



Sen. Toi W. Hutchinson

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LRB096 10797 RLC 26132 a

1 AMENDMENT TO HOUSE BILL 2542

2 AMENDMENT NO. _____. Amend House Bill 2542 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 12-7.3, 12-7.4, and 12-7.5 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 ~~7~~ 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

1 occasions follows another person or places the person under
2 surveillance or any combination thereof and:

3 (1) at any time transmits a threat of immediate or
4 future bodily harm, sexual assault, confinement or
5 restraint and the threat is directed towards that person or
6 a family member of that person; or

7 (2) places that person in reasonable apprehension of
8 immediate or future bodily harm, sexual assault,
9 confinement or restraint; or

10 (3) places that person in reasonable apprehension that
11 a family member will receive immediate or future bodily
12 harm, sexual assault, confinement, or restraint.

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

16 (1) follows that same person or places that same person
17 under surveillance; and

18 (2) transmits a threat of immediate or future bodily
19 harm, sexual assault, confinement or restraint; and

20 (3) the threat is directed towards that person or a
21 family member of that person.

22 (b) Sentence. Stalking is a Class 4 felony. A second or
23 subsequent conviction for stalking is a Class 3 felony.

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

25 (1) "Course of conduct" means 2 or more acts, including
26 but not limited to acts in which a defendant directly,

1 indirectly, or through third parties, by any action,
2 method, device, or means follows, monitors, observes,
3 surveils, threatens, or communicates to or about, a person,
4 engages in other non-consensual contact, or interferes
5 with or damages a person's property or pet. A course of
6 conduct may include contact via electronic communications.

7 (2) "Electronic communication" means any transfer of
8 signs, signals, writings, sounds, data, or intelligence of
9 any nature transmitted in whole or in part by a wire,
10 radio, electromagnetic, photoelectric, or photo-optical
11 system. "Electronic communication" includes transmissions
12 by a computer through the Internet to another computer.

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

15 (4) "Family member" means a parent, grandparent,
16 brother, sister, or child, whether by whole blood,
17 half-blood, or adoption and includes a step-grandparent,
18 step-parent, step-brother, step-sister or step-child.
19 "Family member" also means any other person who regularly
20 resides in the household, or who, within the prior 6
21 months, regularly resided in the household.

22 (5) "Follows another person" means (i) to move in
23 relative proximity to a person as that person moves from
24 place to place or (ii) to remain in relative proximity to a
25 person who is stationary or whose movements are confined to
26 a small area. "Follows another person" does not include a

1 following within the residence of the defendant.

2 (6) "Non-consensual contact" means any contact with
3 the victim that is initiated or continued without the
4 victim's consent, including but not limited to being in the
5 physical presence of the victim; appearing within the sight
6 of the victim; approaching or confronting the victim in a
7 public place or on private property; appearing at the
8 workplace or residence of the victim; entering onto or
9 remaining on property owned, leased, or occupied by the
10 victim; or placing an object on, or delivering an object
11 to, property owned, leased, or occupied by the victim.

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

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

20 (9) "Transmits a threat" means a verbal or written
21 threat or a threat implied by a pattern of conduct or a
22 combination of verbal or written statements or conduct.

23 (d) Exemptions.

24 (1) This Section does not apply to picketing occurring
25 at the workplace that is otherwise lawful and arises out of
26 a bona fide labor dispute, including any controversy

1 concerning wages, salaries, hours, working conditions or
2 benefits, including health and welfare, sick leave,
3 insurance, and pension or retirement provisions, the
4 making or maintaining of collective bargaining agreements,
5 and the terms to be included in those agreements.

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

8 (b-5) The incarceration of a person in a penal institution
9 who commits the course of conduct or transmits a threat is not
10 a bar to prosecution under this Section.

