

SECOND REGULAR SESSION

HOUSE BILL NO. 1427

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES BIERMANN (Sponsor), SCHIEFFER, ROORDA, STILL,
PACE AND GRISAMORE (Co-sponsors).

3341L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 565.090 and 565.225, RSMo, and to enact in lieu thereof two new sections relating to harassment or stalking of a person, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 565.090 and 565.225, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 565.090 and 565.225, to read as follows:

565.090. 1. A person commits the crime of harassment if he or she:

(1) Knowingly communicates a threat to commit any felony to another person and in so doing frightens, intimidates, or causes emotional distress to such other person; or

(2) **Knowingly and anonymously makes or causes to be made a communication to another person, which is a threat to commit any felony, and in so doing frightens, intimidates, or causes emotional distress to such other person; or**

(3) When communicating with another person, knowingly uses coarse language offensive to one of average sensibility and thereby puts such person in reasonable apprehension of offensive physical contact or harm; or

~~[(3)]~~ (4) Knowingly frightens, intimidates, or causes emotional distress to another person by anonymously making a telephone call or **through** any electronic communication **or other technological means including but not limited to the use of cellular phones, the internet, cameras, or videos, or by illegally wiretapping or using a global positioning system or any other type of tracking device; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 [(4)] (5) Knowingly communicates with another person who is, or who purports to be,
16 seventeen years of age or younger and in so doing and without good cause recklessly frightens,
17 intimidates, or causes emotional distress to such other person; or

18 [(5)] (6) Knowingly makes repeated unwanted communication to another person; or

19 [(6)] (7) Without good cause engages in any other act with the purpose to frighten,
20 intimidate, or cause emotional distress to another person, cause such person to be frightened,
21 intimidated, or emotionally distressed, and such person's response to the act is one of a person
22 of average sensibilities considering the age of such person.

23 2. Harassment is a class A misdemeanor unless:

24 (1) Committed by a person twenty-one years of age or older against a person seventeen
25 years of age or younger; or

26 (2) The person has previously pleaded guilty to or been found guilty of a violation of this
27 section, or of any offense committed in violation of any county or municipal ordinance in any
28 state, **or of any state [law, any] , federal [law], or [any] military law which, if [committed in this**
29 **state,] any part of the offense would have been committed within this state, including the**
30 **defendant's course of conduct or the effect on the victim,** would be chargeable or indictable
31 as a violation of any offense listed in this subsection. In such cases, harassment shall be a class
32 D felony.

33 3. This section shall not apply to activities of federal, state, county, or municipal law
34 enforcement officers conducting investigations of violation of federal, state, county, or municipal
35 law.

565.225. 1. As used in this section, the following terms shall mean:

2 (1) "Course of conduct", a pattern of conduct composed of two or more acts, [which may
3 include communication] **including but not limited to acts in which the stalker directly,**
4 **indirectly, or through third parties, by any action, method, device, or means, is in the**
5 **presence of, or follows, monitors, observes, surveils, threatens, or communicates to or**
6 **about a person, or interferes with a person's property** by any means, **including but not**
7 **limited to illegal wire tapping, or the use of cellular phones, the internet, cameras or videos,**
8 **or the use of global positioning systems or any other type of tracking device,** over a period
9 of time, however short, evidencing a continuity of purpose. Constitutionally protected activity
10 is not included within the meaning of course of conduct. Such constitutionally protected activity
11 includes picketing or other organized protests;

12 (2) "Credible threat", a threat communicated with the intent to cause the person who is
13 the target of the threat to reasonably fear for his or her safety, or the safety of his or her family,
14 or household members or domestic animals or livestock as defined in section 276.606, RSMo,
15 kept at such person's residence or on such person's property. The threat must be against the life

16 of, or a threat to cause physical injury to, or the kidnapping of, the person, the person's family,
17 or the person's household members or domestic animals or livestock as defined in section
18 276.606, RSMo, kept at such person's residence or on such person's property;

19 (3) "Harasses", to engage in a course of conduct, **including written or printed**
20 **communication or transmission, telephone, cellular, or other wireless telephonic**
21 **communication, facsimile transmission, pager messages or transmissions, answering**
22 **machine or voice mail messages or transmissions, and electronic mail messages or other**
23 **computerized or electronic transmissions** directed at a specific person that serves no legitimate
24 purpose, that would cause a reasonable person under the circumstances to be frightened,
25 intimidated, or emotionally distressed.

