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An Act

HOUSE BILL 10-1233

BY REPRESENTATIVE(S) Ryden, Priola, Roberts, Scanlan, Schafer S.,
Vigil, Fischer, Gerou, Labuda, Todd;
also SENATOR(S) Newell, Schwartz, Steadman, Williams.

CONCERNING THE RELOCATION OF THE CRIME OF STALKING IN THE
COLORADO REVISED STATUTES.

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

SECTION 1. Article 3 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

PART 6 STALKING

18-3-601. [Formerly 18-9-111 (4) (a)] Legislative declaration.
~~(4)~~(a) (1) The general assembly hereby finds and declares that:

(a) Stalking is a serious problem in this state and nationwide;

(b) Although stalking often involves persons who have had an intimate relationship with one another, it can also involve persons who have

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

little or no past relationship;

(c) A stalker will often maintain strong, unshakable, and irrational emotional feelings for his or her victim, and may likewise believe that the victim either returns these feelings of affection or will do so if the stalker is persistent enough. Further, the stalker often maintains this belief, despite a trivial or nonexistent basis for it and despite rejection, lack of reciprocation, efforts to restrict or avoid the stalker, and other facts that conflict with this belief.

(d) A stalker may also develop jealousy and animosity for persons who are in relationships with the victim, including family members, employers and co-workers, and friends, perceiving them as obstacles or as threats to the stalker's own "relationship" with the victim;

(e) Because stalking involves highly inappropriate intensity, persistence, and possessiveness, it entails great unpredictability and creates great stress and fear for the victim;

(f) Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm.

(2) The general assembly hereby recognizes the seriousness posed by stalking and adopts the provisions of this ~~subsection (4) and subsections (5) and (6) of this section~~ PART 6 with the goal of encouraging and authorizing effective intervention before stalking can escalate into behavior that has even more serious consequences.

18-3-602. [Formerly 18-9-111 (4) (b), (4) (c), (5), and (6)] Stalking - penalty - definitions. ~~(4)-(b)~~ (1) A person commits stalking if directly, or indirectly through another person, ~~such~~ THE person knowingly:

~~(†)~~ (a) Makes a credible threat to another person and, in connection with ~~such~~ THE threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship;

or

~~(H)~~ (b) Makes a credible threat to another person and, in connection with ~~such~~ THE threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or

~~(HH)~~ (c) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this ~~subparagraph~~ ~~(HH)~~ PARAGRAPH (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.

~~(c)~~ (2) For the purposes of this ~~subsection~~ ~~(4)~~ PART 6:

~~(H)~~ (a) Conduct "in connection with" a credible threat means acts ~~which~~ THAT further, advance, promote, or have a continuity of purpose, and may occur before, during, or after the credible threat.

~~(H)~~ (b) "Credible threat" means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person's safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. ~~Such~~ THE threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear.

~~(HH)~~ (c) "Immediate family" includes the person's spouse and the person's parent, grandparent, sibling, or child. ~~and~~

~~(HV)~~ (d) "Repeated" or "repeatedly" means on more than one occasion.

~~(5)~~ (3) ~~Where~~ A person WHO commits stalking: ~~under paragraph~~ ~~(b)~~

~~of subsection (4) of this section, the following shall apply:~~

(a) ~~A person~~ Commits a class 5 felony for a first offense EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION; OR

~~(a.5)~~ (b) COMMITS A CLASS 4 FELONY for a second or subsequent offense, if ~~such~~ THE offense occurs within seven years ~~of~~ AFTER the date of a prior offense for which ~~such~~ THE person was convicted. ~~the offender commits a class 4 felony.~~

~~(a.7)~~ (4) Stalking is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401 (10).

~~(b)~~ (5) If, at the time of the offense, there was a temporary or permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect against ~~such~~ THE person, prohibiting the behavior described in ~~paragraph (b) of subsection (4) of this section,~~ ~~such~~ THE person commits a class 4 felony. 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 protection order or any order that sets forth the conditions of a bond, any sentence imposed for ~~such~~ THE 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.

(6) Nothing in this ~~paragraph (b)~~ SECTION shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings; however, before a criminal contempt proceeding is heard before the court, notice of the proceedings shall be provided to the district attorney for the JUDICIAL district of the court where the proceedings are to be heard and the district attorney for the JUDICIAL district ~~of the court where~~ IN WHICH the alleged act of criminal contempt occurred. The district attorney for either district shall be allowed to appear and argue for the imposition of contempt sanctions.

~~(6)~~ (7) A peace officer shall have a duty to respond as soon as reasonably possible to a report of stalking and to cooperate with the alleged victim in investigating ~~such~~ THE report.

