

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,
WOZNIAK, ARGALL, KENNEY, BATTISTO, TRELLO, KAISER, STABACK,
KRUSZEWSKI, MARKOSEK, GAMBLE, VEON, KASUNIC, BELFANTI,
J. TAYLOR, BILLOW, PISTELLA, BELARDI, RAYMOND, FLICK, BROUJOS
AND FAJT, JANUARY 29, 1992

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, MAY 19, 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~~ AND 4954 of Title 18 <—
11 of the 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 ENGAGES IN A COURSE OF CONDUCT OR <—
8 REPEATEDLY COMMITS ACTS TOWARD ANOTHER PERSON, INCLUDING
9 FOLLOWING THE PERSON, under circumstances which demonstrate an
10 intent to place that person in fear of bodily injury.

11 (c) Grading.--

12 (1) An offense under subsection (a) shall constitute a
13 summary offense.

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

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

29 § 4954. Protective orders.

30 Any court with jurisdiction over any criminal matter may,

1 after a hearing and in its discretion, upon substantial
2 evidence, which may include hearsay or the declaration of the
3 prosecutor that a witness or victim has been intimidated or is
4 reasonably likely to be intimidated, issue protective orders,
5 including, but not limited to, the following:

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

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

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

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

19 SECTION 2. TITLE 18 IS AMENDED BY ADDING A SECTION TO READ: <—
20 § 4954.1. NOTICE ON PROTECTIVE ORDER.

21 ALL PROTECTIVE ORDERS ISSUED UNDER THIS SECTION SHALL CONTAIN
22 IN LARGE PRINT AT THE TOP OF THE ORDER A NOTICE THAT THE WITNESS
23 OR VICTIM SHOULD IMMEDIATELY CALL THE POLICE IF THE DEFENDANT
24 VIOLATES THE PROTECTIVE ORDER. THE NOTICE SHALL CONTAIN THE
25 TELEPHONE NUMBER OF THE POLICE DEPARTMENT WHERE THE VICTIM OR
26 WITNESS RESIDES AND WHERE THE VICTIM OR WITNESS IS EMPLOYED.

27 SECTION 3. SECTION 4955 OF TITLE 18 IS AMENDED TO READ:

28 § 4955. Violation of orders.

29 (a) Punishment.--Any person violating any order made
30 pursuant to section 4954 (relating to protective orders) may be

1 punished in any of the following ways:

2 (1) For any substantive offense described in this
3 subchapter, where such violation of an order is a violation
4 of any provision of this subchapter.

5 (2) As a contempt of the court making such order. No
6 finding of contempt shall be a bar to prosecution for a
7 substantive offense under section ~~2709(b)~~ 2709 (relating to <—
8 harassment and stalking), 4952 (relating to intimidation of
9 witnesses or victims) or 4953 (relating to retaliation
10 against witness or victim), but:

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

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

18 (3) By revocation of any form of pretrial release, or
19 the forfeiture of bail and the issuance of a bench warrant
20 for the defendant's arrest or remanding him to custody.
21 Revocation may, after hearing and on substantial evidence, in
22 the sound discretion of the court, be made whether the
23 violation of order complained of has been committed by the
24 defendant personally or was caused or encouraged to have been
25 committed by the defendant.

26 (b) Arrest.--An arrest for a violation of an order issued
27 pursuant to section 4954 may be without warrant upon probable
28 cause whether or not the violation is committed in the presence
29 of a law enforcement officer. The law enforcement officer may
30 verify, if necessary, the existence of a protection order by

1 telephone or radio communication with the appropriate police
2 department.

3 (c) Arraignment.--Subsequent to an arrest, the defendant
4 shall be taken without unnecessary delay before the court that
5 issued the order. When that court is unavailable, the defendant
6 shall be arraigned before a district justice or, in cities of
7 the first class, a Philadelphia Municipal Court Judge, in
8 accordance with the Pennsylvania Rules of Criminal Procedure.

9 Section ~~2~~ 4. Section 6108(a) of Title 23 is amended by <—
10 adding a paragraph to read:

11 § 6108. Relief.

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

16 * * *

17 (9) Directing the defendant to refrain from stalking OR <—
18 HARASSING the plaintiff and other designated persons as
19 defined in 18 Pa.C.S. § ~~2709(b)~~ 2709 (relating to harassment <—
20 and stalking).

21 * * *

22 Section ~~3~~ 5. This act shall take effect immediately. <—