

HB 1241 -- Redline

Substitute to Bill -- Addressing harassment.

Deletions ~~struck~~ · Insertions underlined

~~H-0751,1H-0444.1~~ SUBSTITUTE HOUSE BILL 1241 State of Washington 68th Legislature 2023 Regular Session By ~~House Community Safety, Justice, & Reentry (originally sponsored by~~ Representatives Leavitt, Reeves, Reed, Morgan, and ~~Bronoske)~~ Bronoske ~~READ~~ Read ~~FIRST~~ first ~~TIME~~ time ~~01/27/23,01/11/23.~~

Referred to Committee on Community Safety, Justice, & Reentry.

~~and~~ amending RCW ~~9A.46.020~~ 9A.46.020, 9A.90.120, and ~~40.24.030,40.24.030;~~

and prescribing penalties.

(1) A person is guilty of harassment ~~if:~~ if the person, with intent to harass or intimidate any other person, and under circumstances not constituting cyber harassment, makes a communication and the communication:

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

(i) To ~~cause~~ cause) ~~bodily~~ (i) injury ~~Uses immediately~~ any or ~~lewd, in~~ lewd, lascivious, the ~~indecent, future~~ or ~~to~~ obscene the ~~words, person~~ images, threatened ~~or~~ language, or to ~~suggests the~~ commission of any ~~other~~ lewd person; or lascivious act;

~~or~~ (ii) To ~~Contains~~ cause ~~a physical~~ threat ~~damage to~~ inflict ~~bodily injury immediately or in the~~ property ~~future of~~ to ~~the~~ person ~~other~~ threatened ~~than~~ or ~~the~~ to ~~actor;~~ any other person;

~~or~~ ((or ~~(iii)~~ (ii) ~~To~~ subject ~~cause the~~ physical person ~~damage threatened~~ to) (iii) Contains a threat to ~~damage, immediately or~~ any in ~~other~~ the ~~future, the property of~~ ((a)) the person ~~to~~ (other ~~physical~~ than ~~confinement~~ the ~~actor))~~ threatened or ~~restraint;~~ of any other person;

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

~~and~~ 1 (b) ~~HB The1241 person~~ (iii) by ~~To~~) words ~~(iv) or~~ Contains ~~conduct~~ a ~~place~~ threat ~~to subject~~ the person ~~threatened~~ in ~~or~~ reasonable ~~any fear~~ other ~~that~~ person ~~the~~ to ~~threat~~ physical ~~will~~ confinement ~~be~~ or ~~carried~~ restraint; ~~out.~~

"Words or conduct"(((iv) includes, Maliciously into)) addition(v) Contains a threat to maliciously do any other ~~form~~ act of ~~which~~ communication ~~is~~ intended ~~to~~ substantially harm the person threatened or ~~conduct,~~ ((another)) any other person with respect to ((his or her)) ~~the~~ sending ~~threatened of~~ person's ~~an~~ physical ~~electronic~~ or ~~communication,~~ mental health or safety;

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

1"Words SHBor 1241conduct" (2)(a)includes, Exceptin asaddition providedto inany (b)other form of thiscommunication subsection,or aconduct, personthe whosending harassesof anotheran iselectronic guiltycommunication)) ofWith arespect grossto misdemeanor,any offense committed under the circumstances identified in (a) of this subsection:

(i) Would cause a reasonable person to suffer emotional distress or to fear for the safety of the person threatened;

or (ii) Reasonably caused the threatened person to suffer emotional distress or fear for the threatened person's safety.

(2)(a) Except as provided in (b) of this subsection, a person who harasses another is guilty of a gross misdemeanor.

(ii) the person harasses another person under subsection ~~(1)(a)(i)~~ (1)(a)((i)) (ii) of this section by threatening to kill the person threatened or any other person;

(iii) the person harasses a criminal justice participant or election official who is performing ~~his~~ ((his or her ~~her))~~ official duties at the time the threat is made;

or (iv) the person harasses a criminal justice participant or election official because of an action taken or decision made by the criminal justice participant or election official during the performance of ~~his~~ ((his or her ~~her))~~ official duties.

Threatening words do not constitute harassment if it is apparent to the criminal justice participant or election official ~~that~~ p. ~~the person does not have the present and future ability to carry out the threat.~~

2 HB 1241 that the person does not have the present and future ability to carry out the threat.

(5) For the purposes of this section, an election official includes any staff member of the office of the secretary of state or staff member of a county auditor's office, regardless of whether the ~~p.~~ member is employed on a temporary or part-time basis, whose duties relate to voter registration or the processing of votes as provided in Title 29A RCW.

~~2 SHB 1241 member is employed on a temporary or part-time basis, whose duties relate to voter~~

~~registration or the processing of votes as provided in Title 29A RCW.~~

RCW 9A.90.120 and 2022 c 231 s 1 are each amended to read as follows:

(1) A person is guilty of cyber harassment if the person, with intent to harass or intimidate any other person, and under circumstances not constituting ((telephone)) harassment, makes an electronic communication to that person or a third party and the communication:

(a)(i) Uses any lewd, lascivious, indecent, or obscene words, images, or language, or suggests the commission of any lewd or lascivious act;

(ii) ((Is made anonymously or repeatedly;

(iii))) Contains a threat to inflict bodily injury immediately or in the future on the person threatened or to any other person;

((or p.

