

SB2204



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2204

Introduced 2/26/2021, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.3

from Ch. 38, par. 12-7.3

Amends the Criminal Code of 2012. Provides that a person commits stalking when he or she knowingly makes threats that are a part of a course of conduct and is aware of the threatening nature of his or her speech.

LRB102 16152 KMF 21528 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
5 changing Section 12-7.3 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
22 or 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
8 person 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 (a-7) A person commits stalking when he or she knowingly
13 makes threats that are a part of a course of conduct and is
14 aware of the threatening nature of his or her speech.

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

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

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

1 (2) "Electronic communication" means any transfer of
2 signs, signals, writings, sounds, data, or intelligence of
3 any nature transmitted in whole or in part by a wire,
4 radio, electromagnetic, photoelectric, or photo-optical
5 system. "Electronic communication" includes transmissions
6 by a computer through the Internet to another computer.

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

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

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

22 (6) "Non-consensual contact" means any contact with
23 the victim that is initiated or continued without the
24 victim's consent, including but not limited to being in
25 the physical presence of the victim; appearing within the
26 sight of the victim; approaching or confronting the victim

1 in a public place or on private property; appearing at the
2 workplace or residence of the victim; entering onto or
3 remaining on property owned, leased, or occupied by the
4 victim; or placing an object on, or delivering an object
5 to, property owned, leased, or occupied by the victim.

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

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

14 (9) "Transmits a threat" means a verbal or written
15 threat or a threat implied by a pattern of conduct or a
16 combination of verbal or written statements or conduct.

17 (d) Exemptions.

18 (1) This Section does not apply to any individual or
19 organization (i) monitoring or attentive to compliance
20 with public or worker safety laws, wage and hour
21 requirements, or other statutory requirements, or (ii)
22 picketing occurring at the workplace that is otherwise
23 lawful and arises out of a bona fide labor dispute,
24 including any controversy concerning wages, salaries,
25 hours, working conditions or benefits, including health
26 and welfare, sick leave, insurance, and pension or

1 retirement provisions, the making or maintaining of
2 collective bargaining agreements, and the terms to be
3 included in those agreements.

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

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

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

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

26 (Source: P.A. 96-686, eff. 1-1-10; 96-1551, eff. 7-1-11;

1 97-311, eff. 8-11-11; 97-1109, eff. 1-1-13.)