

1 A bill to be entitled
 2 An act relating to stalking; amending s. 784.048, F.S.;
 3 redefining the terms "harass," "credible threat," and
 4 "cyberstalk"; defining the terms "electronic
 5 communication," "electronic communication device," and
 6 "immediate family"; providing that a person who willfully,
 7 maliciously, and repeatedly follows, harasses, or
 8 cyberstalks a person 65 years of age or older commits the
 9 offense of aggravated stalking, a felony of the second
 10 degree; providing criminal penalties; providing for
 11 reclassification of criminal penalties for certain
 12 offenses; providing for a civil cause of action and
 13 remedies; providing that the civil remedies are in
 14 addition to any other civil, administrative, or criminal
 15 remedies provided by law; providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Section 784.048, Florida Statutes, is amended
 20 to read:

21 784.048 Stalking; definitions; penalties.--

22 (1) As used in this section, the term:

23 (a) "Harass" means to engage in a course of conduct, or to
 24 cause or encourage another to engage in a course of conduct,
 25 directed at a specific person which ~~that~~ causes substantial
 26 emotional distress in such person and serves no legitimate
 27 purpose.

28 (b) "Course of conduct" means a pattern of conduct

29 | composed of a series of acts over a period of time, however
 30 | short, evidencing a continuity of purpose. Constitutionally
 31 | protected activity is not included within the meaning of "course
 32 | of conduct." Such constitutionally protected activity includes
 33 | picketing or other organized protests.

34 | (c) "Credible threat" means any a threat, including a
 35 | threat delivered by means of an electronic communication device,
 36 | made with the intent to cause the person who is the target of
 37 | the threat to reasonably fear bodily injury or death to himself
 38 | or herself or to a member of his or her immediate family ~~for his~~
 39 | ~~or her safety. The threat must be against the life of, or a~~
 40 | ~~threat to cause bodily injury to, a person.~~

41 | (d) "Cyberstalk" means to engage in a course of conduct,
 42 | or to cause or encourage another to engage in a course of
 43 | conduct, to communicate, or to cause to be communicated, words,
 44 | images, or language by or through the use of electronic mail or
 45 | electronic communication, directed at a specific person, causing
 46 | substantial emotional distress to that person and serving no
 47 | legitimate purpose.

48 | (e) "Electronic communication" means any transfer of
 49 | signs, signals, writing, images, sounds, data, or intelligence
 50 | of any nature transmitted in whole or in part by a wire, radio,
 51 | electromagnetic, photoelectronic or photooptical system that
 52 | affects interstate or foreign commerce.

53 | (f) "Electronic communication device" means any type of
 54 | instrument, device, machine, equipment, or software that is
 55 | capable of transmitting, acquiring, encrypting, transferring,
 56 | decrypting, or receiving any signs, signals, writings, data,

HB 661

2007

57 images, sounds, or intelligence of any nature by wire, radio,
58 optical, or other electromagnetic system. The term includes, but
59 is not limited to, telephones, cellular phones, computers, video
60 recorders, fax machines, or pagers.

61 (g) "Immediate family" means spouses, former spouses,
62 persons related by blood or marriage, persons who are presently
63 residing together as if a family or who have resided together in
64 the past as if a family, and persons who are parents of a child
65 in common regardless of whether they have been married. With the
66 exception of persons who have a child in common, the immediate
67 family members must be currently residing or have within the
68 previous 6 months resided together in the same single dwelling
69 unit.

70 (2) Any person who willfully, maliciously, and repeatedly
71 follows, harasses, or cyberstalks another person commits the
72 offense of stalking, a misdemeanor of the first degree,
73 punishable as provided in s. 775.082 or s. 775.083.

74 (3) Any person who willfully, maliciously, and repeatedly
75 follows, harasses, or cyberstalks another person, and
76 purposefully engages in a course of conduct involving ~~makes~~ a
77 credible threat with the intent to place that person in
78 reasonable fear of death or bodily injury of the person, or the
79 person's immediate family ~~child, sibling, spouse, parent, or~~
80 ~~dependent~~, commits the offense of aggravated stalking, a felony
81 of the third degree, punishable as provided in s. 775.082, s.
82 775.083, or s. 775.084.

83 (4) Any person who, after an injunction for protection
84 against repeat violence, sexual violence, or dating violence

HB 661

2007

85 pursuant to s. 784.046, or an injunction for protection against
86 domestic violence pursuant to s. 741.30, or after any other
87 court-imposed prohibition of conduct toward the subject person
88 or that person's property, knowingly, willfully, maliciously,
89 and repeatedly follows, harasses, or cyberstalks another person
90 commits the offense of aggravated stalking, a felony of the
91 third degree, punishable as provided in s. 775.082, s. 775.083,
92 or s. 775.084.

93 (5) Any person who willfully, maliciously, and repeatedly
94 follows, harasses, or cyberstalks a minor under 16 years of age
95 commits the offense of aggravated stalking, a felony of the
96 third degree, punishable as provided in s. 775.082, s. 775.083,
97 or s. 775.084.

98 (6) Any law enforcement officer may arrest, without a
99 warrant, any person he or she has probable cause to believe has
100 violated the provisions of this section.

101 (7) Any person who, after having been sentenced for a
102 violation of s. 794.011 or s. 800.04, and prohibited from
103 contacting the victim of the offense under s. 921.244,
104 willfully, maliciously, and repeatedly follows, harasses, or
105 cyberstalks the victim commits the offense of aggravated
106 stalking, a felony of the third degree, punishable as provided
107 in s. 775.082, s. 775.083, or s. 775.084.

108 (8) Any person who willfully, maliciously, and repeatedly
109 follows, harasses, or cyberstalks a person 65 years of age or
110 older, regardless of whether he or she knows or has reason to
111 know the age of the victim, commits the offense of aggravated
112 stalking, a felony of the second degree, punishable as provided

HB 661

2007

113 in s. 775.082, s. 775.083, or s. 775.084.

114 (9) If a person is charged with violating any provision of
115 this section and conceals his or her identification from the
116 person who is the victim of the violation, uses the electronic
117 bandwidth of another person while violating this section, or
118 destroys evidence of a person's violation of this section, the
119 offense for which the person is charged shall be reclassified as
120 follows:

121 (a) In the case of aggravated stalking of a person 65
122 years of age or older, from a felony of the second degree to a
123 felony of the first degree.

124 (b) In the case of aggravated stalking of a minor younger
125 than 16 years of age, from a felony of the third degree to a
126 felony of the second degree.

127 (c) In the case of aggravated stalking, from a felony of
128 the third degree to a felony of the second degree.

129 (d) In the case of stalking, from a misdemeanor of the
130 first degree to a felony of the third degree.

131 (10)-(8) The punishment imposed under this section shall
132 run consecutive to any former sentence imposed for a conviction
133 for any offense under s. 794.011 or s. 800.04.

134 (11) (a) Notwithstanding any other remedy or relief to
135 which a person is entitled, a person suffering damage as a
136 result of a violation of this section may bring an action to
137 recover or obtain actual, punitive, and treble damages,
138 equitable relief, reasonable attorney's fees, investigative
139 costs, court costs, witness costs, deposition expenses, and any
140 other relief a court considers proper.

HB 661

2007

141 (b) The remedies of this subsection are in addition to any
142 other civil, administrative, or criminal remedies provided by
143 law.

144 Section 2. This act shall take effect July 1, 2007.