



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1533

Introduced 2/9/2017, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.3

from Ch. 38, par. 12-7.3

720 ILCS 5/12-7.4

from Ch. 38, par. 12-7.4

Amends the Criminal Code of 2012. In provisions concerning stalking and aggravated stalking, provides that statutory exemptions for individuals or organizations also apply to employees of governmental entities that monitor or are attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements and only when the monitoring or attentiveness occurs at the workplace or worksite.

LRB100 09558 RLC 19724 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Sections 12-7.3 and 12-7.4 as follows:

6 (720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

7 Sec. 12-7.3. Stalking.

8 (a) A person commits stalking when he or she knowingly
9 engages in a course of conduct directed at a specific person,
10 and he or she knows or should know that this course of conduct
11 would cause a reasonable person to:

12 (1) fear for his or her safety or the safety of a third
13 person; or

14 (2) suffer other emotional distress.

15 (a-3) A person commits stalking when he or she, knowingly
16 and without lawful justification, on at least 2 separate
17 occasions follows another person or places the person under
18 surveillance or any combination thereof and:

19 (1) at any time transmits a threat of immediate or
20 future bodily harm, sexual assault, confinement or
21 restraint and the threat is directed towards that person or
22 a family member of that person; or

23 (2) places that person in reasonable apprehension of

1 immediate or future bodily harm, sexual assault,
2 confinement or restraint to or of that person or a family
3 member of that person.

4 (a-5) A person commits stalking when he or she has
5 previously been convicted of stalking another person and
6 knowingly and without lawful justification on one occasion:

7 (1) follows that same person or places that same person
8 under surveillance; and

9 (2) transmits a threat of immediate or future bodily
10 harm, sexual assault, confinement or restraint to that
11 person or a family member of that person.

12 (b) Sentence. Stalking is a Class 4 felony; a second or
13 subsequent conviction is a Class 3 felony.

14 (c) Definitions. For purposes of this Section:

15 (1) "Course of conduct" means 2 or more acts, including
16 but not limited to acts in which a defendant directly,
17 indirectly, or through third parties, by any action,
18 method, device, or means follows, monitors, observes,
19 surveils, threatens, or communicates to or about, a person,
20 engages in other non-consensual contact, or interferes
21 with or damages a person's property or pet. A course of
22 conduct may include contact via electronic communications.

23 (2) "Electronic communication" means any transfer of
24 signs, signals, writings, sounds, data, or intelligence of
25 any nature transmitted in whole or in part by a wire,
26 radio, electromagnetic, photoelectric, or photo-optical

1 system. "Electronic communication" includes transmissions
2 by a computer through the Internet to another computer.

3 (3) "Emotional distress" means significant mental
4 suffering, anxiety or alarm.

5 (4) "Family member" means a parent, grandparent,
6 brother, sister, or child, whether by whole blood,
7 half-blood, or adoption and includes a step-grandparent,
8 step-parent, step-brother, step-sister or step-child.
9 "Family member" also means any other person who regularly
10 resides in the household, or who, within the prior 6
11 months, regularly resided in the household.

12 (5) "Follows another person" means (i) to move in
13 relative proximity to a person as that person moves from
14 place to place or (ii) to remain in relative proximity to a
15 person who is stationary or whose movements are confined to
16 a small area. "Follows another person" does not include a
17 following within the residence of the defendant.

18 (6) "Non-consensual contact" means any contact with
19 the victim that is initiated or continued without the
20 victim's consent, including but not limited to being in the
21 physical presence of the victim; appearing within the sight
22 of the victim; approaching or confronting the victim in a
23 public place or on private property; appearing at the
24 workplace or residence of the victim; entering onto or
25 remaining on property owned, leased, or occupied by the
26 victim; or placing an object on, or delivering an object

1 to, property owned, leased, or occupied by the victim.

2 (7) "Places a person under surveillance" means: (1)
3 remaining present outside the person's school, place of
4 employment, vehicle, other place occupied by the person, or
5 residence other than the residence of the defendant; or (2)
6 placing an electronic tracking device on the person or the
7 person's property.

8 (8) "Reasonable person" means a person in the victim's
9 situation.

10 (9) "Transmits a threat" means a verbal or written
11 threat or a threat implied by a pattern of conduct or a
12 combination of verbal or written statements or conduct.

13 (d) Exemptions.

