

TITLE 7 - CRIMES

CHAPTER 1 – CRIMINAL CODE

CHAPTER 7 – OFFENSES AGAINST PERSONS

Section 7.10 Stalking

A. Offense defined. A person commits the offense of stalking by intentionally or knowingly engaging in a course of conduct that is directed toward another person if that conduct would cause a reasonable person to fear for the person's safety or the safety of that person's immediate family member and that person does fear for his or her safety or for the safety of that person's immediate family member.

B. Definitions. For the purposes of this section:

1. “Course of conduct” means maintaining visual or physical proximity to a specific person or harassing or directing verbal, written or other threats, whether express or implied, to a specific person on two or more occasions over a period of time, however short, but does not include constitutionally protected activity.
2. “Harassing” includes conduct directed at a specific person, either directly or through a third party, that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose. Harassing behavior may include but is not limited to:
 - (a) Vandalism or criminal damage;
 - (b) Annoying, threatening, or unwanted telephone calls, emails, letters, or other communications;
 - (c) Order of protection or restraining order violations;
 - (d) Assault;
 - (e) Appearing at a victim's home or workplace;
 - (f) Attempting to obtain private information about the victim through others;
 - (g) Leaving gifts for the victim;
 - (h) Disabling or otherwise tampering with the victim's vehicle;
 - (i) Taking victim's mail or other property;
 - (j) Entering the victim's residence whether the victim is present or not;

(k) Parking near or driving by the victim's residence or workplace for no legitimate reason; and

(l) Initiating unwarranted investigations, employment actions, or sanctions against the victim.

3. "Immediate family member" means a spouse, parent, child or sibling or any other person who regularly resides in a person's household or resided in a person's household within the past six months.

C. Penalties; repeated offenses.

1. No Contest Pleas Prohibited. A plea of no contest to the offense of stalking shall not be accepted.

2. First Offense; Enhanced Sentence for Domestic Violence.

(a) A person who makes a judicial admission of, pleads guilty, or is found guilty of a first offense of stalking under this section shall be subject to a penalty of not less than 60 days and not more than 180 days in jail, and a fine not to exceed \$2,500.

(b) If the defendant and victim share a domestic relationship as defined in Section 8.9.B. of the Criminal Code, at least 60 days of the jail sentence for a first offense of stalking shall be served without suspension, probation, parole, or release of any kind.

3. Second or Subsequent Offense; Enhanced Sentence for Domestic Violence.

(a) A person who makes a judicial admission of, pleads guilty to, or is found guilty of a second or subsequent stalking offense under this section within five years of the first offense shall be sentenced to a term of one year in jail and a fine not to exceed \$5,000, provided that at least 90 days of the jail sentence shall be served without suspension, probation, parole, or release of any kind.

(b) If the defendant and victim share a domestic relationship as defined in Section 8.9.B. of the Criminal Code, at least 180 days of the jail sentence for a second or subsequent stalking offense shall be served without suspension, probation, parole, or release of any kind.