

39-17-315. **Stalking, aggravated stalking, and especially aggravated stalking**

(a) As used in this section, unless the context otherwise requires:

(1) "**Course of conduct**" means a **pattern of conduct** composed of a series of **two (2) or more separate, noncontinuous acts evidencing a continuity of purpose**, including, but not limited to, acts in which the defendant **directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to a person, or interferes with a person's property**;

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

(3) "**Harassment**" means conduct directed toward a victim that includes, but is not limited to, **repeated or continuing unconsented contact that would cause a reasonable person to suffer emotional distress, and that actually causes the victim to suffer emotional distress**. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose;

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

(5) "**Unconsented contact**" means any contact with another person that is initiated or continued without that person's consent, or in disregard of that person's **expressed desire that the contact be avoided or discontinued**. Unconsented contact includes, but is not limited to, any of the following:

(A) Following or **appearing within the sight of that person**;

(B) Approaching or confronting that person in a public place or on private property;

(C) Appearing at that person's workplace or residence;

(D) Entering onto or remaining on property owned, leased, or occupied by that person;

(E) Contacting that person by telephone;

(F) Sending to that person mail or any electronic communications, including, but not limited to, electronic mail, text messages, or any other type of electronic message sent using the internet, websites, or a social media platform; or

(G) Placing an object on, or delivering an object to, property owned, leased, or occupied by that person; and

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

(b)

(1) A person commits an offense who intentionally engages in stalking.

(2) Stalking is a Class A misdemeanor.

(3) Stalking is a Class E felony if the defendant, at the time of the offense, was required to or was registered with the Tennessee bureau of investigation as a sexual offender, violent sexual offender or violent juvenile sexual offender, as defined in § 40-39-202.

(c)

(1) A person commits **aggravated stalking** who commits the offense of stalking as prohibited by subsection (b), and:

(A) In the course and furtherance of stalking, displays a deadly weapon;

(B) The victim of the offense was less than eighteen (18) years of age at any time during the person's course of conduct, and the person is five (5) or more years older than the victim;

(C) Has previously been convicted of stalking within seven (7) years of the instant offense;

(D) Makes a credible threat to the victim, the victim's child, sibling, spouse, parent or dependents with the intent to place any such person in reasonable fear of death or bodily injury; or

(E) At the time of the offense, was prohibited from making contact with the victim under a restraining order or injunction for protection, an order of protection, or any other court-imposed prohibition of conduct toward the victim or the victim's property, and the person knowingly violates the injunction, order or court-imposed prohibition.

(2) Aggravated stalking is a Class E felony.

(d)

(1) A person commits **especially aggravated stalking** who:

(A) Commits the offense of stalking or aggravated stalking, and has **previously been convicted of stalking** or aggravated stalking involving the **same victim** of the instant offense;

(B) Commits the offense of aggravated stalking, and intentionally or recklessly **causes serious bodily injury** to the victim of the offense or to the victim's child, sibling, spouse, parent or dependent; or

(C) Commits the offense of stalking or aggravated stalking, the person is eighteen (18) years of age or older, and the **victim** of the offense was **less than twelve (12) years of age** at any time during the person's course of conduct.

(2) **Especially aggravated stalking** is a **Class C felony**.

(e) Notwithstanding any other law, if the court grants probation to a person convicted of stalking, aggravated stalking or especially aggravated stalking, the court may keep the person on probation for a period not to exceed the maximum punishment for the appropriate classification of offense. Regardless of whether a term of probation is ordered, the **court may, in addition to any other punishment** otherwise authorized by law, **order** the defendant to do the following:

(1) Refrain from stalking any individual during the term of probation;

(2) Refrain from having any contact with the victim of the offense or the victim's child, sibling, spouse, parent or dependent;

(3) **Be evaluated** to determine the need for psychiatric, psychological, or social counseling, and, if determined appropriate by the court, to receive psychiatric, psychological or social **counseling** at the defendant's own expense;

(4) If, as the result of such treatment or otherwise, the defendant is required to take medication, order that the defendant submit to **drug testing** or some other method by which the court can monitor whether the defendant is taking the required medication; and

(5) Submit to the use of an **electronic tracking device**, with the cost of the device and monitoring the defendant's whereabouts, to be paid by the defendant.

(f) In a prosecution for a violation of this section, **evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact** with the victim after having been requested by the victim to discontinue the conduct or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, is **prima facie evidence** that the continuation of the course of **conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.**

(g)

(1) If a person is convicted of aggravated or especially aggravated stalking, or another felony offense arising out of a charge based on this section, the **court may order an independent professional mental health assessment** of the defendant's need for mental health treatment. The court may waive the assessment, if an adequate assessment was conducted prior to the conviction.

(2) If the assessment indicates that the defendant is in need of and amenable to mental health treatment, the court may include in the sentence a requirement that the offender undergo treatment, and that the drug intake of the defendant be monitored in the manner best suited to the particular situation. Monitoring may include periodic determinations as to whether the defendant is ingesting any illegal controlled substances or controlled substance analogues, as well as determinations as to whether the defendant is complying with any required or recommended course of treatment that includes the taking of medications.

(3) The court shall order the offender to pay the costs of assessment under this subsection (g), unless the offender is indigent under § 40-14-202.

(h) Any person who reasonably believes they are a victim of an offense under this section, regardless of whether the alleged perpetrator has been arrested, charged or convicted of a stalking-related offense, shall be **entitled to seek**

and obtain an order of protection in the same manner, and under the same circumstances, as is provided for victims of domestic abuse by title 36, chapter 3, part 6.

(i) When a person is charged and arrested for the offense of stalking, aggravated stalking or especially aggravated stalking, the arresting law enforcement officer shall inform the victim that the person arrested may be eligible to post bail for the offense and to be released until the date of trial for the offense.

(j) If a law enforcement officer or district attorney general believes that the life of a possible victim of stalking is in immediate danger, unless and until sufficient evidence can be processed linking a particular person to the offense, the district attorney general may petition the judge of a court of record having criminal jurisdiction in that district to enter an order expediting the processing of any evidence in a particular stalking case. If, after hearing the petition, the court is of the opinion that the life of the victim may be in immediate danger if the alleged perpetrator is not apprehended, the court may enter such an order, directed to the Tennessee bureau of investigation, or any other agency or laboratory that may be in the process of analyzing evidence for that particular investigation.

(k)

(1) For purposes of determining if a course of conduct amounting to stalking is a single offense or multiple offenses, **the occurrence of any of the following events breaks the continuous course of conduct**, with respect to the same victim, that constitutes the offense:

(A) The defendant is **arrested and charged** with stalking, aggravated stalking or especially aggravated stalking;

(B) The defendant is **found by a court of competent jurisdiction to have violated an order of protection** issued to prohibit the defendant from engaging in the conduct of stalking; or

(C) The defendant is **convicted** of the offense of stalking, aggravated stalking or especially aggravated stalking.

(2) **If a continuing course of conduct** amounting to stalking engaged in by a defendant against the same victim **is broken** by any of the events set out in subdivision (k)(1), any such **conduct that occurs after that event commences a new and separate offense**.

(l) Stalking may be prosecuted pursuant to § 39-11-103(d).

