

SECOND REGULAR SESSION

HOUSE BILL NO. 3426

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WEBER.

7338H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 455.050, 565.002, 565.050, 565.052, 565.054, 565.056, 565.072, 565.073, 565.074, 565.076, 565.090, 565.091, 565.225, and 565.227, RSMo, and to enact in lieu thereof twenty-one new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 455.050, 565.002, 565.050, 565.052, 565.054, 565.056, 565.072, 565.073, 565.074, 565.076, 565.090, 565.091, 565.225, and 565.227, RSMo, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 27.117, 455.050, 544.667, 565.002, 565.050, 565.052, 565.054, 565.056, 565.072, 565.073, 565.074, 565.076, 565.090, 565.091, 565.225, 565.227, 565.260, 565.400, 565.405, 573.570, and 573.575, to read as follows:

27.117. The attorney general shall have concurrent jurisdiction with any and all prosecuting attorneys to prosecute persons in violation of section 565.090, 565.091, 565.225, 565.227, 565.400, 565.405, 573.570, or 573.575 if the offense occurred in more than one jurisdiction of the state.

455.050. 1. Any full or ex parte order of protection granted pursuant to sections 455.010 to 455.085 shall be to protect the petitioner from **cyberstalking**, domestic violence, stalking, or sexual assault and may include such terms as the court reasonably deems necessary to ensure the petitioner's safety, including but not limited to:

(1) Temporarily enjoining the respondent from committing or threatening to commit **cyberstalking**, domestic violence, molesting, stalking, sexual assault, or disturbing the peace of the petitioner, including violence against a pet;

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.

8 (2) Temporarily enjoining the respondent from entering the premises of the dwelling
9 unit of the petitioner when the dwelling unit is:

10 (a) Jointly owned, leased or rented or jointly occupied by both parties; or

11 (b) Owned, leased, rented or occupied by petitioner individually; or

12 (c) Jointly owned, leased, rented or occupied by petitioner and a person other than
13 respondent; provided, however, no spouse shall be denied relief pursuant to this section by
14 reason of the absence of a property interest in the dwelling unit; or

15 (d) Jointly occupied by the petitioner and a person other than respondent; provided
16 that the respondent has no property interest in the dwelling unit; or

17 (3) Temporarily enjoining the respondent from communicating with the petitioner in
18 any manner or through any medium.

19 2. Mutual orders of protection are prohibited unless both parties have properly filed
20 written petitions and proper service has been made in accordance with sections 455.010 to
21 455.085.

22 3. When the court has, after a hearing for any full order of protection, issued an order
23 of protection, it may, in addition:

24 (1) Award custody of any minor child born to or adopted by the parties when the court
25 has jurisdiction over such child and no prior order regarding custody is pending or has been
26 made, and the best interests of the child require such order be issued;

27 (2) Establish a visitation schedule that is in the best interests of the child;

28 (3) Award child support in accordance with supreme court rule 88.01 and chapter
29 452;

30 (4) Award maintenance to petitioner when petitioner and respondent are lawfully
31 married in accordance with chapter 452;

32 (5) Order respondent to make or to continue to make rent or mortgage payments on a
33 residence occupied by the petitioner if the respondent is found to have a duty to support the
34 petitioner or other dependent household members;

35 (6) Order the respondent to pay the petitioner's rent at a residence other than the one
36 previously shared by the parties if the respondent is found to have a duty to support the
37 petitioner and the petitioner requests alternative housing;

38 (7) Order that the petitioner be given temporary possession of specified personal
39 property, such as automobiles, checkbooks, keys, and other personal effects;

40 (8) Prohibit the respondent from transferring, encumbering, or otherwise disposing of
41 specified property mutually owned or leased by the parties;

42 (9) Order the respondent to participate in a court-approved counseling program
43 designed to help batterers stop violent behavior or to participate in a substance abuse
44 treatment program;

45 (10) Order the respondent to pay a reasonable fee for housing and other services that
46 have been provided or that are being provided to the petitioner by a shelter for victims of
47 domestic violence;

48 (11) Order the respondent to pay court costs;

49 (12) Order the respondent to pay the cost of medical treatment and services that have
50 been provided or that are being provided to the petitioner as a result of injuries sustained to
51 the petitioner by an act of domestic violence committed by the respondent;

52 (13) Award possession and care of any pet, along with any moneys necessary to cover
53 medical costs that may have resulted from abuse of the pet.

