



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5770

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

720 ILCS 5/12-7.3

from Ch. 38, par. 12-7.3

Amends the Criminal Code of 1961 relating to the offense of stalking. Provides that if a person ignores another person's request not to follow him or her or his or her family members, a rebuttable presumption exists that the person has transmitted a threat of immediate or future bodily harm. Provides that if a person remains outside another person's home for a period of time in excess of 10 minutes or for a period of time totaling 30 minutes within a 24-hour period on 5 or more occasions, a rebuttable presumption exists that the person has transmitted a threat of immediate or future bodily harm.

LRB095 16744 RLC 42778 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 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 and
9 without lawful justification, on at least 2 separate occasions
10 follows another person or places the person under surveillance
11 or any combination thereof and:

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

16 (2) places that person in reasonable apprehension of
17 immediate or future bodily harm, sexual assault,
18 confinement or restraint; or

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

22 (a-5) A person commits stalking when he or she has
23 previously been convicted of stalking another person and

1 knowingly and without lawful justification on one occasion:

2 (1) follows that same person or places that same person
3 under surveillance; and

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

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

8 (a-6) If a person ignores another person's request not to
9 follow him or her or his or her family members, a rebuttable
10 presumption exists that the person has transmitted a threat of
11 immediate or future bodily harm as described in paragraph (1)
12 of subsection (a) or paragraph (2) of subsection (a-5).

13 (a-7) If a person remains outside another person's home for
14 a period of time in excess of 10 minutes or for a period of time
15 totaling 30 minutes within a 24-hour period on 5 or more
16 occasions, a rebuttable presumption exists that the person has
17 transmitted a threat of immediate or future bodily harm as
18 described in paragraph (1) of subsection (a) or paragraph (2)
19 of subsection (a-5).

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

22 (b-5) The incarceration of a person in a penal institution
23 who transmits a threat is not a bar to prosecution under this
24 Section.

25 (c) Exemption. This Section does not apply to picketing
26 occurring at the workplace that is otherwise lawful and arises

1 out of a bona fide labor dispute, or any exercise of the right
2 of free speech or assembly that is otherwise lawful.

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

9 (e) For the purpose of this Section, "follows another
10 person" means (i) to move in relative proximity to a person as
11 that person moves from place to place or (ii) to remain in
12 relative proximity to a person who is stationary or whose
13 movements are confined to a small area. "Follows another
14 person" does not include a following within the residence of
15 the defendant.

16 (f) For the purposes of this Section and Section 12-7.4,
17 "bona fide labor dispute" means any controversy concerning
18 wages, salaries, hours, working conditions, or benefits,
19 including health and welfare, sick leave, insurance, and
20 pension or retirement provisions, the making or maintaining of
21 collective bargaining agreements, and the terms to be included
22 in those agreements.

23 (g) For the purposes of this Section, "transmits a threat"
24 means a verbal or written threat or a threat implied by a
25 pattern of conduct or a combination of verbal or written
26 statements or conduct.

1 (h) For the purposes of this Section, "family member" means
2 a parent, grandparent, brother, sister, or child, whether by
3 whole blood, half-blood, or adoption and includes a
4 step-grandparent, step-parent, step-brother, step-sister or
5 step-child. "Family member" also means any other person who
6 regularly resides in the household, or who, within the prior 6
7 months, regularly resided in the household.

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