

Senate Bill 393

By: Senators Staton of the 18th, Shafer of the 48th, Chance of the 16th, Chapman of the 3rd,
Goggans of the 7th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-5-90 of the Official Code of Georgia Annotated, relating to
2 stalking, so as to provide enhanced penalties for certain aggravated violations of such statute;
3 to provide for related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Code Section 16-5-90 of the Official Code of Georgia Annotated, relating to stalking, is
7 amended by striking the Code section and inserting in lieu thereof a new Code Section
8 16-5-90 to read as follows:

9 "16-5-90.

10 (a)(1) A person commits the offense of stalking when he or she follows, places under
11 surveillance, or contacts another person at or about a place or places without the consent
12 of the other person for the purpose of harassing and intimidating the other person. For
13 the purpose of this article, the terms 'computer' and 'computer network' shall have the
14 same meanings as set out in Code Section 16-9-92; the term 'contact' shall mean any
15 communication including without being limited to communication in person, by
16 telephone, by mail, by broadcast, by computer, by computer network, or by any other
17 electronic device; and the place or places that contact by telephone, mail, broadcast,
18 computer, computer network, or any other electronic device is deemed to occur shall be
19 the place or places where such communication is received. For the purpose of this article,
20 the term 'place or places' shall include any public or private property occupied by the
21 victim other than the residence of the defendant. For the purposes of this article, the term
22 'harassing and intimidating' means a knowing and willful course of conduct directed at
23 a specific person which causes emotional distress by placing such person in reasonable
24 fear for such person's safety or the safety of a member of his or her immediate family,
25 by establishing a pattern of harassing and intimidating behavior, and which serves no

1 legitimate purpose. This Code section shall not be construed to require that an overt
2 threat of death or bodily injury has been made.

3 (2) A person commits the offense of stalking when such person, in violation of a bond
4 to keep the peace posted pursuant to Code Section 17-6-110, standing order issued under
5 Code Section 19-1-1, temporary restraining order, temporary protective order, permanent
6 restraining order, permanent protective order, preliminary injunction, or permanent
7 injunction or condition of pretrial release, condition of probation, or condition of parole
8 in effect prohibiting the harassment or intimidation of another person, broadcasts or
9 publishes, including electronic publication, the picture, name, address, or phone number
10 of a person for whose benefit the bond, order, or condition was made and without such
11 person's consent in such a manner that causes other persons to harass or intimidate such
12 person and the person making the broadcast or publication knew or had reason to believe
13 that such broadcast or publication would cause such person to be harassed or intimidated
14 by others.

15 (b) Except as provided in subsection (c) of this Code section, a person who commits the
16 offense of stalking is guilty of a misdemeanor.

17 (c)(1) Upon the second conviction, and all subsequent convictions, for stalking, the
18 defendant shall be guilty of a felony and shall be punished by imprisonment for not less
19 than one year nor more than ten years.

20 (2) A person who commits the offense of stalking and:

21 (A) In committing the offense of stalking, makes a threat of physical harm to or against
22 the victim or, as a result of the commission of the offense of stalking, induces a third
23 person to make a threat of physical harm to or against the victim;

24 (B) In committing the offense of stalking, trespasses on the land or premises where the
25 victim lives, is employed, or attends school or induces a third person to trespass on the
26 land or premises where the victim lives, is employed, or attends school;

27 (C) The victim is a minor;

28 (D) The person has a history of violence toward the victim or any other person or a
29 history of violent acts toward the victim or any other person;

30 (E) In committing the offense of stalking, such person has a deadly weapon in his or
31 her possession or control;

32 (F) At the time of the commission of the offense of stalking, such person is the subject
33 of a bond to keep the peace posted pursuant to Code Section 17-6-110, standing order
34 issued under Code Section 19-1-1, temporary restraining order, temporary protective
35 order, permanent restraining order, permanent protective order, preliminary injunction,
36 or permanent injunction or condition of pretrial release, condition of probation, or

1 condition of parole in effect prohibiting the harassment or intimidation of any other
 2 person;

3 (G) In committing the offense of stalking, such person causes damage to the premises
 4 where the victim resides, the real property on which such premises is located, or any
 5 personal property on such premises or such person induces another person to cause
 6 damage to the premises where the victim resides, the real property on which such
 7 premises is located, or any personal property on such premises; or

8 (H) The victim is an officer or employee of the Department of Family and Children
 9 Services, a family violence shelter, or a public or private children services, placement,
 10 or adoption agency,

11 shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for
 12 not less than one year nor more than ten years or by a fine of not more than \$10,000.00.

13 (d) Before sentencing a defendant for any conviction of stalking under this Code section
 14 or aggravated stalking under Code Section 16-5-91, the sentencing judge may require
 15 psychological evaluation of the offender and shall consider the entire criminal record of the
 16 offender. At the time of sentencing, the judge is authorized to issue a permanent
 17 restraining order against the offender to protect the person stalked and the members of such
 18 person's immediate family, and the judge is authorized to require psychological treatment
 19 of the offender as a part of the sentence, or as a condition for suspension or stay of
 20 sentence, or for probation."

21 **SECTION 2.**

22 All laws and parts of laws in conflict with this Act are repealed.