

FINAL BILL REPORT

HB 1696

C 461 L 23

Synopsis as Enacted

Brief Description: Concerning stalking-related offenses.

Sponsors: Representatives Davis, Mosbrucker, Orwall, Griffey, Duerr, Reed, Leavitt, Barnard, Walen, Eslick, Ramel and Pollet.

House Committee on Community Safety, Justice, & Reentry
Senate Committee on Law & Justice

Background:

Stalking.

A person commits the crime of Stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime, the person intentionally and repeatedly harasses or follows a victim; the victim is placed in reasonable fear that the person intends to injure the victim, another person, or property; and the person either intends to frighten, intimidate, or harass the victim, or knows or reasonably should know that the victim is afraid, intimidated, or harassed.

Stalking is a gross misdemeanor except under the following circumstances, in which case it is elevated to a class B felony ranked at seriousness level V:

- the perpetrator has previously been convicted in any state of any crime of harassment of the same victim, members of the victim's family or household, or any person specifically named in a protective order;
- the stalking violates any protective order protecting the victim;
- the perpetrator has previously been convicted of Stalking;
- the perpetrator was armed with a deadly weapon;
- the victim is or was in a specified role or occupation, and the perpetrator stalked the victim to retaliate for an act the victim performed during the course of the victim's official duties or to influence the victim's performance of official duties; or
- the victim is a current, former, or prospective witness in an adjudicative proceeding, and the perpetrator stalked the victim to retaliate against the victim as a result of the

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victim's testimony or potential testimony.

Attempts to contact or follow a person after being given actual notice that the person does not want to be contacted or followed constitute *prima facie* evidence of the perpetrator's intent to intimidate or harass. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication. "Harasses" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose. It is a defense to Stalking that the defendant is a licensed private investigator acting within that capacity.

Cyberstalking.

A person commits the crime of Cyberstalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime, the person knowingly and without consent installs or monitors an electronic tracking device with the intent to track the location of a victim or installs or causes an electronic tracking device to be installed, placed, or used with the intent to track the location of the victim, and:

- the person knows or reasonably should know that knowledge of the installation or monitoring of the tracking device would cause the victim reasonable fear;
- the person has notice that the victim does not want to be contacted or monitored; or
- the victim has a protective order in effect protecting the victim from the person.

Cyberstalking is a gross misdemeanor except under the following circumstances, in which case it is elevated to a class C felony without a specified seriousness level:

- the perpetrator has previously been convicted in any state of any crime of harassment of the same victim, members of the victim's family or household, or any person specifically named in a protective order;
- there is a protective order in effect protecting the victim from contact with the perpetrator;
- the perpetrator has previously been convicted of Stalking or Cyberstalking;
- the victim is or was in a specified role or occupation, and the perpetrator stalked the victim to retaliate for an act the victim performed during the course of the victim's official duties or to influence the victim's performance of official duties; or
- the victim is a current, former, or prospective witness in an adjudicative proceeding, and the perpetrator stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

Cyberstalking does not include the installation, placement, or use of an electronic tracking device by an order of a state or federal court, or by any of the following:

- a law enforcement officer, judicial officer, probation or parole officer, or other public employee when engaged in the lawful performance of official duties;
- a legal guardian designated to provide protective services to a disabled adult when used to track the location of the disabled adult;
- a parent or legal guardian of a minor when used to track the location of that minor,

unless the parent or guardian is subject to a court order that prohibits them from assaulting, threatening, harassing, following, or contacting the minor;

- an employer, school, or other organization that owns the device on which the tracking device is installed and provides the device to a person for use in connection with the person's involvement with the employer, school, or organization, and the use of the tracking device is limited to recovering lost or stolen items; or
- an owner of fleet vehicles, when tracking such vehicles.

An "electronic tracking device" is an electronic device that permits a person to remotely determine or monitor the position and movement of another person, vehicle, device, or other personal possession. "Electronic device" includes computer code or other digital instructions that, once installed on a device, allow a person to remotely track the position of that device.

Classification of Crimes.

Crimes are classified as misdemeanors, gross misdemeanors, or class A, B, or C felonies. While there are exceptions, the classification of a crime generally determines the maximum term of confinement and fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

Classification	Maximum Confinement	Maximum Fine
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

For most felony offenses, the Sentencing Reform Act determines a specific sentence range within the statutory maximum according to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the person's criminal history.

Summary:

The scope of conduct that constitutes the crime of Stalking and certain conditions and exceptions related to Stalking are modified.

A person commits the crime of Stalking if, without lawful authority, the person commits any of the following acts and the victim suffers substantial emotional distress or is placed in fear of injury to person or property:

- intentionally and repeatedly harasses the victim;

- intentionally and repeatedly follows the victim;
- intentionally attempts to or does contact, follow, track, or monitor the victim after being given actual notice that the victim does not want to be contacted, followed, tracked, or monitored; or
- knowingly and without consent installs or monitors an electronic tracking device, or causes an electronic tracking device to be installed, placed, or used, to track the location of the victim.

The lack of intent to frighten or intimidate the victim or place the victim in substantial emotional distress and the lack of actual notice from the victim do not constitute defenses to Stalking. "Substantial emotional distress" means a mental, emotional, or physical reaction such as anxiety, apprehension, or loss of ability to concentrate or other symptoms, whether or not medical or other professional treatment or counseling is sought or required, which degrades the victim's quality of life. "Actual notice" includes, in addition to any other form of actual notice, circumstances in which the victim has a protective order in effect protecting the victim from the person.

Stalking does not include the installation, placement, or use of an electronic tracking device by an order of a state or federal court, or by any of the following:

- a law enforcement officer, judicial officer, probation or parole officer, or other public employee when engaged in the lawful performance of official duties;
- a legal guardian designated to provide protective services to a disabled adult when used to track the location of the disabled adult;
- a parent or legal guardian of a minor when used to track the location of that minor, unless the parent or guardian is subject to a court order that prohibits them from assaulting, threatening, harassing, following, or contacting the minor;
- an employer, school, or other organization that owns the device on which the tracking device is installed and provides the device to a person for use in connection with the person's involvement with the employer, school, or organization, and the use of the tracking device is limited to recovering lost or stolen items; or
- an owner of fleet vehicles, when tracking such vehicles.

The circumstances when Stalking constitutes a class B felony are expanded to include when the perpetrator has previously been convicted in any state of any crime of harassment, regardless of who the previous victim was.

The definition of "harasses" is modified to include willful conduct directed at a specific person which seriously alarms, annoys, torments, or is detrimental to such person, and which serves no legitimate or lawful purpose.

The crime of Cyberstalking is repealed.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 23, 2023