26 2. A person commits the crime of stalking if he or she purposely, through his or her
27 course of conduct, harasses or follows with the intent of harassing another person.

28 3. A person commits the crime of aggravated stalking if he or she purposely, through his
29 or her course of conduct, harasses or follows with the intent of harassing another person, and:

30 (1) Makes a credible threat; or

31 (2) At least one of the acts constituting the course of conduct is in violation of an order
32 of protection and the person has received actual notice of such order; or

33 (3) At least one of the actions constituting the course of conduct is in violation of a
34 condition of probation, parole, pretrial release, or release on bond pending appeal; or

35 (4) At any time during the course of conduct, the other person is seventeen years of age
36 or younger and the person harassing the other person is twenty-one years of age or older; or

37 (5) He or she has previously pleaded guilty to or been found guilty of domestic assault,
38 violation of an order of protection, or any other crime where the other person was the victim; or

39 (6) **At any time during the course of conduct, the person is in possession of a deadly**
40 **weapon as defined in section 571.010.**

41 4. A person commits the crime of cyber-stalking when he or she, knowingly and
42 without lawful justification:

43 (1) **On two or more occasions, harasses another person through the use of electronic**
44 **or technological means, and:**

45 (a) **At any time transmits a threat of immediate or future bodily harm, sexual**
46 **assault, confinement, or restraint and the threat is directed towards that person or a family**
47 **member of that person; or**

48 (b) **Places that person or a family member of that person in reasonable**
49 **apprehension of immediate or future bodily harm, sexual assault, confinement, or**
50 **restraint; or**

51 (c) At any time, knowingly solicits the commission of a crime by any person
52 directed towards that person or a family member of that person;

53 (2) Creates and maintains an internet website or webpage which is accessible to one
54 or more third parties for a period of at least twenty-four hours, and which contains
55 statements harassing another person, and:

56 (a) Which communicates a threat of immediate or future bodily harm, sexual
57 assault, confinement, or restraint where the threat is directed towards that person or a
58 family member of that person; or

59 (b) Which places that person or a family member of that person in reasonable
60 apprehension of immediate or future bodily harm, sexual assault, confinement, or
61 restraint; or

62 (c) Which knowingly solicits the commission of a crime by any person directed
63 towards that person or a family member of that person.

64 [4. The crime of] 5. Stalking or cyber-stalking shall be a class A misdemeanor unless
65 the person has previously pleaded guilty to or been found guilty of a violation of this section, or
66 of any offense committed in violation of any county or municipal ordinance in any state, **or of**
67 any state [law, any] , federal [law, or any] , **or** military law which, if [committed in this state,]
68 **any part of the offense would have been committed within this state, including the**
69 **defendant's course of conduct or the effect on the victim**, would be chargeable or indictable
70 as a violation of any offense listed in this section, in which case stalking shall be a class D
71 felony.

72 [5.] 6. The crime of aggravated stalking shall be a class D felony unless the person has
73 previously pleaded guilty to or been found guilty of a violation of this section, or of any offense
74 committed in violation of any county or municipal ordinance in any state, **or of** any state [law,
75 any] , federal [law, or any] , **or** military law which, if [committed in this state,] **any part of the**
76 **offense would have been committed within this state, including the defendant's course of**
77 **conduct or the effect on the victim**, would be chargeable or indictable as a violation of any
78 offense listed in this section, aggravated stalking shall be a class C felony.

79 [6.] 7. Any law enforcement officer may arrest, without a warrant, any person he or she
80 has probable cause to believe has violated the provisions of this section.

81 [7.] 8. This section shall not apply to activities of federal, state, county, or municipal law
82 enforcement officers conducting investigations of violation of federal, state, county, or municipal
83 law.

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