
HOUSE BILL 1139

State of Washington

68th Legislature

2023 Regular Session

By Representative Leavitt

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1 AN ACT Relating to harassment of election officials; amending RCW
2 9A.46.020, 9A.90.120, and 40.24.030; and prescribing penalties.

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

4 **Sec. 1.** RCW 9A.46.020 and 2011 c 64 s 1 are each amended to read
5 as follows:

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

10 (a) (~~Without lawful authority, the person knowingly threatens:~~
11 ~~(i) To cause~~) (i) Uses any lewd, lascivious, indecent, or
12 obscene words, images, or language, or suggests the commission of any
13 lewd or lascivious act;

14 (ii) Contains a threat to inflict bodily injury immediately or in
15 the future to the person threatened or to any other person; (~~or~~

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

19 (~~or~~

1 ~~(iii) To~~) (iv) Contains a threat to subject the person
2 threatened or any other person to physical confinement or restraint;
3 or

4 ~~((iv) Maliciously to)~~ (v) Contains a threat to maliciously do
5 any other act which is intended to substantially harm the person
6 threatened or ~~((another))~~ any other person with respect to ~~((his or~~
7 ~~her))~~ the threatened person's physical or mental health or safety;
8 and

9 (b) ~~((The person by words or conduct places the person threatened~~
10 ~~in reasonable fear that the threat will be carried out. "Words or~~
11 ~~conduct" includes, in addition to any other form of communication or~~
12 ~~conduct, the sending of an electronic communication))~~ With respect to
13 any offense committed under the circumstances identified in (a) of
14 this subsection:

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

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

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

21 (b) A person who harasses another is guilty of a class C felony
22 if any of the following apply: (i) The person has previously been
23 convicted in this or any other state of any crime of harassment, as
24 defined in RCW 9A.46.060, of the same victim or members of the
25 victim's family or household or any person specifically named in a
26 no-contact or no-harassment order; (ii) the person harasses another
27 person under subsection (1)(a) ~~((i))~~ (ii) of this section by
28 threatening to kill the person threatened or any other person; (iii)
29 the person harasses a criminal justice participant or election
30 official who is performing ~~((his or her))~~ official duties at the time
31 the threat is made; or (iv) the person harasses a criminal justice
32 participant or election official because of an action taken or
33 decision made by the criminal justice participant or election
34 official during the performance of ~~((his or her))~~ official duties.
35 For the purposes of (b)(iii) and (iv) of this subsection, the fear
36 from the threat must be a fear that a reasonable criminal justice
37 participant or election official would have under all the
38 circumstances. Threatening words do not constitute harassment if it
39 is apparent to the criminal justice participant or election official

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

3 (3) Any criminal justice participant or election official who is
4 a target for threats or harassment prohibited under subsection
5 (2)(b)(iii) or (iv) of this section, and any family members residing
6 with him or her, shall be eligible for the address confidentiality
7 program created under RCW 40.24.030.

8 (4) For purposes of this section, a criminal justice participant
9 includes any (a) federal, state, or local law enforcement agency
10 employee; (b) federal, state, or local prosecuting attorney or deputy
11 prosecuting attorney; (c) staff member of any adult corrections
12 institution or local adult detention facility; (d) staff member of
13 any juvenile corrections institution or local juvenile detention
14 facility; (e) community corrections officer, probation, or parole
15 officer; (f) member of the indeterminate sentence review board; (g)
16 advocate from a crime victim/witness program; or (h) defense
17 attorney.

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

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

27 **Sec. 2.** RCW 9A.90.120 and 2022 c 231 s 1 are each amended to
28 read as follows:

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

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

37 (ii) ~~((Is made anonymously or repeatedly;~~
38 ~~((iii)))~~ Contains a threat to inflict bodily injury immediately or
39 in the future on the person threatened or to any other person; ~~((or~~

1 ~~(iv))~~ (iii) Contains a threat to damage, immediately or in the
2 future, the property of the person threatened or of any other person;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 with the participant or election official, shall be eligible for the
2 address confidentiality program created under RCW 40.24.030.

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

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

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

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

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

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

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

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

16 (h) Member of the indeterminate sentence review board;

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

18 (j) Defense attorney.

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

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

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

31 (8) For purposes of this section, "electronic communication"
32 means the transmission of information by wire, radio, optical cable,
33 electromagnetic, or other similar means. "Electronic communication"
34 includes, but is not limited to, email, internet-based
35 communications, pager service, and electronic text messaging.

