



Rep. Peter Breen

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LRB100 18625 SLF 37979 a

1 AMENDMENT TO HOUSE BILL 4506

2 AMENDMENT NO. _____. Amend House Bill 4506 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Stalking No Contact Order Act is amended by
5 changing Section 10 as follows:

6 (740 ILCS 21/10)

7 Sec. 10. Definitions. For the purposes of this Act:

8 "Course of conduct" means 2 or more acts, including but not
9 limited to acts in which a respondent directly, indirectly, or
10 through third parties, by any action, method, device, or means
11 follows, monitors, observes, surveils, threatens, or
12 communicates to ~~or about~~, a person, engages in other contact,
13 or interferes with or damages a person's property or pet. A
14 course of conduct may include contact via electronic
15 communications. The incarceration of a person in a penal
16 institution who commits the course of conduct is not a bar to

1 prosecution under this Section.

2 "Emotional distress" means significant mental suffering,
3 anxiety or alarm.

4 "Contact" includes any contact with the victim, that is
5 initiated or continued without the victim's consent, or that is
6 in disregard of the victim's expressed desire that the contact
7 be avoided or discontinued, including but not limited to being
8 in the physical presence of the victim; appearing within the
9 sight of the victim; approaching or confronting the victim in a
10 public place or on private property; appearing at the workplace
11 or residence of the victim; entering onto or remaining on
12 property owned, leased, or occupied by the victim; or placing
13 an object on, or delivering an object to, property owned,
14 leased, or occupied by the victim.

15 "Petitioner" means any named petitioner for the stalking no
16 contact order or any named victim of stalking on whose behalf
17 the petition is brought.

18 "Reasonable person" means a person in the petitioner's
19 circumstances with the petitioner's knowledge of the
20 respondent and the respondent's prior acts.

21 "Stalking" means engaging in a course of conduct directed
22 at a specific person, and he or she knows or should know that
23 this course of conduct would cause a reasonable person to fear
24 for his or her safety or the safety of a third person ~~or suffer~~
25 ~~emotional distress~~. Stalking does not include an exercise of
26 the right to free speech or assembly that is otherwise lawful

1 or picketing, including, but not limited to, picketing
2 occurring at the workplace that is otherwise lawful, and arises
3 out of a bona fide labor dispute, including any controversy
4 concerning wages, salaries, hours, working conditions or
5 benefits, including health and welfare, sick leave, insurance,
6 and pension or retirement provisions, the making or maintaining
7 of collective bargaining agreements, and the terms to be
8 included in those agreements.

9 "Stalking No Contact Order" means an emergency order or
10 plenary order granted under this Act, which includes a remedy
11 authorized by Section 80 of this Act.

12 (Source: P.A. 96-246, eff. 1-1-10.)

13 Section 10. The Criminal Code of 2012 is amended by
14 changing Sections 12-7.3 and 12-7.5 as follows:

15 (720 ILCS 5/12-7.3) (from Ch. 38, par. 12-7.3)

16 Sec. 12-7.3. Stalking.

17 (a) A person commits stalking when he or she knowingly
18 engages in a course of conduct directed at a specific person,
19 and he or she knows or should know that this course of conduct
20 would cause a reasonable person to: ~~(1) fear for his or her~~
21 ~~safety or the safety of a third person; or (2) suffer other~~
22 ~~emotional distress.~~

23 (a-3) A person commits stalking when he or she, knowingly
24 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 to or of that person or a family
10 member of that person.

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

14 (1) follows that same person or places that same person
15 under surveillance; and

16 (2) transmits a threat of immediate or future bodily
17 harm, sexual assault, confinement or restraint to that
18 person or a family member of that person.

19 (b) Sentence. Stalking is a Class 4 felony; a second or
20 subsequent conviction is a Class 3 felony.

21 (c) Definitions. 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. A course of
3 conduct may include contact via electronic communications.

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

10 (3) (Blank). ~~"Emotional distress" means significant~~
11 ~~mental suffering, anxiety or alarm.~~

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

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

25 (6) "Non-consensual contact" means any contact with
26 the victim that is initiated or continued without the

1 victim's consent, including but not limited to being in the
2 physical presence of the victim; appearing within the sight
3 of the victim; approaching or confronting the victim in a
4 public place or on private property; appearing at the
5 workplace or residence of the victim; entering onto or
6 remaining on property owned, leased, or occupied by the
7 victim; or placing an object on, or delivering an object
8 to, property owned, leased, or occupied by the victim.

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

15 (8) "Reasonable person" means a person in the victim's
16 situation.

17 (9) "Transmits a threat" means a verbal or written
18 threat or a threat implied by a pattern of conduct or a
19 combination of verbal or written statements or conduct.

20 (d) Exemptions.

