

RCW 9A.46.110 Stalking. (1)(a) A person commits the crime of stalking if, without lawful authority the person:

- (i) Intentionally and repeatedly harasses another person;
- (ii) Intentionally and repeatedly follows another person;
- (iii) Intentionally contacts, follows, tracks, or monitors, or attempts to contact, follow, track, or monitor another person after being given actual notice that the person does not want to be contacted, followed, tracked, or monitored; or
- (iv) Knowingly and without consent installs or monitors an electronic tracking device, or causes an electronic tracking device to be installed, placed, or used, to track the location of another person; and

(b) The person being harassed, followed, tracked, or monitored suffers substantial emotional distress or is placed in fear that the stalker intends to injure him or her, or another person, or his or her property or the property of another person, or, in the circumstances identified in (a)(iv) of this subsection, the victim's knowledge of the tracking device would reasonably elicit substantial emotional distress or fear. The feeling of substantial emotional distress or fear must be one that a reasonable person in the same situation would experience given the totality of the circumstances.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(a)(i), (ii), or (iv) of this section that the stalker was not given actual notice that the person did not want the stalker to contact, follow, track, or monitor him or her; and

(b) It is not a defense to the crime of stalking under subsection (1)(a)(i) of this section that the stalker did not intend to frighten or intimidate the person or place the person in substantial emotional distress.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) The provisions of this section do not apply to the installation, placement, or use of an electronic tracking device by any of the following:

- (a) A law enforcement officer, judicial officer, probation or parole officer, or other public employee when any such person is engaged in the lawful performance of official duties and in accordance with state or federal law;
- (b) The installation, placement, or use of an electronic tracking device authorized by an order of a state or federal court;
- (c) A legal guardian for a disabled adult or a legally authorized individual or organization designated to provide protective services to a disabled adult when the electronic tracking device is installed, placed, or used to track the location of the disabled adult for which the person is a legal guardian or the individual or organization is designated to provide protective services;
- (d) A parent or legal guardian of a minor when the electronic tracking device is installed, placed, or used to track the location of that minor unless the parent or legal guardian is subject to a court order that orders the parent or legal guardian not to assault, threaten, harass, follow, or contact that minor;
- (e) An employer, school, or other organization, who owns the device on which the tracking device is installed and provides the device to a person for use in connection with the person's involvement with the employer, school, or other organization and the use of the device is limited to recovering lost or stolen items; or

(f) The owner of fleet vehicles, when tracking such vehicles. For the purposes of this section, "fleet vehicle" means any of the following:

(i) One or more motor vehicles owned by a single entity and operated by employees or agents of the entity for business or government purposes;

(ii) Motor vehicles held for lease or rental to the general public; or

(iii) Motor vehicles held for sale, or used as demonstrators, test vehicles, or loaner vehicles, by motor vehicle dealers.

(5) (a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another person is guilty of a class B felony if any of the following applies:

(i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060;

(ii) The stalking violates any protective order protecting the victim;

(iii) The stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person;

(iv) The stalker was armed with a deadly weapon, as defined in RCW 9.94A.825, while stalking the victim;

(v) (A) The victim is or was a law enforcement officer; judge; juror; attorney; victim advocate; legislator; community corrections' officer; an employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and

(B) The stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or

(vi) The victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Actual notice" includes, in addition to any other form of actual notice, circumstances in which the other person has a protective order in effect protecting him or her from the person.

(b) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the other person.

(c) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the indeterminate sentence review board, and the department of social and health services.

(d) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" includes, in addition to any other form of communication, contact, or conduct, the sending of an electronic communication, but does not include constitutionally

protected free speech. Constitutionally protected activity is not included within the meaning of "course of conduct."

(e) "Electronic tracking device" means an electronic device that permits a person to remotely determine or monitor the position and movement of another person, vehicle, device, or other personal possession. As used in this subsection (6)(e), "electronic device" includes computer code or other digital instructions that once installed on a digital device, allows a person to remotely track the position of that device.

(f) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the stalker follows the person. It is not necessary to establish that the stalker follows the person while in transit from one location to another.

(g) "Harasses" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, torments, or is detrimental to such person, and which serves no legitimate or lawful purpose.

(h) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(i) "Repeatedly" means on two or more separate occasions.

(j) "Substantial emotional distress" means a mental, emotional, or physical reaction such as anxiety, apprehension, or loss of ability to concentrate or other symptoms, whether or not medical or other professional treatment or counseling is sought or required, which degrades the victim's quality of life. [2023 c 461 § 1; 2021 c 215 § 111; 2013 c 84 § 29; 2007 c 201 § 1; 2006 c 95 § 3; 2003 c 53 § 70. Prior: 1999 c 143 § 35; 1999 c 27 § 3; 1994 c 271 § 801; 1992 c 186 § 1.]

Effective date—2022 c 268; 2021 c 215: See note following RCW 7.105.900.

Findings—Intent—2006 c 95: See note following RCW 74.04.790.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Intent—1999 c 27: See note following RCW 9A.46.020.

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Severability—1992 c 186: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 186 § 10.]