

# HOUSE BILL No. 4328

February 23, 1999, Introduced by Reps. Reeves, Hardman, Gielegem, Sanborn, Lemmons, Bogardus and Daniels and referred to the Committee on Criminal Law and Corrections.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5       (b) "Credible threat" means a threat to kill another indi-  
6 vidual or a threat to inflict physical injury upon another indi-  
7 vidual that is made in any manner or in any context that causes  
8 the individual hearing or receiving the threat to reasonably fear  
9 for his or her safety or the safety of another individual.

1 (c) "Emotional distress" means significant mental suffering  
2 or distress that may, but does not necessarily, require medical  
3 or other professional treatment or counseling.

4 (d) "Harassment" means conduct directed toward a victim that  
5 includes, but is not limited to, repeated or continuing uncon-  
6 sented contact that would cause a reasonable individual to suffer  
7 emotional distress and that actually causes the victim to suffer  
8 emotional distress. Harassment does not include constitutionally  
9 protected activity or conduct that serves a legitimate purpose.

10 (e) "Stalking" means a willful course of conduct involving  
11 repeated or continuing harassment of another individual that  
12 would cause a reasonable person to feel terrorized, frightened,  
13 intimidated, threatened, harassed, or molested and that actually  
14 causes the victim to feel terrorized, frightened, intimidated,  
15 threatened, harassed, or molested.

16 (f) "Unconsented contact" means any contact with another  
17 individual that is initiated or continued without that  
18 individual's consent or in disregard of that individual's  
19 expressed desire that the contact be avoided or discontinued.  
20 Unconsented contact includes, but is not limited to, any of the  
21 following:

22 (i) Following or appearing within the sight of that  
23 individual.

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

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

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

3 (v) Contacting that individual by telephone.

4 (vi) Sending mail or electronic communications to that  
5 individual.

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

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

11 (2) An individual who engages in stalking is guilty of  
12 aggravated stalking if the violation involves any of the follow-  
13 ing circumstances:

14 (a) At least 1 of the actions constituting the offense is in  
15 violation of a restraining order and the individual has received  
16 actual notice of that restraining order or at least 1 of the  
17 actions is in violation of an injunction or preliminary  
18 injunction.

19 (b) At least 1 of the actions constituting the offense is in  
20 violation of a condition of probation, ~~a condition of~~ parole,  
21 ~~a condition of~~ pretrial release, or ~~a condition of~~ release on  
22 bond pending appeal.

23 (c) The course of conduct includes the making of 1 or more  
24 credible threats against the victim, a member of the victim's  
25 family, or another individual living in the same household as the  
26 victim.

1 (d) The individual has been previously convicted of a  
2 violation of this section or section 411h.

3 (E) THE INDIVIDUAL HAS BEEN PREVIOUSLY CONVICTED OF A VIOLA-  
4 TION OF SECTION 540E.

5 (F) THE INDIVIDUAL HAS BEEN PREVIOUSLY CONVICTED OF A VIOLA-  
6 TION OF SECTION 81, 81A, 82, 83, 84, OR 86, OR A LOCAL ORDINANCE  
7 SUBSTANTIALLY CORRESPONDING TO SECTION 81, IN WHICH THE VICTIM  
8 WAS HIS OR HER SPOUSE OR FORMER SPOUSE, AN INDIVIDUAL WITH WHOM  
9 HE OR SHE HAS HAD A CHILD IN COMMON, OR A RESIDENT OF THE SAME  
10 HOUSEHOLD AS THE INDIVIDUAL.

11 (3) Aggravated stalking is a felony punishable as follows:

12 (a) Except as provided in subdivision (b), by imprisonment  
13 for not more than 5 years or a fine of not more than \$10,000.00,  
14 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, by imprisonment for not more  
18 than 10 years or a fine of not more than \$15,000.00, or both.

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

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

26 (b) Refrain from any contact with the victim of the  
27 offense.

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

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

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