

HOUSE BILL No. 4264

February 11, 1997, Introduced by Reps. Gire, Hale, Bogardus, Schauer, McBryde, DeHart, Callahan, Martinez, Oxender, LaForge, Goschka and Perricone and referred to the Committee on Corrections.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 411i (MCL 750.411i), as added by 1992 PA
261.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 411i. (1) As used in this section:

2 (a) "Course of conduct" means a pattern of conduct composed
3 of a series of 2 or more separate noncontinuous acts — evidenc-
4 ing a continuity of purpose.

5 (b) "Credible threat" means a threat to kill another indi-
6 vidual or a threat to inflict physical injury upon another indi-
7 vidual that is made in any manner or in any context that causes
8 the individual hearing or receiving the threat to reasonably fear
9 for his or her safety or the safety of another individual.

1 (c) "Emotional distress" means significant mental suffering
2 or distress that may, but does not necessarily, require —,
3 medical or other professional treatment or counseling.

4 (d) "Harassment" means conduct directed toward a victim that
5 includes, but is not limited to, repeated or continuing uncon-
6 sented contact —, that would cause a reasonable individual to
7 suffer emotional distress —, and that actually causes the victim
8 to suffer emotional distress. Harassment does not include con-
9 stitutionally protected activity or conduct that serves a legiti-
10 mate purpose.

11 (e) "Stalking" means a willful course of conduct involving
12 repeated or continuing harassment of another individual that
13 would cause a reasonable person to feel terrorized, frightened,
14 intimidated, threatened, harassed, or molested —, and that actu-
15 ally causes the victim to feel terrorized, frightened, intimidat-
16 ed, threatened, harassed, or molested.

17 (f) "Unconsented contact" means any contact with another
18 individual that is initiated or continued without that
19 individual's consent —, or in disregard of that individual's
20 expressed desire that the contact be avoided or discontinued.
21 Unconsented contact includes, but is not limited to, any of the
22 following:

23 (i) Following or appearing within the sight of that
24 individual.

25 (ii) Approaching or confronting that individual in a public
26 place or on private property.

1 (iii) Appearing at ~~the~~ THAT INDIVIDUAL'S workplace or
2 residence. ~~of that individual.~~

3 (iv) Entering onto or remaining on property owned, leased,
4 or occupied by that individual.

5 (v) Contacting that individual by telephone.

6 (vi) Sending mail or electronic communications to that
7 individual.

8 (vii) Placing an object on, or delivering an object to,
9 property owned, leased, or occupied by that individual.

10 (g) "Victim" means an individual who is the target of a
11 willful course of conduct involving repeated or continuing
12 harassment.

13 (2) An individual who engages in stalking is guilty of
14 aggravated stalking if the violation involves any of the follow-
15 ing circumstances:

16 (a) The actions constituting the offense are in violation of
17 a restraining order and the individual has received actual notice
18 of that restraining order ~~—~~, or the actions are in violation of
19 an injunction or preliminary injunction.

20 (b) The actions constituting the offense are in violation of
21 a condition of probation, a condition of pretrial release, or a
22 condition of release on bond pending appeal.

23 (c) The course of conduct includes the making of 1 or more
24 credible threats against the victim, a member of the victim's
25 family, or another individual living in the ~~victim's~~ SAME
26 household AS THE VICTIM.

1 (d) The defendant has been previously convicted of a
2 violation of this section or section 411h.

3 (E) THE DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF A VIOLA-
4 TION OF SECTION 540E.

5 (F) THE DEFENDANT HAS BEEN PREVIOUSLY CONVICTED OF A VIOLA-
6 TION OF SECTION 81, 81A, 82, 83, 84, OR 86, OR A LOCAL ORDINANCE
7 SUBSTANTIALLY CORRESPONDING TO SECTION 81, IN WHICH THE VICTIM
8 WAS THE DEFENDANT'S SPOUSE OR FORMER SPOUSE, AN INDIVIDUAL WITH
9 WHOM THE DEFENDANT HAS HAD A CHILD IN COMMON, OR A RESIDENT OF
10 THE SAME HOUSEHOLD AS THE DEFENDANT.

11 (3) Aggravated stalking is a felony —, punishable by
12 imprisonment for not more than 5 years or a fine of not more than
13 \$10,000.00, or both.

14 (4) The court may place an individual convicted of violating
15 this section on probation for any term of years, but not less
16 than 5 years. If a term of probation is ordered, the court may,
17 in addition to any other lawful condition of probation, order the
18 defendant to do any of the following:

19 (a) Refrain from stalking any individual during the term of
20 probation.

21 (b) Refrain from any contact with the victim of the
22 offense.

23 (c) Be evaluated to determine the need for psychiatric, psy-
24 chological, or social counseling —, and, if determined appropri-
25 ate by the court, to receive psychiatric, psychological, or
26 social counseling at his or her own expense.

1 (5) In a prosecution for a violation of this section,
2 evidence that the defendant continued to engage in a course of
3 conduct involving repeated unconsented contact with the victim
4 after having been requested by the victim to discontinue the same
5 or a different form of unconsented contact, and to refrain from
6 any further unconsented contact with the victim, ~~shall give~~
7 GIVES rise to a rebuttable presumption that the continuation of
8 the course of conduct caused the victim to feel terrorized,
9 frightened, intimidated, threatened, harassed, or molested.

10 (6) A criminal penalty provided for under this section may
11 be imposed in addition to any penalty that may be imposed for any
12 other criminal offense arising from the same conduct or for con-
13 tempt of court arising from the same conduct.