



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5517

Introduced 2/15/2012, by Rep. 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 1961. In provisions concerning stalking and aggravated stalking, deletes statutory exemptions for individuals and organizations that monitor or are attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements.

LRB097 18583 RLC 63815 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 1961 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 ~~(i) monitoring or attentive to compliance~~
16 ~~with public or worker safety laws, wage and hour~~
17 ~~requirements, or other statutory requirements, or (ii)~~
18 picketing occurring at the workplace that is otherwise
19 lawful and arises out of a bona fide labor dispute,
20 including any controversy concerning wages, salaries,
21 hours, working conditions or benefits, including health
22 and welfare, sick leave, insurance, and pension or
23 retirement provisions, the making or maintaining of
24 collective bargaining agreements, and the terms to be
25 included in those agreements.

26 (2) This Section does not apply to an exercise of the

1 right to free speech or assembly that is otherwise lawful.

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

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

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

22 (Source: P.A. 96-686, eff. 1-1-10; 96-1551, eff. 7-1-11;
23 97-311, eff. 8-11-11; revised 9-19-11.)

24 (720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

25 Sec. 12-7.4. Aggravated stalking.

1 (a) A person commits aggravated stalking when he or she
2 commits stalking and:

3 (1) causes bodily harm to the victim;

4 (2) confines or restrains the victim; or

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

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

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

19 (c) Exemptions.

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

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

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

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

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

25 (Source: P.A. 96-686, eff. 1-1-10; 96-1551, eff. 7-1-11;
26 97-311, eff. 8-11-11; 97-468, eff. 1-1-12; revised 9-12-11.)