

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE DRH60122-LH-5B (09/08)

Short Title: Amend Criminal Offense of Stalking. (Public)

Sponsors: Representatives Wiley, Langdon, Ray, and Underhill (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND EXPAND THE CRIMINAL OFFENSE OF STALKING
AND TO INCREASE THE PENALTY FOR STALKING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-277.3 reads as rewritten:

"§ 14-277.3. Stalking.

(a) ~~Offense.—A person commits the offense of stalking if the person willfully on more than one occasion follows or is in the presence of, or otherwise harasses, another person without legal purpose and with the intent to do any of the following:~~

(1) ~~Place that person in reasonable fear either for the person's safety or the safety of the person's immediate family or close personal associates.~~

(2) ~~Cause that person to suffer substantial emotional distress by placing that person in fear of death, bodily injury, or continued harassment, and that in fact causes that person substantial emotional distress.~~

(b) ~~Classification.—A violation of this section is a Class A1 misdemeanor. A person convicted of a Class A1 misdemeanor under this section, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court. A person who commits the offense of stalking when there is a court order in effect prohibiting similar behavior by that person is guilty of a Class H felony. A person who commits the offense of stalking after having been previously convicted of a stalking offense is guilty of a Class F felony.~~

(c) ~~Definition.—For the purposes of this section, the term "harasses" or "harassment" means knowing conduct, including written or printed communication or transmission, telephone or cellular or other wireless telephonic communication, facsimile transmission, pager messages or transmissions, answering machine or voice mail messages or transmissions, and electronic mail messages or other computerized or~~

1 ~~electronic transmissions, directed at a specific person that torments, terrorizes, or~~
2 ~~terrifies that person and that serves no legitimate purpose."~~

3 (a) Legislative Intent. – The General Assembly finds that stalking is a serious
4 problem in this State and nationwide. Stalking involves severe intrusions on the victim's
5 personal privacy and autonomy. It is a crime that causes a long-lasting impact on the
6 victim's quality of life and creates risks to the security and safety of the victim and
7 others, even in the absence of express threats of physical harm. Stalking conduct often
8 becomes increasingly violent over time.

9 The General Assembly recognizes the dangerous nature of stalking as well as the
10 strong connections between stalking and domestic violence and between stalking and
11 sexual assault. Therefore, the General Assembly enacts this law to encourage effective
12 intervention by the criminal justice system before stalking escalates into behavior that
13 has serious or lethal consequences. The General Assembly intends to enact a stalking
14 statute that permits the criminal justice system to hold stalkers accountable for a wide
15 range of acts, communications, and conduct. The General Assembly recognizes that
16 stalking includes, but is not limited to, a pattern of following, observing, or monitoring
17 the victim, or committing violent or intimidating acts against the victim, regardless of
18 the means.

19 (b) Definitions. – The following definitions apply in this section.

20 (1) Course of conduct. – Two or more acts, including, but not limited to,
21 acts in which the stalker directly, indirectly, or through third parties,
22 by any action, method, device, or means, is in the presence of, or
23 follows, monitors, observes, surveils, threatens, or communicates to or
24 about a person, or interferes with a person's property. The term also
25 includes using the legal system to harass a victim by continuously
26 filing motions for contempt or modifications, or by filing retaliatory
27 protection order applications or criminal charges against victims.

28 (2) Emotional distress. – Significant mental suffering or distress that may,
29 but does not necessarily, require medical or other professional
30 treatment or counseling.

31 (3) Reasonable person. – A reasonable person in the victim's
32 circumstances.

33 (c) Offense. – A defendant is guilty of stalking if the defendant willfully engages
34 in a course of conduct directed at a specific person and knows or should know that the
35 course of conduct would cause a reasonable person to do any of the following:

36 (1) Fear for his or her safety or the safety of a third person; or

37 (2) Suffer other emotional distress.

38 (d) Lack of Actual Notice or Specific Intent Are not Defenses. – In any
39 prosecution under this law, it shall not be a defense that:

40 (1) The actor was not given actual notice that the course of conduct was
41 unwanted; or

42 (2) The actor did not intend to cause the victim fear or other emotional
43 distress.

1 (e) Classification. – A violation of this section is a Class H felony. A defendant
2 convicted of a Class H felony under this section, who is sentenced to a community
3 punishment, shall be placed on supervised probation in addition to any other
4 punishment imposed by the court. A defendant who commits the offense of stalking
5 when there is a court order in effect prohibiting similar behavior by that defendant is
6 guilty of a Class G felony. A defendant who commits the offense of stalking after
7 having been previously convicted of a stalking offense is guilty of a Class F felony.

8 (f) Jurisdiction. – If any act that is part of the course of conduct was initiated in
9 or had an effect on the victim in this State, the defendant may be prosecuted in this
10 State."

11 **SECTION 2.** This act becomes effective December 1, 2007, and applies to
12 offenses committed on or after that date. Prosecutions for offenses committed before
13 the effective date of this act are not abated or affected by this act, and the statutes that
14 would be applicable but for this act remain applicable to those prosecutions.