a fear that a reasonable person would have under all the circumstances.

Election official includes any staff member of the office of the Secretary of State or staff member of the county auditor's office, regardless of whether the member is employed on a temporary or part-time basis, whose duties relate to voter registration or the processing of votes.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

The crime of harassment of an election official is changed from a Class B felony to a Class C felony.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The threats directed at election officials during the last election were appalling. These were directed not only at elected officials, but those volunteers doing their civic duty counting and processing ballots. This bill expands the definition of election official to include these individuals. These threats are not acceptable in a democratic society.

In addition to reconfiguring elections for COVID, election officials had to deal with threats and harassment. Those who volunteer, do so to uphold their civic duty. An elected official assumes a certain level of risk and public scrutiny, but that should not trickle down to staff.

Persons Testifying: PRO: Senator David Frockt, Prime Sponsor; Kim Wyman, Secretary of State; Kathy Sakahara, League of Women Voters of Washington.

Persons Signed In To Testify But Not Testifying: No one.