

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2346 Session of
1992

INTRODUCED BY MCGEEHAN, RITTER, HARPER, GEIST, BLAUM, TIGUE,
JOSEPHS, HANNA, ADOLPH, HARLEY, DERMODY, MAIALE, KOSINSKI,
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KRUSZEWSKI, MARKOSEK, GAMBLE, VEON, KASUNIC, BELFANTI,
J. TAYLOR, BILLOW, PISTELLA, BELARDI, RAYMOND, FLICK AND
BROUJOS, JANUARY 29, 1992

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 29, 1992

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 23 (Domestic
2 Relations) of the Pennsylvania Consolidated Statutes,
3 providing for the crime of stalking; providing for penalties;
4 further providing for protective orders and warrantless
5 arrests relative to victim and witness intimidation; and
6 further providing for relief relative to protection from
7 abuse.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Sections 2709, 4954 and 4955 of Title 18 of the
11 Pennsylvania Consolidated Statutes are amended to read:

12 § 2709. Harassment and stalking.

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

16 (1) he strikes, shoves, kicks or otherwise subjects him
17 to physical contact, or attempts or threatens to do the same;
18 or

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

3 (3) he engages in a course of conduct or repeatedly
4 commits acts which alarm or seriously annoy such other person
5 and which serve no legitimate purpose.

6 (b) Stalking.--A person commits the crime of stalking when
7 he follows another person under circumstances which demonstrate
8 an intent to place that person in fear of bodily injury.

9 (c) Grading.--

10 (1) An offense under subsection (a) shall constitute a
11 summary offense.

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

14 (ii) A second or subsequent offense under subsection
15 (b) or a first offense under subsection (b) if the person
16 has been previously convicted of any crime of violence
17 involving this same victim, including, but not limited
18 to, a violation of section 2701 (relating to simple
19 assault), 2702 (relating to aggravated assault), 2705
20 (relating to recklessly endangering another person), 2901
21 (relating to kidnapping), 3121 (relating to rape), 3123
22 (relating to involuntary deviate sexual intercourse), or
23 3128 (relating to spousal sexual assault), an order
24 issued under section 4954 (relating to protective orders)
25 or an order issued under 23 Pa.C.S. § 6108 (relating to
26 relief) shall constitute a felony of the third degree.

27 § 4954. Protective orders.

28 Any court with jurisdiction over any criminal matter may,
29 after a hearing and in its discretion, upon substantial
30 evidence, which may include hearsay or the declaration of the

1 prosecutor that a witness or victim has been intimidated or is
2 reasonably likely to be intimidated, issue protective orders,
3 including, but not limited to, the following:

4 (1) An order that a defendant not violate any provision
5 of this subchapter or section 2709(b) (relating to harassment
6 and stalking).

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

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

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

17 § 4955. Violation of orders.

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

21 (1) For any substantive offense described in this
22 subchapter, where such violation of an order is a violation
23 of any provision of this subchapter.

24 (2) As a contempt of the court making such order. No
25 finding of contempt shall be a bar to prosecution for a
26 substantive offense under section 2709(b) (relating to
27 harassment and stalking), 4952 (relating to intimidation of
28 witnesses or victims) or 4953 (relating to retaliation
29 against witness or victim), but:

30 (i) any person so held in contempt shall be entitled

1 to credit for any punishment imposed therein against any
2 sentence imposed on conviction of said substantive
3 offense; and

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

7 (3) By revocation of any form of pretrial release, or
8 the forfeiture of bail and the issuance of a bench warrant
9 for the defendant's arrest or remanding him to custody.

10 Revocation may, after hearing and on substantial evidence, in
11 the sound discretion of the court, be made whether the
12 violation of order complained of has been committed by the
13 defendant personally or was caused or encouraged to have been
14 committed by the defendant.

15 (b) Arrest.--An arrest for a violation of an order issued
16 pursuant to section 4954 may be without warrant upon probable
17 cause whether or not the violation is committed in the presence
18 of a law enforcement officer. The law enforcement officer may
19 verify, if necessary, the existence of a protection order by
20 telephone or radio communication with the appropriate police
21 department.

22 (c) Arraignment.--Subsequent to an arrest, the defendant
23 shall be taken without unnecessary delay before the court that
24 issued the order. When that court is unavailable, the defendant
25 shall be arraigned before a district justice or, in cities of
26 the first class, a Philadelphia Municipal Court Judge, in
27 accordance with the Pennsylvania Rules of Criminal Procedure.

28 Section 2. Section 6108(a) of Title 23 is amended by adding
29 a paragraph to read:

30 § 6108. Relief.

1 (a) General rule.--The court may grant any protection order
2 or approve any consent agreement to bring about a cessation of
3 abuse of the plaintiff or minor children. The order or agreement
4 may include:

5 * * *

6 (9) Directing the defendant to refrain from stalking the
7 plaintiff and other designated persons as defined in 18
8 Pa.C.S. § 2709(b) (relating to harassment and stalking).

9 * * *

10 Section 3. This act shall take effect immediately.