54 4. A verified petition seeking orders for maintenance, support, custody, visitation,
55 payment of rent, payment of monetary compensation, possession of personal property,
56 prohibiting the transfer, encumbrance, or disposal of property, or payment for services of a
57 shelter for victims of domestic violence, shall contain allegations relating to those orders and
58 shall pray for the orders desired.

59 5. In making an award of custody, the court shall consider all relevant factors
60 including the presumption that the best interests of the child will be served by placing the
61 child in the custody and care of the nonabusive parent, unless there is evidence that both
62 parents have engaged in abusive behavior, in which case the court shall not consider this
63 presumption but may appoint a guardian ad litem or a court-appointed special advocate to
64 represent the children in accordance with chapter 452 and shall consider all other factors in
65 accordance with chapter 452.

66 6. The court shall grant to the noncustodial parent rights to visitation with any minor
67 child born to or adopted by the parties, unless the court finds, after hearing, that visitation
68 would endanger the child's physical health, impair the child's emotional development or
69 would otherwise conflict with the best interests of the child, or that no visitation can be
70 arranged which would sufficiently protect the custodial parent from further domestic
71 violence. The court may appoint a guardian ad litem or court-appointed special advocate to
72 represent the minor child in accordance with chapter 452 whenever the custodial parent
73 alleges that visitation with the noncustodial parent will damage the minor child.

74 7. The court shall make an order requiring the noncustodial party to pay an amount
75 reasonable and necessary for the support of any child to whom the party owes a duty of
76 support when no prior order of support is outstanding and after all relevant factors have been
77 considered, in accordance with Missouri supreme court rule 88.01 and chapter 452.

78 8. The court may grant a maintenance order to a party for a period of time, not to
79 exceed one hundred eighty days. Any maintenance ordered by the court shall be in
80 accordance with chapter 452.

81 9. (1) The court may, in order to ensure that a petitioner can maintain an existing
82 wireless telephone number or numbers, issue an order, after notice and an opportunity to be
83 heard, directing a wireless service provider to transfer the billing responsibility for and rights
84 to the wireless telephone number or numbers to the petitioner, if the petitioner is not the
85 wireless service account holder.

86 (2) (a) The order transferring billing responsibility for and rights to the wireless
87 telephone number or numbers to the petitioner shall list the name and billing telephone
88 number of the account holder, the name and contact information of the person to whom the
89 telephone number or numbers will be transferred, and each telephone number to be
90 transferred to that person. The court shall ensure that the contact information of the petitioner
91 is not provided to the account holder in proceedings held under this chapter.

92 (b) Upon issuance, a copy of the full order of protection shall be transmitted, either
93 electronically or by certified mail, to the wireless service provider's registered agent listed
94 with the secretary of state, or electronically to the email address provided by the wireless
95 service provider. Such transmittal shall constitute adequate notice for the wireless service
96 provider acting under this section and section 455.523.

97 (c) If the wireless service provider cannot operationally or technically effectuate the
98 order due to certain circumstances, the wireless service provider shall notify the petitioner
99 within three business days. Such circumstances shall include, but not be limited to, the
100 following:

101 a. The account holder has already terminated the account;

102 b. The differences in network technology prevent the functionality of a device on the
103 network; or

104 c. There are geographic or other limitations on network or service availability.

105 (3) (a) Upon transfer of billing responsibility for and rights to a wireless telephone
106 number or numbers to the petitioner under this subsection by a wireless service provider, the
107 petitioner shall assume all financial responsibility for the transferred wireless telephone
108 number or numbers, monthly service costs, and costs for any mobile device associated with
109 the wireless telephone number or numbers.

110 (b) This section shall not preclude a wireless service provider from applying any
111 routine and customary requirements for account establishment to the petitioner as part of this
112 transfer of billing responsibility for a wireless telephone number or numbers and any devices
113 attached to that number or numbers including, but not limited to, identification, financial
114 information, and customer preferences.

115 (4) This section shall not affect the ability of the court to apportion the assets and
116 debts of the parties as provided for in law, or the ability to determine the temporary use,
117 possession, and control of personal property.

118 (5) No cause of action shall lie against any wireless service provider, its officers,
 119 employees, or agents, for actions taken in accordance with the terms of a court order issued
 120 under this section.

121 (6) As used in this section and section 455.523, a "wireless service provider" means a
 122 provider of commercial mobile service under Section 332(d) of the Federal
 123 ~~[Telecommunications Act of 1996]~~ **Communications Act of 1934** (47 U.S.C. Section
 124 ~~[151, et seq.]~~ **332**).