3 HB 1241 (iv))) (iii) Contains a threat to damage, immediately or in the future, the property of the person threatened or of any other person;

(iv) Contains a threat to subject the person threatened or any other person to physical confinement or restraint;

or (v) Contains a threat to maliciously do any other act which is intended to substantially harm the person threatened or any other person with respect to the threatened person's physical or mental health or safety;

and (b) With respect to any offense committed under the circumstances identified in (a)((iii) or (iv))) of this subsection:

(i) Would cause a reasonable person((, with knowledge of the sender's history,)) to suffer emotional distress or to fear for the safety of the person threatened;

or (ii) Reasonably caused the threatened person to suffer emotional distress or fear for the threatened person's safety.

(2)(a) Except as provided in (b) of this subsection, cyber harassment is a gross misdemeanor.

(b) A person who commits cyber harassment is guilty of a class C felony if any of the following apply:

(i) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order;

(ii) The person cyber harasses another person under subsection (1)(a)((iii))) (ii) of this section by threatening to kill the person threatened or any other person;

(iii) The person cyber harasses a criminal justice participant or election official who is performing the participant's official duties or election official's official duties at the time the communication is made;

(iv) The person cyber harasses a criminal justice participant or election official because of an action taken or decision made by the criminal justice participant or election official during the performance of the participant's official duties or election official's official duties;

or (v) The person commits cyber harassment in violation of any protective order protecting the victim.

(3) Any criminal justice participant or election official who is a target for threats or harassment prohibited under subsection (2)(b)(iii) or (iv) of this section, and any family members residing p.

4 HB 1241 with the participant or election official, shall be eligible for the address confidentiality program created under RCW 40.24.030.

(4) For purposes of this section, a criminal justice participant includes any:

(a) Federal, state, or municipal court judge;

(b) Federal, state, or municipal court staff;

(c) Federal, state, or local law enforcement agency employee;

(d) Federal, state, or local prosecuting attorney or deputy prosecuting attorney;

(e) Staff member of any adult corrections institution or local adult detention facility;

(f) Staff member of any juvenile corrections institution or local juvenile detention facility;

(g) Community corrections officer, probation officer, or parole officer;

(h) Member of the indeterminate sentence review board;

(i) Advocate from a crime victim/witness program;

or (j) Defense attorney.

(5) For the purposes of this section, an election official includes any staff member of the office of the secretary of state or staff member of a 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 as provided in Title 29A RCW.

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

(7) Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

(8) For purposes of this section, "electronic communication" means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means.

"Electronic communication" includes, but is not limited to, email, internet-based communications, pager service, and electronic text messaging.

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~~(1)(a) An adult person, a parent or guardian acting on behalf of a minor, or a guardian acting on behalf of an ~~((incapacitated~~incapacitated person, ~~asp. defined in RCW 11.88.010)) individual subject to guardianship as defined in RCW 11.130.010, (b) any election official as described in RCW 9A.46.020 or 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.46.020 or 9A.90.120(2)(b) (iii) or (iv), and any family members residing with him or her, and (c) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with him or her, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person.~~~~

5 HB 1241 as defined in RCW 11.88.010, (b) any election official as ((described)) defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any election official as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with him or her, and (c) any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing with him or her, may apply to the secretary of state to have an address designated by the secretary of state serve as the person's address or the address of the minor or incapacitated person.

(B) that the applicant, as an election official as ~~described~~((described)) defined in RCW 9A.46.020 is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any election official as defined in RCW 9A.90.120, is a target for threats or harassment prohibited under RCW 9A.46.020 or 9A.90.120(2)(b) (iii) or (iv);

or (C) that the applicant, as a criminal justice participant as defined in RCW 9A.46.020, is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv), or that the applicant, as a criminal justice participant as defined in RCW 9A.90.120 is a target ~~p-~~for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv);

~~3(ii) SHB If 1241 applicable, for a threat sworn or statement, harassment under prohibited penalty under of RCW perjury, 9A.90.120(2)(b) by (iii) the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or (iv); stalking perpetrated by an employee of a law enforcement agency, or ((;)) (B) p.~~

~~((ii)6 IF HB applicable, 1241 a sworn statement, under penalty of perjury, by the applicant, that the applicant has reason to believe they are a victim of (A) domestic violence, sexual assault, or stalking perpetrated by an employee of a law enforcement agency, or ((;)) (B) threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv) or 9A.46.020(2)(b) (iii) or (iv);~~

~~p-(i) Applicant's full legal name;~~

~~4 SHB 1241 (i) Applicant's full legal name;~~

~~and (v)p. Hull identification number or vessel document number and vessel decal number for each vessel solely or jointly registered to the applicant.~~

~~7 HB 1241 (v) Hull identification number or vessel document number and vessel decal number for each vessel solely or jointly registered to the applicant.~~

(5) A person who knowingly provides false or incorrect information upon making an application or falsely attests in an application that disclosure of the applicant's address would endanger (a) the applicant's safety or the safety of the applicant's children or the minor or incapacitated person on whose behalf the application is made, (b) the safety of any election official as described in RCW ~~9A.46.020 or~~ 9A.90.120 who is a target for threats or harassment prohibited under RCW ~~9A.46.020 or~~ 9A.90.120(2)(b) (iii) or (iv), or (c) the safety of any criminal justice participant as defined in RCW 9A.46.020 who is a target for threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) or of any criminal justice participant as defined in RCW 9A.90.120 who is a target for threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or (iv), or any family members residing with him or her, shall be punished under RCW 40.16.030 or other applicable statutes.

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