WISCONSIN COALITION AGAINST SEXUAL ASSAULT

Wisconsin Stalking & Harassment Laws

STALKING

Wisconsin's Stalking law, Wis. Stat. 940.32, has changed twice since July, 2002; in July 30, 2002 and April 27, 2004. (Because statutory changes often only apply to incidents that take place after the change, a particular offense will be charged and/or prosecuted under the law that applied at the time of the offense). These changes increase the penalties for staking, define stalking with increased specificity, and allow prosecution for even one act of stalking if the perpetrator had previously victimized the same victim. The most recent change expanded the circumstances under which a stalker could be charged. Previously, a stalker had to cause the victim to fear bodily injury or death either of him/herself or another to constitute stalking. Now, in addition to causing fear of bodily harm or death, if the stalker causes the victim to suffer serious emotional distress, stalking may be charged. "Suffer serious emotional distress means to feel terrified, intimidated, threatened, harassed, or tormented" (See Wis. Stat. sec. 940.32 for this and other definitions). The following describes the crime of stalking as of June 13, 2012.

What is Stalking?

A person stalks a victim in Wisconsin when s/he engages in a "course of conduct" that causes the victim to experience serious emotional distress or to fear bodily injury or death of her/himself, to a family member, or to a member of his/her household. If the stalker knew or should have known that at least one of the stalking acts would cause the victim to experience this distress or fear, the stalker may be charged. In most instances, a course of conduct means two or more acts carried out over any period of time. However, if a person was previously been convicted of a domestic abuse offense or sexual assault offense against the same victim, the person may be charged with stalking after only one stalking act against the victim.

In Wisconsin, stalking acts include, but are not limited to:

- Maintaining a visual or physical proximity to the victim.
- Approaching or confronting the victim.
- Appearing at the victim's workplace or contacting coworkers or employers of the victim.
- Appearing at the victim's home or contacting the victim's neighbors.
- Entering property owned, leased, or occupied by the victim.
- Contacting the victim by telephone repeatedly or continuously causing the victim's (or another's) telephone to ring, whether or not a conversation ensues.
- Photographing, videotaping, audio taping, or, by other electronic means, monitoring/recording the victim's activities. (Regardless of where the monitoring takes place).
- Sending material by any means to the victim or to the victim's family, member of the victim's household, employer, coworker, or friend in order to obtain information about, disseminate information about, or communicate with the victim.
- Placing an object on or delivering an object to property owned, leased, or occupied by the victim.
- Delivering objects to certain others with the intent of delivery to the victim, or placing objects on property owned, leased, or occupied by certain others with intent that it be delivered to the victim.

- Causing a person to engage in any of the acts described above

What are the penalties for stalking? *See endnotes.

Stalking is a Class I felony. However, in some circumstances, the penalties are greater than they are for a Class I felony. The following describes some of these circumstances:

- If the stalker had previously been convicted of certain violent acts against the same victim, stalking against the victim, certain acts of criminal harassment, or any crime against the same victim in the last seven years, stalking is a Class H felony.
- If the stalker "gained access or caused another person to gain access to a record in electronic format that contains personally identifiable information regarding the victim," stalking is a Class H felony.
- If the victim was under 18 years of age at the time of the violation, stalking is a Class H felony.
- If the stalking resulted in bodily harm to the victim, the victim's family, or member of the victim's household, stalking is a Class F felony.
- If the stalker used a dangerous weapon to stalk the victim, stalking is a Class F felony.
- If the stalker was convicted for domestic abuse, sexual assault, stalking, certain criminal harassment crimes, or certain violent crimes in the 7 year period before the current stalking act, stalking is a Class F felony.

CRIMINAL HARASSMENT

Criminal Harassment, Wis. Stat. sec. 947.013, is different from stalking but may also be charged in some stalking situations. The crime of harassment is also different from the harassment restraining order, which is a civil protective remedy for victims of harassment.

The crime of harassment occurs when a person engages in a course of conduct or certain acts against a victim. Harassment occurs whenever a person, with the intent to "harass or intimidate" the victim, either:

- "Strikes, shoves, kicks or otherwise subjects the person to physical contact or attempts or threatens to do the same," or
- "Engages in a course of conduct or repeatedly commits acts which harass or intimidate the person and which serve no legitimate purpose."

What are the penalties for criminal harassment? *See endnotes.

Harassment is a Class B forfeiture, but increased penalties may apply. The following describe some of the circumstances warranting increased penalties:

- If the harassment "is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm" or occurs while the harasser is subject to an domestic abuse, child abuse, or harassment restraining order or injunctions prohibiting or limiting that harasser's contact with the victim, harassment is a Class A misdemeanor.
- If the harasser was convicted for certain acts of harassment or stalking against the same victim within seven years of the current stalking act, harassment is a Class I felony.

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Endnotes:

Class F felony: A fine not to exceed $25,000, a total sentence not to exceed 12 years and six months or both.

Class H felony: A fine not to exceed $10,000, a total sentence not to exceed six years, or both.

Class I felony: A fine not to exceed $10,000, a total sentence not to exceed three years and six months, or both.

Class A misdemeanor: A fine not to exceed $10,000. imprisonment not to exceed nine months, or both.

Class B forfeiture: A forfeiture not to exceed $1,000.

This fact sheet was updated in 2014 by the Wisconsin Coalition Against Sexual Assault, Inc. (WCASA). WCASA is a membership organization of sexual assault centers, other organizations, and individuals throughout Wisconsin working to end sexual violence. For information sheets on other topics or to become a member, visit our website or contact us. For more information about sexual assault or to receive support with a sexual assault experience, contact your local sexual assault program. This sheet may be reproduced in its original format only. This information does not constitute legal advice.

Please note that this is an abridged information sheet; the statutes have not been printed in their entirety due to space restrictions.

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