**544.667. In addition to the forfeiture of any security that was given or pledged
 2 for a person's release, any person who, having been released upon a recognizance or
 3 bond pursuant to any other provisions of law while pending preliminary hearing, trial,
 4 sentencing, appeal, probation or parole revocation, or any other stage of a criminal
 5 matter against him or her, knowingly violates any condition of release that imposes no
 6 contact with specific individuals shall be guilty of a class A misdemeanor.**

565.002. As used in this chapter, unless a different meaning is otherwise plainly
 2 required the following terms mean:

3 (1) "Adequate cause", cause that would reasonably produce a degree of passion in a
 4 person of ordinary temperament sufficient to substantially impair an ordinary person's
 5 capacity for self-control;

6 (2) **"Bodily harm", physical pain or injury, illness, or any impairment of
 7 physical condition;**

8 (3) "Child", a person under seventeen years of age;

9 ~~[(3)]~~ (4) "Conduct", includes any act or omission;

10 ~~[(4)]~~ (5) "Course of conduct", a pattern of conduct composed of two or more acts,
 11 which may include communication by any means, over a period of time, however short,
 12 evidencing a continuity of purpose. Constitutionally protected activity is not included within
 13 the meaning of course of conduct. Such constitutionally protected activity includes picketing
 14 or other organized protests;

15 ~~[(5)]~~ (6) "Deliberation", cool reflection for any length of time no matter how brief;

16 ~~[(6)]~~ (7) "Domestic victim", a household or family member as the term "family" or
 17 "household member" is defined in section 455.010, including any child who is a member of
 18 the household or family;

19 ~~[(7)]~~ (8) "Emotional distress", something markedly greater than the level of
 20 uneasiness, nervousness, unhappiness, or the like which are commonly experienced in day-to-
 21 day living;

22 ~~[(8)]~~ (9) "Full or partial nudity", the showing of all or any part of the human genitals,
 23 pubic area, buttock, or any part of the nipple of the breast of any female person, with less than
 24 a fully opaque covering;

25 ~~[(9)]~~ (10) **"Great bodily harm", bodily injury that creates a high probability of**
26 **death, or that causes serious permanent or protracted loss or impairment of function of**
27 **any bodily member or organ, or other serious bodily harm;**

28 (11) "Legal custody", the right to the care, custody and control of a child;

29 ~~[(10)]~~ (12) "Parent", either a biological parent or a parent by adoption;

30 ~~[(11)]~~ (13) "Person having a right of custody", a parent or legal guardian of the child;

31 ~~[(12)]~~ (14) "Photographs" or "films", the making of any photograph, motion picture
32 film, videotape, or any other recording or transmission of the image of a person;

33 ~~[(13)]~~ (15) "Place where a person would have a reasonable expectation of privacy",
34 any place where a reasonable person would believe that a person could disrobe in privacy,
35 without being concerned that the person's undressing was being viewed, photographed or
36 filmed by another;

37 ~~[(14)]~~ (16) "Special victim", any of the following:

38 (a) A law enforcement officer assaulted in the performance of his or her official
39 duties or as a direct result of such official duties;

40 (b) Emergency personnel, any paid or volunteer firefighter, emergency room,
41 hospital, or trauma center personnel, or emergency medical technician, assaulted in the
42 performance of his or her official duties or as a direct result of such official duties;

43 (c) A probation and parole officer assaulted in the performance of his or her official
44 duties or as a direct result of such official duties;

45 (d) An elderly person;

46 (e) A person with a disability;

47 (f) A vulnerable person;

48 (g) Any jailer or corrections officer of the state or one of its political subdivisions
49 assaulted in the performance of his or her official duties or as a direct result of such official
50 duties;

51 (h) A highway worker in a construction or work zone as the terms "highway worker",
52 "construction zone", and "work zone" are defined under section 304.580;

53 (i) Any utility worker, meaning any employee of a utility that provides gas, heat,
54 electricity, water, steam, telecommunications services, or sewer services, whether privately,
55 municipally, or cooperatively owned, while in the performance of his or her job duties,
56 including any person employed under a contract;

57 (j) Any cable worker, meaning any employee of a cable operator, as such term is
58 defined in section 67.2677, including any person employed under contract, while in the
59 performance of his or her job duties; and

60 (k) Any employee of a mass transit system, including any employee of public bus or
61 light rail companies, while in the performance of his or her job duties;

62 ~~[(15)]~~ (17) "**Substantial bodily harm**", **bodily injury that involves a temporary**
63 **but substantial disfigurement, or that causes temporary but substantial loss or**
64 **impairment of the function of any bodily member or organ, or that causes a fracture of**
65 **any bodily member;**

