

## **HB 1283: Including the open carry or display of weapons within the offense of criminal mischief**

**The Washington Association of Criminal Defense Lawyers (WACDL) and the Washington Defender Association (WDA) oppose HB 1283** because it premises liability for the crime merely on the perception of bystanders rather than on the intent of the defendant. The substance of this bill would make it a felony to openly carry or display a deadly weapon in a gathering of three or more if the display would cause a reasonable person to feel threatened. However, RCW 9.41.270 Prohibiting Unlawful Display of a Weapon, already makes it a gross misdemeanor to display a weapon a manner, under circumstances, and at a time and place that either **manifests an intent to intimidate another** or that warrants alarm for the safety of other persons.

Under HB 1283, the action of openly carrying a weapon would become a strict liability offense, where the intent of the actor is not an element of the crime, and the determination of whether an offense occurred is based on the subjective interpretation of bystanders. While a strict liability crime is not completely unknown in Washington law, it is rare and unusual. Of more particular concern is that currently **under RCW 9.41.270 Prohibiting Unlawful Display of a Weapon, it is only a gross misdemeanor** to display of a weapon a manner, under circumstances, and at a time and place that manifests an intent to intimidate, while **HB 1283 would make it a felony to do so in a manner without such intent.**

It is incongruent to create a felony for unintentional, strict liability conduct based on bystander perception, while conduct that actually manifests an intent to intimidate is categorized as a gross misdemeanor. For these reasons, WACDL and WDA oppose HB 1283.

***For more information, contact:***

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