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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2270 Session of  
2002

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INTRODUCED BY MAITLAND, CLARK, FEESE, BARD, BEBKO-JONES,  
BENNINGHOFF, CAPPELLI, COY, CREIGHTON, FRANKEL, GEIST,  
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SAYLOR, SHANER, SOLOBAY, STABACK, STERN, E. Z. TAYLOR, TIGUE,  
WATSON AND HENNESSEY, JANUARY 4, 2002

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 4, 2002

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, further providing for harassment and  
3 stalking; and making conforming amendments to Titles 23  
4 (Domestic Relations) and 42 (Judiciary and Judicial  
5 Procedure).

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Section 2709 heading and (a), (b), (c) and (f) of  
9 Title 18 of the Pennsylvania Consolidated Statutes are amended  
10 to read:

11 § 2709. Harassment [and stalking].

12 (a) [Harassment] Offense defined.--A person commits the  
13 crime of harassment when, with intent to harass, annoy or alarm  
14 another, the person:

15 (1) strikes, shoves, kicks or otherwise subjects the  
16 other person to physical contact, or attempts or threatens to  
17 do the same;

1           (2) follows the other person in or about a public place  
2 or places; or

3           (3) engages in a course of conduct or repeatedly commits  
4 acts which serve no legitimate purpose.

5       [(b) Stalking.--A person commits the crime of stalking when  
6 he engages in a course of conduct or repeatedly commits acts  
7 toward another person, including following the person without  
8 proper authority, under circumstances which demonstrate either  
9 of the following:

10           (1) an intent to place the person in reasonable fear of  
11 bodily injury; or

12           (2) an intent to cause substantial emotional distress to  
13 the person.

14       (c) Grading.--

15           (1) An offense under subsection (a) shall constitute a  
16 summary offense.

17           (2) (i) An offense under subsection (b) shall  
18 constitute a misdemeanor of the first degree.

19                   (ii) A second or subsequent offense under subsection  
20 (b) or a first offense under subsection (b) if the person  
21 has been previously convicted of any crime of violence  
22 involving this same victim, family or household members,  
23 including, but not limited to, a violation of section  
24 2701 (relating to simple assault), 2702 (relating to  
25 aggravated assault), 2705 (relating to recklessly  
26 endangering another person), 2901 (relating to  
27 kidnapping), 3121 (relating to rape), 3123 (relating to  
28 involuntary deviate sexual intercourse) or 3128 (relating  
29 to spousal sexual assault), an order issued under section  
30 4954 (relating to protective orders) or an order issued

under 23 Pa.C.S. § 6108 (relating to relief), shall  
constitute a felony of the third degree.]

(c) Grading.--An offense under this section shall constitute  
a summary offense.

\* \* \*

(f) [Definitions] Definition.--As used in this section, [the  
following words and phrases shall have the meanings given to  
them in this subsection:

"Course of conduct." A] the term "course of conduct" means a  
pattern of actions composed of more than one act over a period  
of time, however short, evidencing a continuity of conduct. The  
term includes lewd, lascivious, threatening or obscene words,  
language, drawings, caricatures or actions, either in person or  
anonymously.

["Emotional distress." A temporary or permanent state of  
great physical or mental strain.

"Family or household member." Spouses or persons who have  
been spouses, persons living as spouses or who lived as spouses,  
parents and children, other persons related by consanguinity or  
affinity, current or former sexual or intimate partners or  
persons who share biological parenthood.]

Section 2. Title 18 is amended by adding a section to read:

§ 2709.1. Stalking.

(a) Offense defined.--A person commits the crime of stalking  
when he engages in a course of conduct or repeatedly commits  
acts toward another person, including following the person  
without proper authority, under circumstances which demonstrate  
either of the following:

(1) an intent to place the person in reasonable fear of  
bodily injury; or

1       (2) an intent to cause substantial emotional distress to  
2 the person.

3       (b) Grading.--

4       (1) An offense under this section shall constitute a  
5 misdemeanor of the first degree.