66 (18) "Sudden passion", passion directly caused by and arising out of provocation by
67 the victim or another acting with the victim which passion arises at the time of the offense and
68 is not solely the result of former provocation;

69 ~~[(16)]~~ (19) "**Technological abuse conduct**", **an act or pattern of behavior that is**
70 **intended to harm, threaten, intimidate, control, stalk, harass, or monitor, except as**
71 **otherwise permitted by law, another person, that occurs using any form of technology,**
72 **including internet-enabled devices, online platforms, computers, mobile devices,**
73 **cameras and imaging programs, apps, location tracking devices, or any other**
74 **emerging technologies;**

75 (20) "Trier", the judge or jurors to whom issues of fact, guilt or innocence, or the
76 assessment and declaration of punishment are submitted for decision;

77 ~~[(17)]~~ (21) "Views", the looking upon of another person, with the unaided eye or with
78 any device designed or intended to improve visual acuity, for the purpose of arousing or
79 gratifying the sexual desire of any person.

565.050. 1. A person commits the offense of assault in the first degree if he or she
2 attempts to kill or knowingly causes or attempts to cause ~~[serious physical injury]~~ **great**
3 **bodily harm** to another person.

4 2. The offense of assault in the first degree is a class B felony unless in the course
5 thereof the person inflicts ~~[serious physical injury]~~ **great bodily harm** on the victim, or if the
6 victim of such assault is a special victim, as the term "special victim" is defined under section
7 565.002, in which case it is a class A felony.

565.052. 1. A person commits the offense of assault in the second degree if he or she:

2 (1) Attempts to kill or knowingly causes or attempts to cause ~~[serious physical injury]~~
3 **great bodily harm** to another person under the influence of sudden passion arising out of
4 adequate cause; or

5 (2) Attempts to cause or knowingly causes ~~[physical injury]~~ **bodily harm** to another
6 person by means of a deadly weapon or dangerous instrument; or

7 (3) Recklessly causes ~~[serious physical injury]~~ **great bodily harm** to another person;
8 or

9 (4) Recklessly causes ~~[physical injury]~~ **bodily harm** to another person by means of
10 discharge of a firearm.

11 2. The defendant shall have the burden of injecting the issue of influence of sudden
12 passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

13 3. The offense of assault in the second degree is a class D felony, unless the victim of
14 such assault is a special victim, as the term "special victim" is defined under section 565.002,
15 in which case it is a class B felony.

 565.054. 1. A person commits the offense of assault in the third degree if he or she
2 knowingly causes ~~[physical injury]~~ **bodily harm** to another person.

3 2. The offense of assault in the third degree is a class E felony, unless the victim of
4 such assault is a special victim, as the term "special victim" is defined under section 565.002,
5 in which case it is a class D felony.

 565.056. 1. A person commits the offense of assault in the fourth degree if:

2 (1) The person attempts to cause or recklessly causes ~~[physical injury, physical pain,~~
3 ~~or illness]~~ **bodily harm** to another person;

4 (2) With criminal negligence the person causes ~~[physical injury]~~ **bodily harm** to
5 another person by means of a firearm;

6 (3) The person purposely places another person in apprehension of immediate
7 ~~[physical injury]~~ **bodily harm**;

8 (4) The person recklessly engages in conduct which creates a substantial risk of death
9 or ~~[serious physical injury]~~ **great bodily harm** to another person;

10 (5) The person knowingly causes or attempts to cause physical contact with a person
11 with a disability, which a reasonable person, who does not have a disability, would consider
12 offensive or provocative; or

13 (6) The person knowingly causes physical contact with another person knowing the
14 other person will regard the contact as offensive or provocative.

15 2. Except as provided in subsection 3 of this section, assault in the fourth degree is a
16 class A misdemeanor.

17 3. Violation of the provisions of subdivision (3) or (6) of subsection 1 of this section
18 is a class C misdemeanor unless the victim is a special victim, as the term "special victim" is
19 defined under section 565.002, in which case a violation of such provisions is a class A
20 misdemeanor.

 565.072. 1. A person commits the offense of domestic assault in the first degree if he
2 or she attempts to kill or knowingly causes or attempts to cause ~~[serious physical injury]~~
3 **great bodily harm** to a domestic victim, as the term "domestic victim" is defined under
4 section 565.002.

5 2. The offense of domestic assault in the first degree is a class B felony unless in the
6 course thereof the person inflicts serious physical injury on the victim, in which case it is a
7 class A felony.