11 ~~(c) Exemption. This Section does not apply to picketing~~
12 ~~occurring at the workplace that is otherwise lawful and arises~~
13 ~~out of a bona fide labor dispute, or any exercise of the right~~
14 ~~of free speech or assembly that is otherwise lawful.~~

15 ~~(d) For the purpose of this Section, a defendant "places a~~
16 ~~person under surveillance" by: (1) remaining present outside~~
17 ~~the person's school, place of employment, vehicle, other place~~
18 ~~occupied by the person, or residence other than the residence~~
19 ~~of the defendant; or (2) placing an electronic tracking device~~
20 ~~on the person or the person's property.~~

21 ~~(e) For the purpose of this Section, "follows another~~
22 ~~person" means (i) to move in relative proximity to a person as~~
23 ~~that person moves from place to place or (ii) to remain in~~
24 ~~relative proximity to a person who is stationary or whose~~
25 ~~movements are confined to a small area. "Follows another~~
26 ~~person" does not include a following within the residence of~~

1 ~~the defendant.~~

2 ~~(f) For the purposes of this Section and Section 12-7.4,~~
3 ~~"bona fide labor dispute" means any controversy concerning~~
4 ~~wages, salaries, hours, working conditions, or benefits,~~
5 ~~including health and welfare, sick leave, insurance, and~~
6 ~~pension or retirement provisions, the making or maintaining of~~
7 ~~collective bargaining agreements, and the terms to be included~~
8 ~~in those agreements.~~

9 ~~(g) For the purposes of this Section, "transmits a threat"~~
10 ~~means a verbal or written threat or a threat implied by a~~
11 ~~pattern of conduct or a combination of verbal or written~~
12 ~~statements or conduct.~~

13 ~~(h) For the purposes of this Section, "family member" means~~
14 ~~a parent, grandparent, brother, sister, or child, whether by~~
15 ~~whole blood, half blood, or adoption and includes a~~
16 ~~step grandparent, step parent, step brother, step sister or~~
17 ~~step child. "Family member" also means any other person who~~
18 ~~regularly resides in the household, or who, within the prior 6~~
19 ~~months, regularly resided in the household.~~

20 (Source: P.A. 95-33, eff. 1-1-08.)

21 (720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

22 Sec. 12-7.4. Aggravated stalking.

23 (a) A person commits aggravated stalking when he or she, in
24 conjunction with committing the offense of stalking, also does
25 any of the following:

1 (1) causes bodily harm to the victim;

2 (2) confines or restrains the victim; or

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

8 (b) Sentence. Aggravated stalking is a Class 3 felony. A
9 second or subsequent conviction for aggravated stalking is a
10 Class 2 felony.

11 (c) Exemptions ~~Exemption~~.

12 (1) This Section does not apply to picketing occurring
13 at the workplace that is otherwise lawful and arises out of
14 a bona fide labor dispute including any controversy
15 concerning wages, salaries, hours, working conditions or
16 benefits, including health and welfare, sick leave,
17 insurance, and pension or retirement provisions, the
18 managing or maintenance of collective bargaining
19 agreements, and the terms to be included in those
20 agreements. ~~, or any~~

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

23 ~~(d) For purposes of this Section, "bona fide labor dispute"~~
24 ~~has the meaning ascribed to it in Section 12-7.3.~~

25 (Source: P.A. 88-402; 88-677, eff. 12-15-94; 89-377, eff.
26 8-18-95.)

1 (720 ILCS 5/12-7.5)

2 Sec. 12-7.5. Cyberstalking.

3 (a) A person commits cyberstalking when he or she engages
4 in a course of conduct using electronic communication directed
5 at a specific person, and he or she knows or should know that
6 would cause a reasonable person to:

7 (1) fear for his or her safety or the safety of a third
8 person; or

9 (2) suffer other emotional distress.

10 (a-3) A person commits cyberstalking when he or she,
11 knowingly and without lawful justification, on at least 2
12 separate occasions, harasses another person through the use of
13 electronic communication and:

14 (1) at any time transmits a threat of immediate or
15 future bodily harm, sexual assault, confinement, or
16 restraint and the threat is directed towards that person or
17 a family member of that person, or

18 (2) places that person or a family member of that
19 person in reasonable apprehension of immediate or future
20 bodily harm, sexual assault, confinement, or restraint; or

21 (3) at any time knowingly solicits the commission of an
22 act by any person which would be a violation of this Code
23 directed towards that person or a family member of that
24 person.