14 (1) This Section does not apply to any individual, ~~or~~
15 organization, or employee of a governmental entity (i)
16 monitoring or attentive to compliance with public or worker
17 safety laws, wage and hour requirements, or other statutory
18 requirements when the monitoring or attentiveness occurs
19 at the workplace or worksite, or (ii) picketing occurring
20 at the workplace or worksite that is otherwise lawful and
21 arises out of a bona fide labor dispute, including any
22 controversy concerning wages, salaries, hours, working
23 conditions or benefits, including health and welfare, sick
24 leave, insurance, and pension or retirement provisions,
25 the making or maintaining of collective bargaining
26 agreements, and the terms to be included in those

1 agreements.

2 (2) This Section does not apply to an exercise of the
3 right to free speech or assembly that is otherwise lawful.

4 (3) Telecommunications carriers, commercial mobile
5 service providers, and providers of information services,
6 including, but not limited to, Internet service providers
7 and hosting service providers, are not liable under this
8 Section, except for willful and wanton misconduct, by
9 virtue of the transmission, storage, or caching of
10 electronic communications or messages of others or by
11 virtue of the provision of other related
12 telecommunications, commercial mobile services, or
13 information services used by others in violation of this
14 Section.

15 (d-5) The incarceration of a person in a penal institution
16 who commits the course of conduct or transmits a threat is not
17 a bar to prosecution under this Section.

18 (d-10) A defendant who directed the actions of a third
19 party to violate this Section, under the principles of
20 accountability set forth in Article 5 of this Code, is guilty
21 of violating this Section as if the same had been personally
22 done by the defendant, without regard to the mental state of
23 the third party acting at the direction of the defendant.

24 (Source: P.A. 96-686, eff. 1-1-10; 96-1551, eff. 7-1-11;
25 97-311, eff. 8-11-11; 97-1109, eff. 1-1-13.)

1 (720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

2 Sec. 12-7.4. Aggravated stalking.

3 (a) A person commits aggravated stalking when he or she
4 commits stalking and:

5 (1) causes bodily harm to the victim;

6 (2) confines or restrains the victim; or

7 (3) violates a temporary restraining order, an order of
8 protection, a stalking no contact order, a civil no contact
9 order, or an injunction prohibiting the behavior described
10 in subsection (b) (1) of Section 214 of the Illinois
11 Domestic Violence Act of 1986.

12 (a-1) A person commits aggravated stalking when he or she
13 is required to register under the Sex Offender Registration Act
14 or has been previously required to register under that Act and
15 commits the offense of stalking when the victim of the stalking
16 is also the victim of the offense for which the sex offender is
17 required to register under the Sex Offender Registration Act or
18 a family member of the victim.

19 (b) Sentence. Aggravated stalking is a Class 3 felony; a
20 second or subsequent conviction is a Class 2 felony.

21 (c) Exemptions.

22 (1) This Section does not apply to any individual, ~~or~~
23 organization, or employee of a governmental entity (i)
24 monitoring or attentive to compliance with public or worker
25 safety laws, wage and hour requirements, or other statutory
26 requirements when the monitoring or attentiveness occurs

1 at the workplace or worksite, or (ii) picketing occurring
2 at the workplace or worksite that is otherwise lawful and
3 arises out of a bona fide labor dispute including any
4 controversy concerning wages, salaries, hours, working
5 conditions or benefits, including health and welfare, sick
6 leave, insurance, and pension or retirement provisions,
7 the managing or maintenance of collective bargaining
8 agreements, and the terms to be included in those
9 agreements.

10 (2) This Section does not apply to an exercise of the
11 right of free speech or assembly that is otherwise lawful.

12 (3) Telecommunications carriers, commercial mobile
13 service providers, and providers of information services,
14 including, but not limited to, Internet service providers
15 and hosting service providers, are not liable under this
16 Section, except for willful and wanton misconduct, by
17 virtue of the transmission, storage, or caching of
18 electronic communications or messages of others or by
19 virtue of the provision of other related
20 telecommunications, commercial mobile services, or
21 information services used by others in violation of this
22 Section.

23 (d) A defendant who directed the actions of a third party
24 to violate this Section, under the principles of accountability
25 set forth in Article 5 of this Code, is guilty of violating
26 this Section as if the same had been personally done by the

1 defendant, without regard to the mental state of the third
2 party acting at the direction of the defendant.

3 (Source: P.A. 96-686, eff. 1-1-10; 96-1551, eff. 7-1-11;
4 97-311, eff. 8-11-11; 97-468, eff. 1-1-12; 97-1109, eff.
5 1-1-13.)