6       (2) A second or subsequent offense under this section or  
7 a first offense under this section if the person has been  
8 previously convicted of any crime of violence involving this  
9 same victim, family or household members, including, but not  
10 limited to, a violation of section 2701 (relating to simple  
11 assault), 2702 (relating to aggravated assault), 2705  
12 (relating to recklessly endangering another person), 2901  
13 (relating to kidnapping), 3121 (relating to rape) or 3123  
14 (relating to involuntary deviate sexual intercourse), an  
15 order issued under section 4954 (relating to protective  
16 orders) or an order issued under 23 Pa.C.S. § 6108 (relating  
17 to relief), shall constitute a felony of the third degree.

18       (c) False reports.--A person who knowingly gives false  
19 information to any law enforcement officer with the intent to  
20 implicate another under this section commits an offense under  
21 section 4906 (relating to false reports to law enforcement  
22 authorities).

23       (d) Application of section.--This section shall not apply to  
24 conduct by a party to a labor dispute as defined in the act of  
25 June 2, 1937 (P.L.1198, No.308), known as the Labor Anti-  
26 Injunction Act, or to any constitutionally protected activity.

27       (e) Course of conduct.--Acts indicating a course of conduct  
28 which occur in more than one jurisdiction may be used by any  
29 other jurisdiction in which an act occurred as evidence of a  
30 continuing pattern of conduct or a course of conduct.

1     (f) Definitions.--As used in this section, the following  
2     words and phrases shall have the meanings given to them in this  
3     subsection:

4     "Course of conduct." A pattern of actions composed of more  
5     than one act over a period of time, however short, evidencing a  
6     continuity of conduct. The term includes lewd, lascivious,  
7     threatening or obscene words, language, drawings, caricatures or  
8     actions, either in person or anonymously.

9     "Emotional distress." A temporary or permanent state of  
10    great physical or mental strain.

11    "Family or household member." Spouses or persons who have  
12    been spouses, persons living as spouses or who lived as spouses,  
13    parents and children, other persons related by consanguinity or  
14    affinity, current or former sexual or intimate partners or  
15    persons who share biological parenthood.

16    Section 3. Sections 2711(a), 4954, 4955(a)(2), 5504(c)(4),  
17    5708(1) and 6105(b) of Title 18 are amended to read:

18    § 2711. Probable cause arrests in domestic violence cases.

19    (a) General rule.--A police officer shall have the same  
20    right of arrest without a warrant as in a felony whenever he has  
21    probable cause to believe the defendant has violated section  
22    2504 (relating to involuntary manslaughter), 2701 (relating to  
23    simple assault), 2702(a)(3), (4) and (5) (relating to aggravated  
24    assault), 2705 (relating to recklessly endangering another  
25    person), 2706 (relating to terroristic threats) or [2709(b)  
26    (relating to harassment and stalking)] 2709.1 (relating to  
27    stalking) against a family or household member although the  
28    offense did not take place in the presence of the police  
29    officer. A police officer may not arrest a person pursuant to  
30    this section without first observing recent physical injury to

1 the victim or other corroborative evidence. For the purposes of  
2 this subsection, the term "family or household member" has the  
3 meaning given that term in 23 Pa.C.S. § 6102 (relating to  
4 definitions).

5 \* \* \*

6 § 4954. Protective orders.

7 Any court with jurisdiction over any criminal matter may,  
8 after a hearing and in its discretion, upon substantial  
9 evidence, which may include hearsay or the declaration of the  
10 prosecutor that a witness or victim has been intimidated or is  
11 reasonably likely to be intimidated, issue protective orders,  
12 including, but not limited to, the following:

13 (1) An order that a defendant not violate any provision  
14 of this subchapter or section 2709 (relating to harassment  
15 [and stalking]) or 2709.1 (relating to stalking).

16 (2) An order that a person other than the defendant,  
17 including, but not limited to, a subpoenaed witness, not  
18 violate any provision of this subchapter.

19 (3) An order that any person described in paragraph (1)  
20 or (2) maintain a prescribed geographic distance from any  
21 specified witness or victim.

