

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, 12-7.4, 12-7.5, and 12-30 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; or

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

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

9 (1) follows that same person or places that same person
10 under surveillance; and

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

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

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

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

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

26 (2) "Electronic communication" means any transfer of

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

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

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

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

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

1 workplace or residence of the victim; entering onto or
2 remaining on property owned, leased, or occupied by the
3 victim; or placing an object on, or delivering an object
4 to, property owned, leased, or occupied by the victim.

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

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

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

16 (d) Exemptions.

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

1 collective bargaining agreements, and the terms to be
2 included in those agreements.

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

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

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

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

25 (Source: P.A. 95-33, eff. 1-1-08; 96-686, eff. 1-1-10.)

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, in
4 conjunction with committing the offense of stalking, also does
5 any of the following:

6 (1) causes bodily harm to the victim;

7 (2) confines or restrains the victim; or

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

13 (b) Sentence. Aggravated stalking is a Class 3 felony. A
14 second or subsequent conviction for aggravated stalking is a
15 Class 2 felony.

16 (c) Exemptions.

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

1 collective bargaining agreements, and the terms to be
2 included in those agreements.

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

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

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

22 (Source: P.A. 96-686, eff. 1-1-10.)

23 (720 ILCS 5/12-7.5)

24 Sec. 12-7.5. Cyberstalking.

25 (a) A person commits cyberstalking when he or she engages

1 in a course of conduct using electronic communication directed
2 at a specific person, and he or she knows or should know that
3 would cause a reasonable person to:

4 (1) fear for his or her safety or the safety of a third
5 person; or

6 (2) suffer other emotional distress.

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

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

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

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

22 (a-5) A person commits cyberstalking when he or she,
23 knowingly and without lawful justification, creates and
24 maintains an Internet website or webpage which is accessible to
25 one or more third parties for a period of at least 24 hours,
26 and which contains statements harassing another person and:

1 (1) which communicates a threat of immediate or future
2 bodily harm, sexual assault, confinement, or restraint,
3 where the threat is directed towards that person or a
4 family member of that person, or

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

8 (3) which knowingly solicits the commission of an act
9 by any person which would be a violation of this Code
10 directed towards that person or a family member of that
11 person.

12 (b) Sentence. Cyberstalking is a Class 4 felony. A second
13 or subsequent conviction for cyberstalking is a Class 3 felony.

14 (c) 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. The
22 incarceration in a penal institution of a person who
23 commits the course of conduct is not a bar to prosecution
24 under this Section.

25 (2) "Electronic communication" means any transfer of
26 signs, signals, writings, sounds, data, or intelligence of

1 any nature transmitted in whole or in part by a wire,
2 radio, electromagnetic, photoelectric, or photo-optical
3 system. "Electronic communication" includes transmissions
4 by a computer through the Internet to another computer.

5 (3) "Emotional distress" means significant mental
6 suffering, anxiety or alarm.

7 (4) "Harass" means to engage in a knowing and willful
8 course of conduct directed at a specific person that
9 alarms, torments, or terrorizes that person.

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

20 (6) "Reasonable person" means a person in the victim's
21 circumstances, with the victim's knowledge of the
22 defendant and the defendant's prior acts.

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

26 (d) Telecommunications carriers, commercial mobile service

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

10 (e) A defendant who directed the actions of a third party
11 to violate this Section, under the principles of accountability
12 set forth in Article 5 of this Code, is guilty of violating
13 this Section as if the same had been personally done by the
14 defendant, without regard to the mental state of the third
15 party acting at the direction of the defendant.

16 (Source: P.A. 95-849, eff. 1-1-09; 96-328, eff. 8-11-09;
17 96-686, eff. 1-1-10; 96-1000, eff. 7-2-10.)

