

HOUSE BILL No. 5754

June 9, 2016, Introduced by Reps. Darany, Yanez, Dianda, Plawecki, Hovey-Wright, Chang, Liberati, Zemke and Geiss and referred to the Committee on Criminal Justice.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 411h (MCL 750.411h), as amended by 1997 PA 65.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5 (b) "Emotional distress" means significant mental suffering or
6 distress that may, but does not necessarily, require medical or
7 other professional treatment or counseling.

8 (c) "Harassment" means conduct directed toward a victim that
9 includes, but is not limited to, repeated or continuing unconsented
10 contact that would cause a reasonable individual to suffer

1 emotional distress and that actually causes the victim to suffer
2 emotional distress. Harassment does not include constitutionally
3 protected activity or conduct that serves a legitimate purpose.

4 (d) "Stalking" means a willful course of conduct involving
5 repeated or continuing harassment of another individual that would
6 cause a reasonable person to feel terrorized, frightened,
7 intimidated, threatened, harassed, or molested and that actually
8 causes the victim to feel terrorized, frightened, intimidated,
9 threatened, harassed, or molested.

10 (e) "Unconsented contact" means any contact with another
11 individual that is initiated or continued without that individual's
12 consent or in disregard of that individual's expressed desire that
13 the contact be avoided or discontinued. Unconsented contact
14 includes, but is not limited to, any of the following:

15 (i) Following or appearing within the sight of that
16 individual.

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

19 (iii) Appearing at that individual's workplace or residence.

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

22 (v) Contacting that individual by telephone.

23 (vi) Sending mail or electronic communications to that
24 individual.

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

27 **(viii) OPERATING AN UNMANNED AERIAL DEVICE TO FOLLOW, CONTACT,**

1 PHOTOGRAPH, OR VIDEOTAPE A PERSON OR TO FLY ABOVE A PERSON'S
2 PROPERTY. AS USED IN THIS SUBPARAGRAPH, "UNMANNED AERIAL DEVICE"
3 MEANS A POWERED AERIAL VEHICLE THAT DOES NOT CARRY A HUMAN
4 OPERATOR, USES AERODYNAMIC FORCES TO PROVIDE VEHICLE LIFT, MAY FLY
5 AUTONOMOUSLY OR BE PILOTED REMOTELY, AND MAY BE EXPENDABLE OR
6 RECOVERABLE.

7 (f) "Victim" means an individual who is the target of a
8 willful course of conduct involving repeated or continuing
9 harassment.

10 (2) An individual who engages in stalking is guilty of a crime
11 as follows:

12 (a) Except as provided in subdivision (b), a misdemeanor
13 punishable by imprisonment for not more than 1 year or a fine of
14 not more than \$1,000.00, or both.

15 (b) If the victim was less than 18 years of age at any time
16 during the individual's course of conduct and the individual is 5
17 or more years older than the victim, a felony punishable by
18 imprisonment for not more than 5 years or a fine of not more than
19 \$10,000.00, or both.

20 (3) The court may place an individual convicted of violating
21 this section on probation for a term of not more than 5 years. If a
22 term of probation is ordered, the court may, in addition to any
23 other lawful condition of probation, order the defendant to do any
24 of the following:

25 (a) Refrain from stalking any individual during the term of
26 probation.

27 (b) Refrain from having any contact with the victim of the

1 offense.

2 (c) Be evaluated to determine the need for psychiatric,
3 psychological, or social counseling and if, determined appropriate
4 by the court, to receive psychiatric, psychological, or social
5 counseling at his or her own expense.

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

15 (5) A criminal penalty provided for under this section may be
16 imposed in addition to any penalty that may be imposed for any
17 other criminal offense arising from the same conduct or for any
18 contempt of court arising from the same conduct.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.