22 (4) An order that any person described in paragraph (1)  
23 or (2) have no communication whatsoever with any specified  
24 witness or victim, except through an attorney under such  
25 reasonable restrictions as the court may impose.

26 § 4955. Violation of orders.

27 (a) Punishment.--Any person violating any order made  
28 pursuant to section 4954 (relating to protective orders) may be  
29 punished in any of the following ways:

30 \* \* \*

1           (2) As a contempt of the court making such order. No  
2 finding of contempt shall be a bar to prosecution for a  
3 substantive offense under section 2709 (relating to  
4 harassment [and stalking]), 2709.1 (relating to stalking),  
5 4952 (relating to intimidation of witnesses or victims) or  
6 4953 (relating to retaliation against witness or victim),  
7 but:

8           (i) any person so held in contempt shall be entitled  
9 to credit for any punishment imposed therein against any  
10 sentence imposed on conviction of said substantive  
11 offense; and

12           (ii) any conviction or acquittal for any substantive  
13 offense under this title shall be a bar to subsequent  
14 punishment for contempt arising out of the same act.

15           \* \* \*

16 § 5504. Harassment and stalking by communication or address.

17           \* \* \*

18           (c) Grading.--

19           \* \* \*

20           (4) A first offense under subsection (a.1) if the person  
21 has been previously convicted of any crime of violence  
22 involving this same victim, family or household members,  
23 including, but not limited to, a violation of section 2701  
24 (relating to simple assault), 2702 (relating to aggravated  
25 assault), 2705 (relating to recklessly endangering another  
26 person), 2709 (relating to harassment [and stalking]), 2709.1  
27 (relating to stalking), 2901 (relating to kidnapping), 3121  
28 (relating to rape), 3123 (relating to involuntary deviate  
29 sexual intercourse) or 3124.1 (relating to sexual assault),  
30 an order issued under section 4954 (relating to protective

orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief), shall constitute a felony of the third degree.

\* \* \*

§ 5708. Order authorizing interception of wire, electronic or oral communications.

The Attorney General, or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General, or the district attorney or, during the absence or incapacity of the district attorney, an assistant district attorney designated in writing by the district attorney of the county wherein the interception is to be made, may make written application to any Superior Court judge for an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses:

(1) Under this title:

Section 911 (relating to corrupt organizations)

Section 2501 (relating to criminal homicide)

Section 2502 (relating to murder)

Section 2503 (relating to voluntary manslaughter)

Section 2702 (relating to aggravated assault)

Section 2706 (relating to terroristic threats)

[Section 2709(b) (relating to harassment and stalking)]

Section 2709.1 (relating to stalking)



1           Section 2901 (relating to kidnapping)  
2           Section 3121 (relating to rape)  
3           Section 3123 (relating to involuntary deviate sexual  
4 intercourse)  
5           Section 3124.1 (relating to sexual assault)  
6           Section 3125 (relating to aggravated indecent  
7 assault)  
8           Section 3301 (relating to arson and related offenses)  
9           Section 3302 (relating to causing or risking  
10 catastrophe)  
11          Section 3502 (relating to burglary)  
12          Section 3701 (relating to robbery)  
13          Section 3921 (relating to theft by unlawful taking or  
14 disposition)  
15          Section 3922 (relating to theft by deception)  
16          Section 3923 (relating to theft by extortion)  
17          Section 4701 (relating to bribery in official and  
18 political matters)  
19          Section 4702 (relating to threats and other improper  
20 influence in official and political matters)  
21          Section 5512 (relating to lotteries, etc.)  
22          Section 5513 (relating to gambling devices, gambling,  
23 etc.)  
24          Section 5514 (relating to pool selling and  
25 bookmaking)  
26          Section 6318 (relating to unlawful contact or  
27 communication with minor)

28          \* \* \*

29   § 6105. Persons not to possess, use, manufacture, control, sell  
30           or transfer firearms.