21 (1) This Section does not apply to any individual or
22 organization (i) monitoring or attentive to compliance
23 with public or worker safety laws, wage and hour
24 requirements, or other statutory requirements, or (ii)
25 picketing occurring at the workplace that is otherwise
26 lawful and arises out of a bona fide labor dispute,

1 including any controversy concerning wages, salaries,
2 hours, working conditions or benefits, including health
3 and welfare, sick leave, insurance, and pension or
4 retirement provisions, the making or maintaining of
5 collective bargaining agreements, and the terms to be
6 included in those agreements.

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

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

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

23 (d-10) A defendant who directed the actions of a third
24 party to violate this Section, under the principles of
25 accountability set forth in Article 5 of this Code, is guilty
26 of violating this Section as if the same had been personally

1 done by the defendant, without regard to the mental state of
2 the third 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; 97-1109, eff. 1-1-13.)

5 (720 ILCS 5/12-7.5)

6 Sec. 12-7.5. Cyberstalking.

7 (a) A person commits cyberstalking when he or she engages
8 in a course of conduct using electronic communication directed
9 at a specific person, and he or she knows or should know that
10 would cause a reasonable person to: ~~(1) fear for his or her~~
11 ~~safety or the safety of a third person; or (2) suffer other~~
12 ~~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-4) A person commits cyberstalking when he or she
4 knowingly, surreptitiously, and without lawful justification,
5 installs or otherwise places electronic monitoring software or
6 spyware on an electronic communication device as a means to
7 harass another person and:

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

12 (2) 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) at any time knowingly solicits the commission of an
16 act 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 For purposes of this Section, an installation or placement
20 is not surreptitious if:

21 (1) with respect to electronic software, hardware, or
22 computer applications, clear notice regarding the use of
23 the specific type of tracking software or spyware is
24 provided by the installer in advance to the owners and
25 primary users of the electronic software, hardware, or
26 computer application; or

1 (2) written or electronic consent of all owners and
2 primary users of the electronic software, hardware, or
3 computer application on which the tracking software or
4 spyware will be installed has been sought and obtained
5 through a mechanism that does not seek to obtain any other
6 approvals or acknowledgement from the owners and primary
7 users.

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

13 (1) which communicates a threat of immediate or future
14 bodily harm, sexual assault, confinement, or restraint,
15 where the threat is directed towards that person or a
16 family member of that person, or

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

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

24 (b) Sentence. Cyberstalking is a Class 4 felony; a second
25 or subsequent conviction is a Class 3 felony.

26 (c) For purposes of this Section:

1 (1) "Course of conduct" means 2 or more acts, including
2 but not limited to acts in which a defendant directly,
3 indirectly, or through third parties, by any action,
4 method, device, or means follows, monitors, observes,
5 surveils, threatens, or communicates to ~~or about~~, a person,
6 engages in other non-consensual contact, or interferes
7 with or damages a person's property or pet. The
8 incarceration in a penal institution of a person who
9 commits the course of conduct is not a bar to prosecution
10 under this Section.

11 (2) "Electronic communication" means any transfer of
12 signs, signals, writings, sounds, data, or intelligence of
13 any nature transmitted in whole or in part by a wire,
14 radio, electromagnetic, photoelectric, or photo-optical
15 system. "Electronic communication" includes transmissions
16 through an electronic device including, but not limited to,
17 a telephone, cellular phone, computer, or pager, which
18 communication includes, but is not limited to, e-mail,
19 instant message, text message, or voice mail.

20 (2.1) "Electronic communication device" means an
21 electronic device, including, but not limited to, a
22 wireless telephone, personal digital assistant, or a
23 portable or mobile computer.

24 (2.2) "Electronic monitoring software or spyware"
25 means software or an application that surreptitiously
26 tracks computer activity on a device and records and

1 transmits the information to third parties with the intent
2 to cause injury or harm. For the purposes of this paragraph
3 (2.2), "intent to cause injury or harm" does not include
4 activities carried out in furtherance of the prevention of
5 fraud or crime or of protecting the security of networks,
6 online services, applications, software, other computer
7 programs, users, or electronic communication devices or
8 similar devices.

9 (3) (Blank). ~~"Emotional distress" means significant~~
10 ~~mental suffering, anxiety or alarm.~~

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

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

24 (6) "Reasonable person" means a person in the victim's
25 circumstances, with the victim's knowledge of the
26 defendant and the defendant's prior acts.

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

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

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

20 (f) It is not a violation of this Section to:

21 (1) provide, protect, maintain, update, or upgrade
22 networks, online services, applications, software, other
23 computer programs, electronic communication devices, or
24 similar devices under the terms of use applicable to those
25 networks, services, applications, software, programs, or
26 devices;

1 (2) interfere with or prohibit terms or conditions in a
2 contract or license related to networks, online services,
3 applications, software, other computer programs,
4 electronic communication devices, or similar devices; or

5 (3) create any liability by reason of terms or
6 conditions adopted, or technical measures implemented, to
7 prevent the transmission of unsolicited electronic mail or
8 communications.

9 (Source: P.A. 100-166, eff. 1-1-18.)

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