565.073. 1. A person commits the offense of domestic assault in the second degree if the act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and he or she:

(1) Knowingly causes ~~[physical injury]~~ **bodily harm** to such domestic victim by any means, including but not limited to, use of a deadly weapon or dangerous instrument, or by choking or strangulation; or

(2) Recklessly causes ~~[serious physical injury]~~ **great bodily harm** to such domestic victim; or

(3) Recklessly causes ~~[physical injury]~~ **bodily harm** to such domestic victim by means of any deadly weapon.

2. The offense of domestic assault in the second degree is a class D felony.

565.074. 1. A person commits the offense of domestic assault in the third degree if he or she attempts to cause ~~[physical injury]~~ **substantial bodily harm** or knowingly causes ~~[physical pain or illness]~~ **bodily harm** to a domestic victim, as the term "domestic victim" is defined under section 565.002.

2. The offense of domestic assault in the third degree is a class E felony.

565.076. 1. A person commits the offense of domestic assault in the fourth degree if the act involves a domestic victim, as the term "domestic victim" is defined under section 565.002, and:

(1) The person attempts to cause or recklessly causes ~~[physical injury, physical pain, or illness]~~ **bodily harm** to such domestic victim;

(2) With criminal negligence the person causes ~~[physical injury]~~ **bodily harm** to such domestic victim by means of a deadly weapon or dangerous instrument;

(3) The person purposely places such domestic victim in apprehension of immediate ~~[physical injury]~~ **bodily harm** by any means;

(4) The person recklessly engages in conduct which creates a substantial risk of death or ~~[serious physical injury]~~ **great bodily harm** to such domestic victim;

(5) The person knowingly causes physical contact with such domestic victim knowing he or she will regard the contact as offensive; or

(6) The person knowingly attempts to cause or causes the isolation of such domestic victim by unreasonably and substantially restricting or limiting his or her access to other persons, telecommunication devices or transportation for the purpose of isolation.

2. The offense of domestic assault in the fourth degree is a class A misdemeanor, unless the person has previously been found guilty of the offense of domestic assault, of any assault offense under this chapter, or of any offense against a domestic victim committed in violation of any county or municipal ordinance in any state, any state law, any federal law, or any military law which if committed in this state two or more times would be a violation of

22 this section, in which case it is a class E felony. The offenses described in this subsection
 23 may be against the same domestic victim or against different domestic victims.

565.090. 1. A person commits the offense of harassment in the first degree if he or
 2 she, without good cause, engages in any act with the purpose to cause emotional distress to
 3 another person, and such act does cause such person to suffer emotional distress.

4 2. The offense of harassment in the first degree is a class E felony, **unless the**
 5 **defendant has previously been found guilty of a violation of this section or section**
 6 **565.091, or of any offense committed in another jurisdiction that, if committed in this**
 7 **state, would be chargeable or indictable as a violation of any offense listed in this section**
 8 **or section 565.091, in which case harassment in the first degree is a class D felony.**

9 3. This section shall not apply to activities of federal, state, county, or municipal law
 10 enforcement officers conducting investigations of violation of federal, state, county, or
 11 municipal law.

565.091. 1. A person commits the offense of harassment in the second degree if he or
 2 she, without good cause, engages in any act with the purpose to cause emotional distress to
 3 another person.

4 2. The offense of harassment in the second degree is a class A misdemeanor, unless
 5 the ~~[person has previously pleaded guilty to or been found guilty of a violation of this section,~~
 6 ~~of any offense committed in violation of any county or municipal ordinance in any state, any~~
 7 ~~state law, any federal law, or any military law which if committed in this state would be~~
 8 ~~chargeable or indictable as a violation of any offense listed in this subsection, in which case it~~
 9 ~~is a class E felony]~~ **defendant has previously been found guilty of a violation of this**
 10 **section or section 565.090, or of any offense committed in another jurisdiction that, if**
 11 **committed in this state, would be chargeable or indictable as a violation of any offense**
 12 **listed in this section or section 565.090, in which case harassment in the second degree is**
 13 **a class E felony.**

14 3. This section shall not apply to activities of federal, state, county, or municipal law
 15 enforcement officers conducting investigations of violations of federal, state, county, or
 16 municipal law.