1       \* \* \*

2       (b) Enumerated offenses.--The following offenses shall apply  
3 to subsection (a):

4           Section 908 (relating to prohibited offensive weapons).

5           Section 911 (relating to corrupt organizations).

6           Section 912 (relating to possession of weapon on school  
7 property).

8           Section 2502 (relating to murder).

9           Section 2503 (relating to voluntary manslaughter).

10          Section 2504 (relating to involuntary manslaughter) if  
11 the offense is based on the reckless use of a firearm.

12          Section 2702 (relating to aggravated assault).

13          Section 2703 (relating to assault by prisoner).

14          Section 2704 (relating to assault by life prisoner).

15          [Section 2709 (relating to harassment and stalking) if  
16 the offense relates to stalking.]

17          Section 2709.1 (relating to stalking).

18          Section 2901 (relating to kidnapping).

19          Section 2902 (relating to unlawful restraint).

20          Section 2910 (relating to luring a child into a motor  
21 vehicle).

22          Section 3121 (relating to rape).

23          Section 3123 (relating to involuntary deviate sexual  
24 intercourse).

25          Section 3125 (relating to aggravated indecent assault).

26          Section 3301 (relating to arson and related offenses).

27          Section 3302 (relating to causing or risking  
28 catastrophe).

29          Section 3502 (relating to burglary).

30          Section 3503 (relating to criminal trespass) if the

1 offense is graded a felony of the second degree or higher.

2 Section 3701 (relating to robbery).

3 Section 3702 (relating to robbery of motor vehicle).

4 Section 3921 (relating to theft by unlawful taking or  
5 disposition) upon conviction of the second felony offense.

6 Section 3923 (relating to theft by extortion) when the  
7 offense is accompanied by threats of violence.

8 Section 3925 (relating to receiving stolen property) upon  
9 conviction of the second felony offense.

10 Section 4912 (relating to impersonating a public servant)  
11 if the person is impersonating a law enforcement officer.

12 Section 4952 (relating to intimidation of witnesses or  
13 victims).

14 Section 4953 (relating to retaliation against witness or  
15 victim).

16 Section 5121 (relating to escape).

17 Section 5122 (relating to weapons or implements for  
18 escape).

19 Section 5501(3) (relating to riot).

20 Section 5515 (relating to prohibiting of paramilitary  
21 training).

22 Section 6110.1 (relating to possession of firearm by  
23 minor).

24 Section 6301 (relating to corruption of minors).

25 Section 6302 (relating to sale or lease of weapons and  
26 explosives).

27 Any offense equivalent to any of the above-enumerated  
28 offenses under the prior laws of this Commonwealth or any  
29 offense equivalent to any of the above-enumerated offenses  
30 under the statutes of any other state or of the United

1 States.

2 \* \* \*

3 Section 4. Sections 5303(b.1)(2), 6108(a)(9) and 6344(c)(2)  
4 of Title 23 are amended to read:

5 § 5303. Award of custody, partial custody or visitation.

6 \* \* \*

7 (b.1) Consideration of criminal charge.--

8 \* \* \*

9 (2) In evaluating any request for temporary custody or  
10 modification of a custody, partial custody or visitation  
11 order, the court shall consider whether the parent who is or  
12 has been charged with an offense listed below poses a risk of  
13 harm to the child:

14 (i) 18 Pa.C.S. Ch. 25;

15 (ii) 18 Pa.C.S. § 2702 (relating to aggravated  
16 assault);

17 (iii) 18 Pa.C.S. § 2706 (relating to terroristic  
18 threats);

19 (iv) 18 Pa.C.S. § [2709(b) (relating to harassment  
20 and stalking)] 2709.1 (relating to stalking);

21 (v) 18 Pa.C.S. § 2901;

22 (vi) 18 Pa.C.S. § 2902;

23 (vii) 18 Pa.C.S. § 2903 (relating to false  
24 imprisonment);

25 (viii) 18 Pa.C.S. § 3121;

26 (ix) 18 Pa.C.S. § 3122.1;

27 (x) 18 Pa.C.S. § 3123;

28 (xi) 18 Pa.C.S. § 3124.1;

29 (xii) 18 Pa.C.S. § 3125;

30 (xiii) 18 Pa.C.S. § 3126;

1           (xiv) 18 Pa.C.S. § 3127;  
2           (xv) 18 Pa.C.S. § 3301 (relating to arson and  
3       related offenses);  
4           (xvi) 18 Pa.C.S. § 4302;  
5           (xvii) 18 Pa.C.S. § 4304;  
6           (xviii) 18 Pa.C.S. § 6312; and  
7           (xix) 23 Pa.C.S. § 6114 (relating to contempt for  
8       violation of order or agreement).

