

By Senator Ring

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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.

16

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

18

19 Section 1. Section 784.048, Florida Statutes, is amended to

20 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 composed

29 of a series of acts over a period of time, however short,

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30 | evidencing a continuity of purpose. Constitutionally protected
31 | activity is not included within the meaning of "course of
32 | 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 the
37 | threat to reasonably fear bodily injury or death to himself or
38 | herself or to a member of his or her immediate family for his or
39 | her safety. The threat must be against the life of, or a threat
40 | to cause bodily injury to, a person.

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

48 | (e) "Electronic communication" means any transfer of signs,
49 | signals, writing, images, sounds, data, or intelligence of any
50 | 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,
57 | images, sounds, or intelligence of any nature by wire, radio,
58 | optical, or other electromagnetic system. The term includes, but

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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
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 or

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88 that person's property, knowingly, willfully, maliciously, and
89 repeatedly follows, harasses, or cyberstalks another person
90 commits the offense of aggravated stalking, a felony of the third
91 degree, punishable as provided in s. 775.082, s. 775.083, or s.
92 775.084.

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 third
96 degree, punishable as provided in s. 775.082, s. 775.083, or s.
97 775.084.

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, willfully,
104 maliciously, and repeatedly follows, harasses, or cyberstalks the
105 victim commits the offense of aggravated stalking, a felony of
106 the third degree, punishable as provided in s. 775.082, s.
107 775.083, 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
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

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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 years
122 of age or older, from a felony of the second degree to a felony
123 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 run
132 consecutive to any former sentence imposed for a conviction for
133 any offense under s. 794.011 or s. 800.04.

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

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, 2008.