

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1696

Chapter 461, Laws of 2023

68th Legislature
2023 Regular Session

CRIME OF STALKING—MODIFICATION

EFFECTIVE DATE: July 23, 2023

Passed by the House April 13, 2023
Yeas 96 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate March 31, 2023
Yeas 48 Nays 0

DENNY HECK

President of the Senate

Approved May 15, 2023 3:04 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1696** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 16, 2023

**Secretary of State
State of Washington**

HOUSE BILL 1696

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington **68th Legislature** **2023 Regular Session**

By Representatives Davis, Mosbrucker, Orwall, Griffey, Duerr, Reed, Leavitt, Barnard, Walen, Eslick, Ramel, and Pollet

Read first time 01/31/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to stalking-related offenses; amending RCW
2 9A.46.110; and repealing RCW 9A.90.130.

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

4 **Sec. 1.** RCW 9A.46.110 and 2021 c 215 s 111 are each amended to
5 read as follows:

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

9 ~~(a) He or she intentionally~~) the person:

10 (i) Intentionally and repeatedly harasses ((~~or~~—repeatedly
11 follows)) another person;

12 (ii) Intentionally and repeatedly follows another person;

13 (iii) Intentionally contacts, follows, tracks, or monitors, or
14 attempts to contact, follow, track, or monitor another person after
15 being given actual notice that the person does not want to be
16 contacted, followed, tracked, or monitored; or

17 (iv) Knowingly and without consent installs or monitors an
18 electronic tracking device, or causes an electronic tracking device
19 to be installed, placed, or used, to track the location of another
20 person; and

1 (b) The person being harassed (~~(or)~~), followed, tracked, or
2 monitored suffers substantial emotional distress or is placed in fear
3 that the stalker intends to injure (~~(the person)~~) him or her, or
4 another person, or his or her property (~~(of the person)~~) or the
5 property of another person, or, in the circumstances identified in
6 (a)(iv) of this subsection, the victim's knowledge of the tracking
7 device would reasonably elicit substantial emotional distress or
8 fear. The feeling of substantial emotional distress or fear must be
9 one that a reasonable person in the same situation would experience
10 (~~(under all)~~) given the totality of the circumstances(~~(; and~~

11 ~~(c) The stalker either:~~

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

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

16 (2) (a) It is not a defense to the crime of stalking under
17 subsection (1) (~~(c)(i)~~) (a)(i), (ii), or (iv) of this section that
18 the stalker was not given actual notice that the person did not want
19 the stalker to contact (~~(or)~~), follow (~~(the person)~~), track, or
20 monitor him or her; and

21 (b) It is not a defense to the crime of stalking under subsection
22 (1) (~~(c)(ii)~~) (a)(i) of this section that the stalker did not intend
23 to frighten(~~(7)~~) or intimidate(~~(7 or harass)~~) the person or place the
24 person in substantial emotional distress.

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

28 (4) (~~(Attempts to contact or follow the person after being given~~
29 ~~actual notice that the person does not want to be contacted or~~
30 ~~followed constitutes prima facie evidence that the stalker intends to~~
31 ~~intimidate or harass the person. "Contact" includes, in addition to~~
32 ~~any other form of contact or communication, the sending of an~~
33 ~~electronic communication to the person.)~~) The provisions of this
34 section do not apply to the installation, placement, or use of an
35 electronic tracking device by any of the following:

36 (a) A law enforcement officer, judicial officer, probation or
37 parole officer, or other public employee when any such person is
38 engaged in the lawful performance of official duties and in
39 accordance with state or federal law;

1 (b) The installation, placement, or use of an electronic tracking
2 device authorized by an order of a state or federal court;

3 (c) A legal guardian for a disabled adult or a legally authorized
4 individual or organization designated to provide protective services
5 to a disabled adult when the electronic tracking device is installed,
6 placed, or used to track the location of the disabled adult for which
7 the person is a legal guardian or the individual or organization is
8 designated to provide protective services;

9 (d) A parent or legal guardian of a minor when the electronic
10 tracking device is installed, placed, or used to track the location
11 of that minor unless the parent or legal guardian is subject to a
12 court order that orders the parent or legal guardian not to assault,
13 threaten, harass, follow, or contact that minor;

14 (e) An employer, school, or other organization, who owns the
15 device on which the tracking device is installed and provides the
16 device to a person for use in connection with the person's
17 involvement with the employer, school, or other organization and the
18 use of the device is limited to recovering lost or stolen items; or

19 (f) The owner of fleet vehicles, when tracking such vehicles. For
20 the purposes of this section, "fleet vehicle" means any of the
21 following:

22 (i) One or more motor vehicles owned by a single entity and
23 operated by employees or agents of the entity for business or
24 government purposes;

25 (ii) Motor vehicles held for lease or rental to the general
26 public; or

27 (iii) Motor vehicles held for sale, or used as demonstrators,
28 test vehicles, or loaner vehicles, by motor vehicle dealers.

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

31 (b) A person who stalks another person is guilty of a class B
32 felony if any of the following applies:

33 (i) The stalker has previously been convicted in this state or
34 any other state of any crime of harassment, as defined in RCW
35 9A.46.060 (~~(, of the same victim or members of the victim's family or~~
36 ~~household or any person specifically named in a protective order));~~

37 (ii) ~~((the))~~ The stalking violates any protective order
38 protecting the ~~((person being stalked))~~ victim;

1 (iii) (~~the~~) The stalker has previously been convicted of a
2 gross misdemeanor or felony stalking offense under this section for
3 stalking another person;

4 (iv) (~~the~~) The stalker was armed with a deadly weapon, as
5 defined in RCW 9.94A.825, while stalking the (~~person~~) victim;

6 (v) (A) (~~the stalker's~~) The victim is or was a law enforcement
7 officer; judge; juror; attorney; victim advocate; legislator;
8 community corrections' officer; an employee, contract staff person,
9 or volunteer of a correctional agency; court employee, court clerk,
10 or courthouse facilitator; or an employee of the child protective,
11 child welfare, or adult protective services division within the
12 department of social and health services; and

13 (B) (~~the~~) The stalker stalked the victim to retaliate against
14 the victim for an act the victim performed during the course of
15 official duties or to influence the victim's performance of official
16 duties; or

17 (vi) (~~the stalker's~~) The victim is a current, former, or
18 prospective witness in an adjudicative proceeding, and the stalker
19 stalked the victim to retaliate against the victim as a result of the
20 victim's testimony or potential testimony.

21 (6) As used in this section:

22 (a) "Actual notice" includes, in addition to any other form of
23 actual notice, circumstances in which the other person has a
24 protective order in effect protecting him or her from the person.

25 (b) "Contact" includes, in addition to any other form of contact
26 or communication, the sending of an electronic communication to the
27 other person.

28 (c) "Correctional agency" means a person working for the
29 department of natural resources in a correctional setting or any
30 state, county, or municipally operated agency with the authority to
31 direct the release of a person serving a sentence or term of
32 confinement and includes but is not limited to the department of
33 corrections, the indeterminate sentence review board, and the
34 department of social and health services.

35 (~~(b)~~) (d) "Course of conduct" means a pattern of conduct
36 composed of a series of acts over a period of time, however short,
37 evidencing a continuity of purpose. "Course of conduct" includes, in
38 addition to any other form of communication, contact, or conduct, the
39 sending of an electronic communication, but does not include

1 constitutionally protected free speech. Constitutionally protected
2 activity is not included within the meaning of "course of conduct."

3 ~~((e))~~ (e) "Electronic tracking device" means an electronic
4 device that permits a person to remotely determine or monitor the
5 position and movement of another person, vehicle, device, or other
6 personal possession. As used in this subsection (6)(e), "electronic
7 device" includes computer code or other digital instructions that
8 once installed on a digital device, allows a person to remotely track
9 the position of that device.

10 (f) "Follows" means deliberately maintaining visual or physical
11 proximity to a specific person over a period of time. A finding that
12 the ~~((alleged))~~ stalker repeatedly and deliberately appears at the
13 person's home, school, place of employment, business, or any other
14 location to maintain visual or physical proximity to the person is
15 sufficient to find that the ~~((alleged))~~ stalker follows the person.
16 It is not necessary to establish that the ~~((alleged))~~ stalker follows
17 the person while in transit from one location to another.

18 ~~((d))~~ (g) "Harasses" means a knowing and willful course of
19 conduct directed at a specific person which seriously alarms, annoys,
20 ~~((harasses))~~ torments, or is detrimental to such person, and which
21 serves no legitimate or lawful purpose. ~~((The course of conduct shall~~
22 be such as would cause a reasonable person to suffer substantial
23 emotional distress, and shall actually cause substantial emotional
24 distress to the petitioner, or when the course of conduct would cause
25 a reasonable parent to fear for the well-being of his or her child.

26 ~~(e))~~ (h) "Protective order" means any temporary or permanent
27 court order prohibiting or limiting violence against, harassment of,
28 contact or communication with, or physical proximity to another
29 person.

30 ~~((f))~~ (i) "Repeatedly" means on two or more separate occasions.

31 (j) "Substantial emotional distress" means a mental, emotional,
32 or physical reaction such as anxiety, apprehension, or loss of
33 ability to concentrate or other symptoms, whether or not medical or
34 other professional treatment or counseling is sought or required,
35 which degrades the victim's quality of life.

36 NEW SECTION. Sec. 2. RCW 9A.90.130 (Cyberstalking) and 2022 c
37 231 s 3 are each repealed.

Passed by the House April 13, 2023.
Passed by the Senate March 31, 2023.

Approved by the Governor May 15, 2023.
Filed in Office of Secretary of State May 16, 2023.

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