36 **Sec. 3.** RCW 40.24.030 and 2022 c 231 s 5 are each amended to
37 read as follows:

38 (1)(a) An adult person, a parent or guardian acting on behalf of
39 a minor, or a guardian acting on behalf of an incapacitated person,

1 as defined in RCW 11.88.010, (b) any election official as
2 (~~described~~) defined in RCW 9A.46.020 who is a target for threats or
3 harassment prohibited under RCW 9A.46.020(2)(b) (iii) or (iv) and any
4 election official as defined in RCW 9A.90.120 who is a target for
5 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or
6 (iv), and any family members residing with him or her, and (c) any
7 criminal justice participant as defined in RCW 9A.46.020 who is a
8 target for threats or harassment prohibited under RCW 9A.46.020(2)(b)
9 (iii) or (iv) and any criminal justice participant as defined in RCW
10 9A.90.120 who is a target for threats or harassment prohibited under
11 RCW 9A.90.120(2)(b) (iii) or (iv), and any family members residing
12 with him or her, may apply to the secretary of state to have an
13 address designated by the secretary of state serve as the person's
14 address or the address of the minor or incapacitated person. The
15 secretary of state shall approve an application if it is filed in the
16 manner and on the form prescribed by the secretary of state and if it
17 contains:

18 (i) A sworn statement, under penalty of perjury, by the applicant
19 that the applicant has good reason to believe (A) that the applicant,
20 or the minor or incapacitated person on whose behalf the application
21 is made, is a victim of domestic violence, sexual assault,
22 trafficking, or stalking and that the applicant fears for his or her
23 safety or his or her children's safety, or the safety of the minor or
24 incapacitated person on whose behalf the application is made; (B)
25 that the applicant, as an election official as (~~described~~) defined
26 in RCW 9A.46.020 is a target for threats or harassment prohibited
27 under RCW 9A.46.020(2)(b) (iii) or (iv) and any election official as
28 defined in RCW 9A.90.120, is a target for threats or harassment
29 prohibited under RCW 9A.90.120(2)(b) (iii) or (iv); or (C) that the
30 applicant, as a criminal justice participant as defined in RCW
31 9A.46.020, is a target for threats or harassment prohibited under RCW
32 9A.46.020(2)(b) (iii) or (iv), or that the applicant, as a criminal
33 justice participant as defined in RCW 9A.90.120 is a target for
34 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or
35 (iv);

36 (ii) If applicable, a sworn statement, under penalty of perjury,
37 by the applicant, that the applicant has reason to believe they are a
38 victim of (A) domestic violence, sexual assault, or stalking
39 perpetrated by an employee of a law enforcement agency, or(~~+~~) (B)

1 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or
2 (iv) or 9A.46.020(2)(b) (iii) or (iv);

3 (iii) A designation of the secretary of state as agent for
4 purposes of service of process and for the purpose of receipt of
5 mail;

6 (iv) The residential address and any telephone number where the
7 applicant can be contacted by the secretary of state, which shall not
8 be disclosed because disclosure will increase the risk of (A)
9 domestic violence, sexual assault, trafficking, or stalking, or (B)
10 threats or harassment prohibited under RCW 9A.90.120(2)(b) (iii) or
11 (iv) or 9A.46.020(2)(b) (iii) or (iv);

12 (v) The signature of the applicant and of any individual or
13 representative of any office designated in writing under RCW
14 40.24.080 who assisted in the preparation of the application, and the
15 date on which the applicant signed the application.

16 (2) Applications shall be filed with the office of the secretary
17 of state.

18 (3) Upon filing a properly completed application, the secretary
19 of state shall certify the applicant as a program participant.
20 Applicants shall be certified for four years following the date of
21 filing unless the certification is withdrawn or invalidated before
22 that date. The secretary of state shall by rule establish a renewal
23 procedure.

24 (4)(a) During the application process, the secretary of state
25 shall provide each applicant a form to direct the department of
26 licensing to change the address of registration for vehicles or
27 vessels solely or jointly registered to the applicant and the address
28 associated with the applicant's driver's license or identicard to the
29 applicant's address as designated by the secretary of state upon
30 certification in the program. The directive to the department of
31 licensing is only valid if signed by the applicant. The directive may
32 only include information required by the department of licensing to
33 verify the applicant's identity and ownership information for
34 vehicles and vessels. This information is limited to the:

35 (i) Applicant's full legal name;

36 (ii) Applicant's Washington driver's license or identicard
37 number;

38 (iii) Applicant's date of birth;

39 (iv) Vehicle identification number and license plate number for
40 each vehicle solely or jointly registered to the applicant; and

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

4 (b) Upon certification of the applicants, the secretary of state
5 shall transmit completed and signed directives to the department of
6 licensing.

7 (c) Within 30 days of receiving a completed and signed directive,
8 the department of licensing shall update the applicant's address on
9 registration and licensing records.

10 (d) Applicants are not required to sign the directive to the
11 department of licensing to be certified as a program participant.

12 (5) A person who knowingly provides false or incorrect
13 information upon making an application or falsely attests in an
14 application that disclosure of the applicant's address would endanger

15 (a) the applicant's safety or the safety of the applicant's children
16 or the minor or incapacitated person on whose behalf the application
17 is made, (b) the safety of any election official as described in RCW
18 9A.90.120 who is a target for threats or harassment prohibited under
19 RCW 9A.90.120(2)(b) (iii) or (iv), or (c) the safety of any criminal
20 justice participant as defined in RCW 9A.46.020 who is a target for
21 threats or harassment prohibited under RCW 9A.46.020(2)(b) (iii) or
22 (iv) or of any criminal justice participant as defined in RCW
23 9A.90.120 who is a target for threats or harassment prohibited under
24 RCW 9A.90.120(2)(b) (iii) or (iv), or any family members residing
25 with him or her, shall be punished under RCW 40.16.030 or other
26 applicable statutes.

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