9           \* \* \*

10 § 6108. Relief.

11       (a) General rule.--The court may grant any protection order  
12 or approve any consent agreement to bring about a cessation of  
13 abuse of the plaintiff or minor children. The order or agreement  
14 may include:

15           \* \* \*

16       (9) Directing the defendant to refrain from stalking or  
17 harassing the plaintiff and other designated persons as  
18 defined in 18 Pa.C.S. [§ 2709 (relating to harassment and  
19 stalking)] §§ 2709 (relating to harassment) and 2709.1  
20 (relating to stalking).

21           \* \* \*

22 § 6344. Information relating to prospective child-care  
23 personnel.

24           \* \* \*

25       (c) Grounds for denying employment.--

26           \* \* \*

27       (2) In no case shall an administrator hire an applicant  
28 if the applicant's criminal history record information  
29 indicates the applicant has been convicted of one or more of  
30 the following offenses under Title 18 (relating to crimes and

1 offenses) or an equivalent crime under Federal law or the law  
2 of another state:

3 Chapter 25 (relating to criminal homicide).

4 Section 2702 (relating to aggravated assault).

5 Section 2709 (relating to harassment [and stalking]).

6 Section 2709.1 (relating to stalking).

7 Section 2901 (relating to kidnapping).

8 Section 2902 (relating to unlawful restraint).

9 Section 3121 (relating to rape).

10 Section 3122.1 (relating to statutory sexual assault).

11 Section 3123 (relating to involuntary deviate sexual  
12 intercourse).

13 Section 3124.1 (relating to sexual assault).

14 Section 3125 (relating to aggravated indecent assault).

15 Section 3126 (relating to indecent assault).

16 Section 3127 (relating to indecent exposure).

17 Section 4302 (relating to incest).

18 Section 4303 (relating to concealing death of child).

19 Section 4304 (relating to endangering welfare of  
20 children).

21 Section 4305 (relating to dealing in infant children).

22 A felony offense under section 5902(b) (relating to  
23 prostitution and related offenses).

24 Section 5903(c) or (d) (relating to obscene and other  
25 sexual materials and performances).

26 Section 6301 (relating to corruption of minors).

27 Section 6312 (relating to sexual abuse of children).

28 The attempt, solicitation or conspiracy to commit any of  
29 the offenses set forth in this paragraph.

30 \* \* \*

1 Section 5. Section 3573(c) of Title 42 is amended to read:

2 § 3573. Municipal corporation portion of fines, etc.

3 \* \* \*

4 (c) Summary offenses.--Fines, forfeited recognizances and  
5 other forfeitures imposed, lost or forfeited under the following  
6 provisions of law shall, when any such offense is committed in a  
7 municipal corporation, be payable to such municipal corporation:

8 (1) Under the following provisions of Title 18 (relating  
9 to crimes and offenses):

10 Section 2709 (relating to harassment).

11 Section 2709.1 (relating to stalking).

12 Section 3304 (relating to criminal mischief).

13 Section 3503 (relating to criminal trespass).

14 Section 3929 (relating to retail theft).

15 Section 4105 (relating to bad checks).

16 Section 5503 (relating to disorderly conduct).

17 Section 5505 (relating to public drunkenness).

18 Section 5511 (relating to cruelty to animals).

19 Section 6308 (relating to purchase, consumption,  
20 possession or transportation of intoxicating beverages).

21 Section 6501 (relating to scattering rubbish).

22 (2) Section 13, act of January 24, 1966 (1965 P.L.1535,  
23 No.537), known as the Pennsylvania Sewage Facilities Act.

24 \* \* \*

25 Section 6. This act shall take effect immediately.