18 (720 ILCS 5/12-30) (from Ch. 38, par. 12-30)

19 Sec. 12-30. Violation of an order of protection.

20 (a) A person commits violation of an order of protection
21 if:

22 (1) He or she commits an act which was prohibited by a
23 court or fails to commit an act which was ordered by a
24 court in violation of:

25 (i) a remedy in a valid order of protection

1 authorized under paragraphs (1), (2), (3), (14), or
2 (14.5) of subsection (b) of Section 214 of the Illinois
3 Domestic Violence Act of 1986,

4 (ii) a remedy, which is substantially similar to
5 the remedies authorized under paragraphs (1), (2),
6 (3), (14) or (14.5) of subsection (b) of Section 214 of
7 the Illinois Domestic Violence Act of 1986, in a valid
8 order of protection, which is authorized under the laws
9 of another state, tribe or United States territory,

10 (iii) any other remedy when the act constitutes a
11 crime against the protected parties as the term
12 protected parties is defined in Section 112A-4 of the
13 Code of Criminal Procedure of 1963; and

14 (2) Such violation occurs after the offender has been
15 served notice of the contents of the order, pursuant to the
16 Illinois Domestic Violence Act of 1986 or any substantially
17 similar statute of another state, tribe or United States
18 territory, or otherwise has acquired actual knowledge of
19 the contents of the order.

20 An order of protection issued by a state, tribal or
21 territorial court related to domestic or family violence shall
22 be deemed valid if the issuing court had jurisdiction over the
23 parties and matter under the law of the state, tribe or
24 territory. There shall be a presumption of validity where an
25 order is certified and appears authentic on its face.

26 (a-5) Failure to provide reasonable notice and opportunity

1 to be heard shall be an affirmative defense to any charge or
2 process filed seeking enforcement of a foreign order of
3 protection.

4 (b) For purposes of this Section, an "order of protection"
5 may have been issued in a criminal or civil proceeding.

6 (c) Nothing in this Section shall be construed to diminish
7 the inherent authority of the courts to enforce their lawful
8 orders through civil or criminal contempt proceedings.

9 (d) Violation of an order of protection under subsection
10 (a) of this Section is a Class A misdemeanor. Violation of an
11 order of protection under subsection (a) of this Section is a
12 Class 4 felony if the defendant has any prior conviction under
13 this Code for domestic battery (Section 12-3.2) or violation of
14 an order of protection (Section 12-30). Violation of an order
15 of protection is a Class 4 felony if the defendant has any
16 prior conviction under this Code for first degree murder
17 (Section 9-1), attempt to commit first degree murder (Section
18 8-4), aggravated domestic battery (Section 12-3.3), aggravated
19 battery (Section 12-4), heinous battery (Section 12-4.1),
20 aggravated battery with a firearm (Section 12-4.2), aggravated
21 battery of a child (Section 12-4.3), aggravated battery of an
22 unborn child (Section 12-4.4), aggravated battery of a senior
23 citizen (Section 12-4.6), stalking (Section 12-7.3),
24 aggravated stalking (Section 12-7.4), criminal sexual assault
25 (Section 12-13), aggravated criminal sexual assault (12-14),
26 kidnapping (Section 10-1), aggravated kidnapping (Section

1 10-2), predatory criminal sexual assault of a child (Section
2 12-14.1), aggravated criminal sexual abuse (Section 12-16),
3 unlawful restraint (Section 10-3), aggravated unlawful
4 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
5 or aggravated discharge of a firearm (Section 24-1.2), when any
6 of these offenses have been committed against a family or
7 household member as defined in Section 112A-3 of the Code of
8 Criminal Procedure of 1963. The court shall impose a minimum
9 penalty of 24 hours imprisonment for defendant's second or
10 subsequent violation of any order of protection; unless the
11 court explicitly finds that an increased penalty or such period
12 of imprisonment would be manifestly unjust. In addition to any
13 other penalties, the court may order the defendant to pay a
14 fine as authorized under Section 5-9-1 of the Unified Code of
15 Corrections or to make restitution to the victim under Section
16 5-5-6 of the Unified Code of Corrections. In addition to any
17 other penalties, including those imposed by Section 5-9-1.5 of
18 the Unified Code of Corrections, the court shall impose an
19 additional fine of \$20 as authorized by Section 5-9-1.11 of the
20 Unified Code of Corrections upon any person convicted of or
21 placed on supervision for a violation of this Section. The
22 additional fine shall be imposed for each violation of this
23 Section.

24 (e) The limitations placed on law enforcement liability by
25 Section 305 of the Illinois Domestic Violence Act of 1986 apply
26 to actions taken under this Section.

1 (f) A defendant who directed the actions of a third party
2 to violate this Section, under the principles of accountability
3 set forth in Article 5 of this Code, is guilty of violating
4 this Section as if the same had been personally done by the
5 defendant, without regard to the mental state of the third
6 party acting at the direction of the defendant.

7 (Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99;
8 92-827, eff. 8-22-02.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.