



Sen. Emil Jones, III

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1 AMENDMENT TO SENATE BILL 2267

2 AMENDMENT NO. _____. Amend Senate Bill 2267 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, 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

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 any individual or
25 organization (i) monitoring or attentive to compliance
26 with public or worker safety laws, wage and hour

1 requirements, or other statutory requirements, or (ii)
2 picketing occurring at the workplace that is otherwise
3 lawful and arises out of a bona fide labor dispute,
4 including any controversy concerning wages, salaries,
5 hours, working conditions or benefits, including health
6 and welfare, sick leave, insurance, and pension or
7 retirement provisions, the making or maintaining of
8 collective bargaining agreements, and the terms to be
9 included in those agreements.

10 (2) This Section does not apply to an exercise of the
11 right to 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-5) The incarceration of a person in a penal institution
24 who commits the course of conduct or transmits a threat is not
25 a bar to prosecution under this Section.

26 (d-10) A defendant who directed the actions of a third

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

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

7 (720 ILCS 5/12-7.4) (from Ch. 38, par. 12-7.4)

8 Sec. 12-7.4. Aggravated stalking.

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

12 (1) causes bodily harm to the victim;

13 (2) confines or restrains the victim; or

14 (3) violates a temporary restraining order, an order of
15 protection, a stalking no contact order, a civil no contact
16 order, or an injunction prohibiting the behavior described
17 in subsection (b)(1) of Section 214 of the Illinois
18 Domestic Violence Act of 1986.

19 (b) Sentence. Aggravated stalking is a Class 3 felony. A
20 second or subsequent conviction for aggravated stalking is a
21 Class 2 felony.

22 (c) Exemptions.

23 (1) This Section does not apply to any individual or
24 organization (i) monitoring or attentive to compliance
25 with public or worker safety laws, wage and hour

1 requirements, or other statutory requirements, or (ii)
2 picketing occurring at the workplace that is otherwise
3 lawful and arises out of a bona fide labor dispute
4 including any controversy concerning wages, salaries,
5 hours, working conditions or benefits, including health
6 and welfare, sick leave, insurance, and pension or
7 retirement provisions, the managing or maintenance of
8 collective bargaining agreements, and the terms to be
9 included in those 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.)

4 (720 ILCS 5/12-7.5)

5 Sec. 12-7.5. Cyberstalking.

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

10 (1) fear for his or her safety or the safety of a third
11 person; or

12 (2) suffer other emotional distress.

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

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

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

24 (3) at any time knowingly solicits the commission of an
25 act by any person which would be a violation of this Code

1 directed towards that person or a family member of that
2 person.

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

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

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

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

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

21 (c) For purposes of this Section:

22 (1) "Course of conduct" means 2 or more acts, including
23 but not limited to acts in which a defendant directly,
24 indirectly, or through third parties, by any action,
25 method, device, or means follows, monitors, observes,
26 surveils, threatens, or communicates to or about, a person,

1 engages in other non-consensual contact, or interferes
2 with or damages a person's property or pet. The
3 incarceration in a penal institution of a person who
4 commits the course of conduct is not a bar to prosecution
5 under this Section.

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

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

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

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

1 (6) "Reasonable person" means a person in the victim's
2 circumstances, with the victim's knowledge of the
3 defendant and the defendant's prior acts.

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

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

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

23 (Source: P.A. 95-849, eff. 1-1-09; 96-328, eff. 8-11-09;
24 96-686, eff. 1-1-10; 96-1000, eff. 7-2-10.)

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

2 (a) A person commits violation of an order of protection
3 if:

4 (1) He or she commits an act which was prohibited by a
5 court or fails to commit an act which was ordered by a
6 court in violation of:

7 (i) a remedy in a valid order of protection
8 authorized under paragraphs (1), (2), (3), (14), or
9 (14.5) of subsection (b) of Section 214 of the Illinois
10 Domestic Violence Act of 1986,

11 (ii) a remedy, which is substantially similar to
12 the remedies authorized under paragraphs (1), (2),
13 (3), (14) or (14.5) of subsection (b) of Section 214 of
14 the Illinois Domestic Violence Act of 1986, in a valid
15 order of protection, which is authorized under the laws
16 of another state, tribe or United States territory,

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

21 (2) Such violation occurs after the offender has been
22 served notice of the contents of the order, pursuant to the
23 Illinois Domestic Violence Act of 1986 or any substantially
24 similar statute of another state, tribe or United States
25 territory, or otherwise has acquired actual knowledge of
26 the contents of the order.

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

7 (a-5) Failure to provide reasonable notice and opportunity
8 to be heard shall be an affirmative defense to any charge or
9 process filed seeking enforcement of a foreign order of
10 protection.

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

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

16 (d) Violation of an order of protection under subsection
17 (a) of this Section is a Class A misdemeanor. Violation of an
18 order of protection under subsection (a) of this Section is a
19 Class 4 felony if the defendant has any prior conviction under
20 this Code for domestic battery (Section 12-3.2) or violation of
21 an order of protection (Section 12-30). Violation of an order
22 of protection is a Class 4 felony if the defendant has any
23 prior conviction under this Code for first degree murder
24 (Section 9-1), attempt to commit first degree murder (Section
25 8-4), aggravated domestic battery (Section 12-3.3), aggravated
26 battery (Section 12-4), heinous battery (Section 12-4.1),

1 aggravated battery with a firearm (Section 12-4.2), aggravated
2 battery of a child (Section 12-4.3), aggravated battery of an
3 unborn child (Section 12-4.4), aggravated battery of a senior
4 citizen (Section 12-4.6), stalking (Section 12-7.3),
5 aggravated stalking (Section 12-7.4), criminal sexual assault
6 (Section 12-13), aggravated criminal sexual assault (12-14),
7 kidnapping (Section 10-1), aggravated kidnapping (Section
8 10-2), predatory criminal sexual assault of a child (Section
9 12-14.1), aggravated criminal sexual abuse (Section 12-16),
10 unlawful restraint (Section 10-3), aggravated unlawful
11 restraint (Section 10-3.1), aggravated arson (Section 20-1.1),
12 or aggravated discharge of a firearm (Section 24-1.2), when any
13 of these offenses have been committed against a family or
14 household member as defined in Section 112A-3 of the Code of
15 Criminal Procedure of 1963. The court shall impose a minimum
16 penalty of 24 hours imprisonment for defendant's second or
17 subsequent violation of any order of protection; unless the
18 court explicitly finds that an increased penalty or such period
19 of imprisonment would be manifestly unjust. In addition to any
20 other penalties, the court may order the defendant to pay a
21 fine as authorized under Section 5-9-1 of the Unified Code of
22 Corrections or to make restitution to the victim under Section
23 5-5-6 of the Unified Code of Corrections. In addition to any
24 other penalties, including those imposed by Section 5-9-1.5 of
25 the Unified Code of Corrections, the court shall impose an
26 additional fine of \$20 as authorized by Section 5-9-1.11 of the

1 Unified Code of Corrections upon any person convicted of or
2 placed on supervision for a violation of this Section. The
3 additional fine shall be imposed for each violation of this
4 Section.

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

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

14 (Source: P.A. 91-112, eff. 10-1-99; 91-357, eff. 7-29-99;
15 92-827, eff. 8-22-02.)

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.".