SECTION 2. Repeal of provisions being relocated in this act. 18-9-111 (4), (5), and (6), Colorado Revised Statutes, are repealed.

SECTION 3. 13-14-101 (3), Colorado Revised Statutes, is amended to read:

13-14-101. Definitions. For purposes of this article, unless the context otherwise requires:

(3) "Stalking" means the crime of stalking as described in ~~section 18-9-111(4)~~ SECTION 18-3-602, C.R.S.

SECTION 4. 13-14-102 (21) (a) and (21) (b), Colorado Revised Statutes, are amended to read:

13-14-102. Civil protection orders - legislative declaration.

(21) (a) The court may assess a filing fee against a petitioner seeking relief under this section; except that the court may not assess a filing fee against a petitioner if the court determines the petitioner is seeking the protection order as a victim of domestic abuse as defined by section 13-14-101 (2); domestic violence as defined by section 18-6-800.3 (1), C.R.S.; stalking as defined by ~~section 18-9-111~~ DESCRIBED IN SECTION 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S. Petitioners shall be provided the necessary number of certified copies at no cost.

(b) ~~No~~ Fees for service of process may NOT be assessed by a state agency or public agency against petitioners seeking relief under this section as a victim of conduct consistent with the following: Domestic abuse as defined by section 13-14-101 (2); domestic violence as defined by section 18-6-800.3 (1), C.R.S.; stalking as defined by ~~section 18-9-111~~ DESCRIBED IN SECTION 18-3-602, C.R.S.; sexual assault as defined by section 18-3-402, C.R.S.; or unlawful sexual contact as defined by section 18-3-404, C.R.S.

SECTION 5. 18-1.3-401 (10) (b) (XIII), Colorado Revised Statutes, is amended to read:

18-1.3-401. Felonies classified - presumptive penalties.

(10) (b) Crimes that present an extraordinary risk of harm to society shall include the following:

(XIII) Stalking, as described in section 18-9-111 (4), AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 10-1233, ENACTED IN 2010, OR SECTION 18-3-602; and

SECTION 6. The introductory portion to 18-8-615 (1) (a), Colorado Revised Statutes, is amended to read:

18-8-615. Retaliation against a judge. (1) (a) An individual commits retaliation against a judge if the individual makes a credible threat, as defined in ~~section 18-9-111 (4) (c) (H)~~ SECTION 18-3-602 (2) (b), or commits an act of harassment, as defined in section 18-9-111 (1), or an act of harm or injury upon a person or property as retaliation or retribution against a judge, which action is directed against or committed upon:

SECTION 7. 24-4.1-302 (1) (cc.1), Colorado Revised Statutes, is amended to read:

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following offenses, acts, and violations as defined by the statutes of the state of Colorado, whether committed by an adult or a juvenile:

(cc.1) (I) Stalking, in violation of ~~section 18-9-111 (4)~~ SECTION 18-3-602, C.R.S.;

(II) STALKING, IN VIOLATION OF SECTION 18-9-111 (4), C.R.S., AS IT EXISTED PRIOR TO THE EFFECTIVE DATE OF HOUSE BILL 10-1233, ENACTED IN 2010;

SECTION 8. 24-21-203 (12), Colorado Revised Statutes, is amended to read:

24-21-203. Definitions. As used in this part 2, unless the context otherwise requires:

(12) "Stalking" means an act of harassment AS DESCRIBED IN SECTION 18-9-111, C.R.S., or stalking as described in ~~section 18-9-111~~ SECTION 18-3-602, C.R.S.

SECTION 9. The introductory portion to 24-34-402.7 (1) (a), Colorado Revised Statutes, is amended to read:

24-34-402.7. Unlawful action against employees seeking protection. (1) (a) Employers shall permit an employee to request or take up to three working days of leave from work in any twelve-month period, with or without pay, if the employee is the victim of domestic abuse, as that term is defined in section 13-14-101 (2), C.R.S., the victim of stalking, as that crime is ~~defined in section 18-9-111 (4)~~ DESCRIBED IN SECTION 18-3-602, C.R.S., the victim of sexual assault, as that crime is defined in section 18-3-402, C.R.S., or the victim of any other crime, the underlying factual basis of which has been found by a court on the record to include an act of domestic violence, as that term is defined in section 18-6-800.3 (1), C.R.S. This section shall only apply if ~~such~~ THE employee is using the leave from work to protect himself or herself by:

SECTION 10. Act subject to petition - effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless

approved by the people at the general election to be held in November 2010 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO