

ACT 68

S.B. NO. 933

A Bill for an Act Relating to Stalking.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 711-1106.4, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) A person commits the offense of aggravated harassment by stalking if that person commits the offense of harassment by stalking as provided in section 711-1106.5 and has been convicted previously of harassment by stalking [~~involving the same person~~] under section 711-1106.5 [~~and:~~

- (a) ~~The actions constituting the present offense are in violation of an existing court order, other than one issued ex parte, restraining the same person from contacting, threatening, or physically abusing the same complainant; or~~
- (b) ~~The actions constituting the present offense are in violation of a condition of probation or pretrial release involving the same person.]~~ within five years of the instant offense.”

SECTION 2. Section 711-1106.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§711-1106.5**~~]]~~ **Harassment by stalking.** (1) A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person [~~pursues or conducts surveillance~~] engages in a course of conduct involving pursuit, surveillance, or non-consensual contact upon the other person[:

- (a) ~~Without legitimate purpose; and~~
- (b) ~~Under circumstances which would cause the other person to reasonably believe that the actor intends to cause bodily injury to the other person or another, or damage to the property of the other person or another.]~~ on more than one occasion without legitimate purpose.

~~[(2) Harassment by stalking is a misdemeanor if the person harasses another person by stalking on more than one occasion for the same or a similar purpose. Otherwise, harassment by stalking is a petty misdemeanor.]~~

~~[(3)]~~ (2) A person convicted under this section may be required to undergo a counseling program as ordered by the court.

(3) For purposes of this section, “non-consensual contact” means any contact that occurs without that individual’s consent or in disregard of that person’s express desire that the contact be avoided or discontinued. Non-consensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or electronic mail transmission.

(4) Harassment by stalking is a misdemeanor.”

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 19, 2003.)