565.225. 1. ~~[As used in this section and section 565.227, the term "disturbs" shall~~
 2 ~~mean to engage in a course of conduct directed at a specific person that serves no legitimate~~
 3 ~~purpose and that would cause a reasonable person under the circumstances to be frightened,~~
 4 ~~intimidated, or emotionally distressed.~~

5 2.] A person commits the offense of stalking in the first degree if he or she
 6 **[purposely] knowingly**, through ~~[his or her]~~ **[his or her]** a course of conduct ~~[, disturbs or follows with the~~
 7 ~~intent of disturbing]~~ **that is directed at another person [and] or through technological abuse**

8 **conduct, engages in conduct that would cause a reasonable person under similar**
9 **circumstances to:**

10 (1) ~~[Makes a threat communicated with the intent to cause the person who is the~~
11 ~~target of the threat to reasonably] Fear [for his or her safety, the safety of his or her family or~~
12 ~~household member, or the safety of domestic animals or livestock as defined in section~~
13 ~~276.606 kept at such person's residence or on such person's property. The threat shall be~~
14 ~~against the life of, or a threat to cause physical] **that death or bodily injury to[, or the**
15 ~~kidnapping of] the person[;]~~ **will result;**~~

16 (2) **Fear that an offense will be committed against a member of the person's**
17 **family or household members, or [the person's domestic animals or livestock as defined in**
18 **section 276.606 kept at such person's residence or on such person's property] **an individual****
19 **with whom the person has a dating relationship; [or**

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

22 (3) ~~[At least one of the actions constituting the course of conduct is in violation of a~~
23 ~~condition of probation, parole, pretrial release, or release on bond pending appeal] **Fear that**~~
24 **an offense will be committed against the person's property; or**

25 (4) ~~[At any time during the course of conduct, the other person is seventeen years of~~
26 ~~age or younger and the person disturbing the other person is twenty-one years of age or older;~~
27 ~~or~~

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

30 (6) ~~At any time during the course of conduct, the other person is a participant of the~~
31 ~~address confidentiality program under sections 589.660 to 589.681, and the person disturbing~~
32 ~~the other person knowingly accesses or attempts to access the address of the other person]~~
33 **Feel harassed, terrified, or intimidated.**

34 ~~[3.]~~ **2.** Any law enforcement officer may arrest, without a warrant, any person he or
35 she has probable cause to believe has violated the provisions of this section.

36 ~~[4.]~~ **3.** This section shall not apply to activities of federal, state, county, or municipal
37 law enforcement officers conducting investigations of any violation of federal, state, county,
38 or municipal law.

39 ~~[5.]~~ **4.** The offense of stalking in the first degree is a class E felony, unless the
40 defendant has previously been found guilty of a violation of this section or section 565.227, or
41 any offense committed in another jurisdiction which, if committed in this state, would be
42 chargeable or indictable as a violation of any offense listed in this section or section 565.227,
43 or unless the victim is intentionally targeted as a law enforcement officer, as defined in
44 section 556.061, or the victim is targeted because he or she is a relative within the second

45 degree of consanguinity or affinity to a law enforcement officer, in which case stalking in the
46 first degree is a class D felony.

565.227. 1. A person commits the offense of stalking in the second degree if he or
2 she [~~purposely, through his or her course of~~] **knowingly engages in a course of conduct**;
3 ~~disturbs, or follows with the intent to disturb another person~~] **directed at a specific person or**
4 **technological abuse conduct that would cause a reasonable person under the**
5 **circumstances to feel harassed, terrified, or intimidated.**

6 2. This section shall not apply to activities of federal, state, county, or municipal law
7 enforcement officers conducting investigations of any violation of federal, state, county, or
8 municipal law.

9 3. Any law enforcement officer may arrest, without a warrant, any person he or she
10 has probable cause to believe has violated the provisions of this section.

11 4. The offense of stalking in the second degree is a class A misdemeanor, unless the
12 defendant has previously been found guilty of a violation of this section or section 565.225, or
13 of any offense committed in another jurisdiction which, if committed in this state, would be
14 chargeable or indictable as a violation of any offense listed in this section or section 565.225,
15 or unless the victim is intentionally targeted as a law enforcement officer, as defined in
16 section 556.061, or the victim is targeted because he or she is a relative within the second
17 degree of consanguinity or affinity to a law enforcement officer, in which case stalking in the
18 second degree is a class E felony.

565.260. 1. Except as provided in subsection 2 of this section, a person commits
2 **the offense of unlawful tracking of a motor vehicle if the person knowingly installs,**
3 **conceals, or otherwise places an electronic tracking device in or on a motor vehicle**
4 **without the consent of all owners of the vehicle for the purpose of monitoring or**
5 **following an occupant or occupants of the vehicle. As used in this section, "person" does**
6 **not include the manufacturer of the motor vehicle.**

7 **2. (1) It shall not be an offense under this section if the installing, concealing, or**
8 **placing of an electronic tracking device in or on a motor vehicle is by, or at the direction**
9 **of, a law enforcement officer in furtherance of a criminal investigation and such**
10 **investigation is carried out in accordance with applicable state and federal law.**

