



SPONSOR: Rep. Griffith & Sen. Sturgeon
Rep. Romer; Sens. Hoffner, Cruce

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 197
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO STALKING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 1312, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1312. Stalking; class ~~G~~ F felony, ~~class F~~ felony, ~~E~~ felony, ~~class D~~ felony, class C felony.

(a) A person is guilty of stalking when the person knowingly engages in a course of conduct directed at a specific person and that conduct would cause a reasonable person to:

(1) Fear physical injury to himself or herself or that of another person; or

(2) Suffer other significant mental anguish or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(b) A violation of subsection (a) of this section is a class ~~G~~ E felony.

(c) Stalking is a class ~~F~~ D felony if a person is guilty of stalking and 1 or more of the following exists:

(1) The person is age 21 or older and the victim is under the age of 14; or

(2) The person violated any order prohibiting contact with the victim; or

(3) The victim is age 62 years of age or older; or

(4) The course of conduct includes a threat of death or threat of serious physical injury to the victim, or to another person; or

(5) The person causes physical injury to the victim.

(d) Stalking is a class C felony if the person is guilty of stalking and 1 or more of the following exists:

(1) The person possesses a deadly weapon during any act; or

(2) The person causes serious physical injury to the victim.

(e) *Definitions.* — The following terms shall have the following meaning as used in this section:

(1) “Course of conduct” ~~means~~ means:

a. ~~3-Three~~ or more separate incidents, ~~including, but not limited to, including~~ acts in which the person by any action, method, device, or means either directly, indirectly, or through third parties, ~~parties: by any action, method, device, or means,~~

1. ~~follows, Follows,~~ monitors, observes, ~~surveys, or surveys~~ a person.

2. ~~threatens, Threatens~~ or communicates to or about another, ~~another and consciously disregards a~~ substantial risk that the actor's threats or communications are a violation of subsection (a) of this section.

3. ~~or interferes-Interferes~~ with, jeopardizes, damages, or disrupts another's daily activities, property, employment, business, career, education, or medical care.

b. A conviction is not required for any predicate act relied upon to establish a course of conduct. A conviction for any predicate act relied upon to establish a course of conduct does not preclude prosecution under this section. Prosecution under this section does not preclude prosecution under any other section of the Code.

(2) "A reasonable person" means a reasonable person in the victim's circumstances.

(f) Notwithstanding any contrary provision of § 4205 of this title, any person who commits the crime of stalking by engaging in a course of conduct which includes any act or acts which have previously been prohibited by a then-existing court order or sentence shall receive a minimum sentence of 6 months incarceration at Level V. The first 6 months of said period of incarceration shall not be subject to suspension.

(g) Notwithstanding any contrary provision of § 4205 of this title, any person who is convicted of stalking within 5 years of a prior conviction of stalking shall receive a minimum sentence of 1 year incarceration at Level V. The first year of said period of incarceration shall not be subject to suspension.

(h) In any prosecution under this law, it shall not be a defense that the perpetrator was not given actual notice that the course of conduct was unwanted; or that the perpetrator did not intend to cause the victim fear or other emotional distress.

(i) In any prosecution under this section, it is an affirmative defense that the person charged was engaged in ~~lawful picketing-~~ a constitutionally protected activity. If a person asserts a defense under this paragraph, and the defense is found valid as a matter of law, then all evidence of the activity must be excluded.

(j) This section shall not apply to conduct which occurs in furtherance of legitimate activities of law-enforcement, private investigators, security officers or private detectives as those activities are defined in Chapter 13 of Title 24.