

CHAPTER 324

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 94-1045

BY REPRESENTATIVES Benavidez, Adkins, Tucker, Allen, Blue, Chlouber, Clarke, DeGette, Dyer, Entz, Epps, Fleming, Friednash, Gordon, Greenwood, Hagedorn, Hernandez, June, Kaufman, Keller, Kerns, Knox, Lawrence, Linkhart, Lyle, Mattingly, Morrison, Nichol, Pierson, Reeser, Rupert, Snyder, Strom, Tanner, and Williams;
also SENATORS Feeley, Hopper, Bishop, Blickensderfer, Gallagher, Johnson, Mares, Meiklejohn, Norton, Peterson, L. Powers, R. Powers, Rizzuto, Tanner, Traylor, and Wham.

AN ACT**CONCERNING THE CRIME OF HARASSMENT BY STALKING.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-9-111 (4) and (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-9-111. Harassment - stalking. (4) (a) In addition to the circumstances described in subsection (1) of this section, a person commits harassment by stalking if ~~DIRECTLY OR INDIRECTLY THROUGH ANOTHER PERSON~~ such person KNOWINGLY:

(I) Makes a credible threat to another person and, in connection with such threat, repeatedly follows that person ~~OR A MEMBER OF THAT PERSON'S IMMEDIATE FAMILY~~;
or

(II) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person ~~OR A MEMBER OF THAT PERSON'S IMMEDIATE FAMILY~~, whether or not a conversation ensues.

(b) For the purposes of this subsection (4):

(I) "Credible threat" means a threat that would cause a reasonable person to be in fear for the person's life or safety ~~OR THE SAFETY OF HIS OR HER IMMEDIATE FAMILY~~;
~~and~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) "IMMEDIATE FAMILY" INCLUDES THE PERSON'S SPOUSE AND THE PERSON'S PARENT, GRANDPARENT, SIBLING, OR CHILD;

(III) "IN CONNECTION WITH" MEANS ACTS OCCURRING EITHER BEFORE, DURING, OR AFTER THE CREDIBLE THREAT; AND

(IV) "Repeatedly" means on more than one occasion.

(5) Where a person commits harassment BY STALKING under paragraph (a) of subsection (4) of this section, the following shall apply:

(a) A person commits a class 1 misdemeanor for a first offense.

(a.5) For a second or subsequent offense, if such offense occurs within seven years of the date of a prior offense for which such person was convicted, the offender COMMITS A CLASS 1 MISDEMEANOR AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED PURSUANT TO SECTION 18-1-106, shall be sentenced to a mandatory minimum sentence of thirty days imprisonment.

(b) IF, AT THE TIME OF THE OFFENSE, THERE WAS A TEMPORARY RESTRAINING ORDER, INJUNCTION, OR ANY OTHER COURT ORDER IN EFFECT AGAINST SUCH PERSON PROHIBITING THE BEHAVIOR DESCRIBED IN SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION, SUCH PERSON COMMITS A CLASS 1 MISDEMEANOR AND, IN ADDITION TO ANY OTHER PENALTY IMPOSED PURSUANT TO SECTION 18-1-106, SHALL BE SENTENCED TO A MANDATORY MINIMUM SENTENCE OF SIXTY DAYS IMPRISONMENT IN THE COUNTY JAIL. IN ADDITION, when a violation under subsection (4) of this section is committed in connection with a violation of a court order, including but not limited to, any restraining order or any order that sets forth the conditions of a bond, any sentence imposed for such violation pursuant to this subsection (5) shall run consecutively and not concurrently with any sentence imposed pursuant to section 18-6-803.5, and with any sentence imposed in a contempt proceeding for violation of the court order. Nothing in this paragraph (b) shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1994, and shall apply to offenses committed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 1994