11 **(2) If the installing, concealing, or placing of an electronic tracking device in or**
12 **on a motor vehicle is by, or at the direction of, a parent or legal guardian who owns or**
13 **leases the vehicle, and if the device is used solely for the purpose of monitoring the**
14 **minor child of the parent or legal guardian when the child is an occupant of the vehicle,**
15 **the installation, concealment, or placement of the device in or on the vehicle without the**
16 **consent of any or all occupants of the vehicle shall not be an offense under this section.**

17 **(3) It shall not be an offense under this section if the installing, concealing, or**
18 **placing of an electronic tracking device in or on a motor vehicle is for the purpose of**
19 **tracking the location of stolen goods being transported in the vehicle or for the purpose**
20 **of tracking the location of the vehicle if the motor vehicle is stolen.**

21 **(4) It shall not be an offense under this section if the installing, concealing, or**
22 **placing of an electronic tracking device in or on a motor vehicle is by a legally**
23 **authorized representative of a vulnerable adult. As used in this subdivision,**
24 **"vulnerable adult" means any person eighteen years of age or older who is impaired**
25 **by reason of mental illness, intellectual or developmental disability, physical illness or**
26 **disability, or other causes, including age, to the extent the adult lacks sufficient**
27 **understanding or capacity to make, communicate, or carry out reasonable decisions**
28 **concerning his or her well-being or has one or more limitations that substantially impair**
29 **the adult's ability to independently provide for his or her daily needs or safeguard his or**
30 **her person, property, or legal interests.**

31 **(5) If the installing, concealing, or placing of an electronic tracking device in or**
32 **on a motor vehicle is by, or at the direction of, a person who obtains consent from all**
33 **owners of the vehicle, the installation, concealment, or placement of the device in or on**
34 **the vehicle shall not be an offense under this section.**

35 **(6) It shall not be an offense under this section if the installing, concealing, or**
36 **placing of an electronic tracking device in or on a motor vehicle is by a vehicle rental,**
37 **sharing, or leasing company that rents motor vehicles for the purpose of tracking or**
38 **managing the motor vehicles owned by such company or providing services to**
39 **customers.**

40 **(7) It shall not be an offense under this section if the installing, concealing, or**
41 **placing of an electronic tracking device in or on a motor vehicle is by a lienholder or**
42 **agent of a lienholder acting to track the movement or location of a motor vehicle in**
43 **order to repossess the motor vehicle.**

44 **(8) It shall not be an offense under this section if the installing, concealing, or**
45 **placing of an electronic tracking device in or on a motor vehicle is for any party to**
46 **participate in a voluntary usage-based insurance program. "Voluntary usage-based**
47 **insurance program" shall mean any program implemented by, or on behalf of, an**
48 **insurance company that collects, records, or transmits information relating to driving**
49 **behavior of an insured party.**

50 **3. The provisions of this section shall not apply to a tracking system installed by**
51 **the manufacturer of a motor vehicle.**

52 **4. The offense of unlawful tracking of a motor vehicle is a class A misdemeanor**
53 **for a first offense and a class E felony for any second or subsequent offense.**

2 **565.400. 1. A person commits the offense of cyberharassment if such person**
3 **purposely or knowingly engages in a threatening, aggressive, or otherwise fear-inducing**
4 **course of conduct by using digital technology, internet service providers, electronic**
5 **service providers, or other electronic communications and devices to cause reasonable**
6 **fear, alarm, anxiety, undue stress, or terror to others by repeated contact with no**
7 **legitimate purpose.**

8 **2. The first offense of cyberharassment shall be a class B misdemeanor. A**
9 **second and any subsequent offense shall be a class A misdemeanor.**

10 **565.405. 1. A person commits the offense of cyberstalking if such person**
11 **purposely or knowingly engages in a threatening, aggressive, or otherwise fear-inducing**
12 **course of conduct by using digital technology, internet service providers, electronic**
13 **service providers, or other electronic communications and devices to enhance the ability**
14 **to intimidate, track, follow or cause reasonable fear, alarm, anxiety, undue stress, or**
15 **terror to another person.**

16 **2. The first offense of cyberstalking shall be a class A misdemeanor. A second**
17 **and any subsequent offense shall be a class E felony.**

18 **573.570. 1. As used in this section, the following terms mean:**

19 **(1) "Depicted individual", an individual who, as a result of digitization or by**
20 **means of digital manipulation, appears in whole or in part in an intimate digital**
21 **depiction and who is identifiable by virtue of the individual's face, likeness, or other**
22 **distinguishing characteristic, such as a unique birthmark or other recognizable feature,**
23 **or from information displayed in connection with the digital depiction;**

24 **(2) "Digital depiction", a realistic visual depiction of an individual that has been**
25 **created or altered using digital manipulation;**

26 **(3) "Information content providers", any person or entity that is responsible, in**
27 **whole or in part, for the creation or development of information provided through the**
28 **internet or any other interactive computer service;**

29 **(4) "Intimate digital depiction", a digital depiction of an individual that has been**
30 **created or altered using digital manipulation and that depicts:**

31 **(a) The uncovered genitals, pubic area, anus, or postpubescent female nipple of**
32 **an identifiable individual;**

33 **(b) The display or transfer of bodily sexual fluids:**

34 **a. Onto any part of the body of an identifiable individual; or**

35 **b. From the body of an identifiable individual; or**

36 **(c) An identifiable individual engaging in sexually explicit conduct;**

37 **(5) "Sexually explicit conduct", actual or simulated:**

- 21 **(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or**
22 **oral-anal, whether between persons of the same or opposite sex;**
- 23 **(b) Bestiality;**
- 24 **(c) Masturbation;**
- 25 **(d) Sadistic or masochistic abuse; or**
- 26 **(e) Lascivious exhibition of the genitals or pubic area of any person.**
- 27 **2. A person commits the offense of disclosure of an intimate digital depiction if**
28 **the person:**
- 29 **(1) Discloses an intimate digital depiction:**
- 30 **(a) With the intent to harass, annoy, threaten, alarm, or cause substantial harm**
31 **to the finances or reputation of the depicted individual; or**
- 32 **(b) With the actual knowledge that, or reckless disregard for whether, such**
33 **disclosure will cause physical, emotional, reputational, or economic harm to the**
34 **depicted individual; or**
- 35 **(2) Threatens to disclose an intimate digital depiction:**
- 36 **(a) With the intent to harass, annoy, threaten, alarm, or cause substantial harm**
37 **to the finances or reputation of the depicted individual; or**
- 38 **(b) With the actual knowledge that, or reckless disregard for whether, such**
39 **threatened disclosure will cause physical, emotional, reputational, or economic harm to**
40 **the depicted individual.**
- 41 **3. (1) A violation of subdivision (1) of subsection 2 of this section shall be a class**
42 **D felony.**
- 43 **(2) A violation of subdivision (2) of subsection 2 of this section shall be a class E**
44 **felony.**
- 45 **(3) A violation of subsection 2 of this section shall be a class C felony if:**
- 46 **(a) The violation is a second or other subsequent violation of subsection 2 of this**
47 **section; or**
- 48 **(b) The violation is such that the digital depiction could be reasonably expected**
49 **to:**
- 50 **a. Affect the conduct of any administrative, legislative, or judicial proceeding of**
51 **a federal, state, local, or tribal government agency, including the administration of an**
52 **election or the conduct of foreign relations; or**
- 53 **b. Facilitate violence.**
- 54 **4. It shall not be a defense to an offense of disclosure of an intimate digital**
55 **depiction under this section that there is a disclaimer stating that the intimate digital**
56 **depiction of the depicted individual was unauthorized or that the depicted individual**
57 **did not participate in the creation or development of the digital depiction.**

58 **5. For the purposes of this section, a provider of an interactive computer service**
59 **shall not be held to have committed the offense of disclosure of an intimate digital**
60 **depiction due to:**

61 **(1) Any action voluntarily taken in good faith to restrict access to or availability**
62 **of intimate digital depictions; or**

63 **(2) Any action taken to enable or make available to information content**
64 **providers or other persons the technical means to restrict access to intimate digital**
65 **depictions.**

573.575. 1. A person commits the offense of sadistic online exploitation if he or
2 **she:**

3 **(1) Uses the internet to manipulate, intimidate, hurt, scare, control, or threaten a**
4 **victim to undergo suffering through forcing the victim's submission, use of violence, self-**
5 **harm, or destruction for sadistic or sinister purposes;**

6 **(2) Coerces a victim into performing self-harm, animal harm, harming another**
7 **person, sharing personal information, or suicidal actions or ideations;**

8 **(3) Uses nonphysical forms of coercion, manipulation, shame, or fear to extort**
9 **another person into providing sexually explicit content then using such content to**
10 **further extort, threaten, or control the victim; or**

11 **(4) Uses intimate depictions as devices to threaten or coerce a victim by**
12 **demanding any kind of financial gain.**

13 **2. The offense of sadistic online exploitation shall be a class E felony.**

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