



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0136

Introduced 1/14/2013, by Rep. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.3  
720 ILCS 5/12-7.4

from Ch. 38, par. 12-7.3  
from Ch. 38, par. 12-7.4

Amends the Criminal Code of 2012. Provides that the stalking and aggravated stalking statutes do not apply to an individual, organization, or employee of a governmental entity monitoring or attentive to compliance with public or worker safety laws, wage and hour requirements, or other statutory requirements when the monitoring or attentiveness occurs at the workplace or worksite.

LRB098 02577 RLC 32581 b

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.)