25 (a-5) A person commits cyberstalking when he or she,

1 knowingly and without lawful justification, creates and
2 maintains an Internet website or webpage which is accessible to
3 one or more third parties for a period of at least 24 hours,
4 and which contains statements harassing another person and:

5 (1) which communicates a threat of immediate or future
6 bodily harm, sexual assault, confinement, or restraint,
7 where the threat is directed towards that person or a
8 family member of that person, or

9 (2) which places that person or a family member of that
10 person in reasonable apprehension of immediate or future
11 bodily harm, sexual assault, confinement, or restraint, or

12 (3) which knowingly solicits the commission of an act
13 by any person which would be a violation of this Code
14 directed towards that person or a family member of that
15 person.

16 ~~(b) As used in this Section:~~

17 ~~"Harass" means to engage in a knowing and willful course of~~
18 ~~conduct directed at a specific person that alarms, torments, or~~
19 ~~terrorizes that person.~~

20 ~~"Third party" means any person other than the person~~
21 ~~violating these provisions and the person or persons towards~~
22 ~~whom the violator's actions are directed.~~

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

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

3 (b) ~~(e)~~ Sentence. Cyberstalking is a Class 4 felony. A
4 second or subsequent conviction for cyberstalking is a Class 3
5 felony.

6 (c) For purposes of this Section:

7 (1) "Course of conduct" means 2 or more acts, including
8 but not limited to acts in which a defendant directly,
9 indirectly, or through third parties, by any action,
10 method, device, or means follows, monitors, observes,
11 surveils, threatens, or communicates to or about, a person,
12 engages in other non-consensual contact, or interferes
13 with or damages a person's property or pet. The
14 incarceration in a penal institution of a person who
15 commits the course of conduct is not a bar to prosecution
16 under this Section.

17 (2) "Electronic communication" means any transfer of
18 signs, signals, writings, sounds, data, or intelligence of
19 any nature transmitted in whole or in part by a wire,
20 radio, electromagnetic, photoelectric, or photo-optical
21 system. "Electronic communication" includes transmissions
22 by a computer through the Internet to another computer.

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

25 (4) "Harass" means to engage in a knowing and willful
26 course of conduct directed at a specific person that

1 alarms, torments, or terrorizes that person.

2 (5) "Non-consensual contact" means any contact with
3 the victim that is initiated or continued without the
4 victim's consent, including but not limited to being in the
5 physical presence of the victim; appearing within the sight
6 of the victim; approaching or confronting the victim in a
7 public place or on private property; appearing at the
8 workplace or residence of the victim; entering onto or
9 remaining on property owned, leased, or occupied by the
10 victim; or placing an object on, or delivering an object
11 to, property owned, leased, or occupied by the victim.

12 (6) "Reasonable person" means a person in the victim's
13 circumstances, with the victim's knowledge of the
14 defendant and the defendant's prior acts.

15 (7) "Third party" means any person other than the
16 person violating these provisions and the person or persons
17 towards whom the violator's actions are directed.

18 ~~(d) Telecommunications carriers, commercial mobile service~~
19 ~~providers, and providers of information services, including,~~
20 ~~but not limited to, Internet service providers and hosting~~
21 ~~service providers, are not liable under this Section, except~~
22 ~~for willful and wanton misconduct, by virtue of the~~
23 ~~transmission, storage, or caching of electronic communications~~
24 ~~or messages of others or by virtue of the provision of other~~
25 ~~related telecommunications, commercial mobile services, or~~
26 ~~information services used by others in violation of this~~

1 ~~Section.~~

2 (Source: P.A. 95-849, eff. 1-1-09; revised 9-10-08.)

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes."