

Amendment No. 693

Senate Amendment to Assembly Bill No. 309 First Reprint
(BDR 15-994)

Proposed by: Senate Committee on Judiciary

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

BFG/BAW



Date: 5/15/2009

A.B. No. 309—Revises provisions relating to the crime of stalking. (BDR 15-994)



ASSEMBLY BILL NO. 309—ASSEMBLYMEN KOIVISTO, MCCLAIN, MANENDO, LESLIE, BOBZIEN; AIZLEY, ANDERSON, ARBERRY, ATKINSON, CLABORN, CONKLIN, DONDERO LOOP, HAMBRICK, HOGAN, HORNE, KIHUEN, KIRKPATRICK, MASTROLUCA, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, SEGERBLOM, SMITH AND SPIEGEL

MARCH 12, 2009

JOINT SPONSORS: SENATORS CARLTON, BREEDEN, PARKS, COPENING, WIENER; COFFIN, MATHEWS, SCHNEIDER AND WOODHOUSE

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to the crime of stalking. (BDR 15-994)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; revising provisions relating to the crime of stalking; increasing the penalties for the crime of stalking; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits stalking and authorizes the issuance of a temporary or extended order restricting certain conduct related to the crime of stalking, aggravated stalking or harassment. (NRS 200.575, 200.591) **Section 1** of this bill includes within the definition of the crime of stalking a course of conduct which would cause a reasonable person to feel fearful for the safety of a ~~third person~~ ***member of the person's family or household*** and which actually causes a victim to feel such fear. **Section 1** also increases the penalty for a first offense for the crime of stalking from a misdemeanor to a gross misdemeanor and makes a subsequent offense a category D felony. Additionally, **section 1** adds text messaging to the existing crime of stalking with the use of a communication device, which is punishable as a category C felony.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 200.575 is hereby amended to read as follows:
200.575 1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel

1 terrorized, frightened, intimidated, ~~for~~ harassed ~~or~~ *or fearful for the safety of a*
2 ~~third person,~~ *member of the person's family or household,* and that actually
3 causes the victim to feel terrorized, frightened, intimidated, ~~for~~ harassed ~~or~~
4 *fearful for the safety of a third person,* *member of the victim's family or*
5 *household,* commits the crime of stalking. Except where the provisions of
6 subsection 2 or 3 are applicable, a person who commits the crime of stalking:

7 (a) For the first offense, is guilty of a *gross* misdemeanor.

8 (b) For any subsequent offense, is guilty of a ~~gross misdemeanor,~~ *category D*
9 *felony and shall be punished as provided in NRS 193.130.*

10 2. A person who commits the crime of stalking and in conjunction therewith
11 threatens the person with the intent to cause him to be placed in reasonable fear of
12 death or substantial bodily harm commits the crime of aggravated stalking. A
13 person who commits the crime of aggravated stalking shall be punished for a
14 category B felony by imprisonment in the state prison for a minimum term of not
15 less than 2 years and a maximum term of not more than 15 years, and may be
16 further punished by a fine of not more than \$5,000.

17 3. A person who commits the crime of stalking with the use of an Internet or
18 network site, ~~for~~ electronic mail, *text messaging* or any other similar means of
19 communication to publish, display or distribute information in a manner that
20 substantially increases the risk of harm or violence to the victim shall be punished
21 for a category C felony as provided in NRS 193.130.

22 4. Except as otherwise provided in subsection 2 of NRS 200.571, a criminal
23 penalty provided for in this section may be imposed in addition to any penalty that
24 may be imposed for any other criminal offense arising from the same conduct or for
25 any contempt of court arising from the same conduct.

26 5. The penalties provided in this section do not preclude the victim from
27 seeking any other legal remedy available.

28 6. As used in this section:

29 (a) "Course of conduct" means a pattern of conduct which consists of a series
30 of acts over time that evidences a continuity of purpose directed at a specific
31 person.

32 (b) "Internet or network site" has the meaning ascribed to it in NRS 205.4744.

33 (c) "Network" has the meaning ascribed to it in NRS 205.4745.

34 (d) "Provider of Internet service" has the meaning ascribed to it in
35 NRS 205.4758.

36 (e) *"Text messaging" means a communication in the form of electronic text*
37 *or one or more electronic images sent from a telephone or computer to another*
38 *person's telephone or computer by addressing the communication to the*
39 *recipient's telephone number.*

40 (f) "Without lawful authority" includes acts which are initiated or continued
41 without the victim's consent. The term does not include acts which are otherwise
42 protected or authorized by constitutional or statutory law, regulation or order of a
43 court of competent jurisdiction, including, but not limited to:

44 (1) Picketing which occurs during a strike, work stoppage or any other
45 labor dispute.

46 (2) The activities of a reporter, photographer, cameraman or other person
47 while gathering information for communication to the public if that person is
48 employed or engaged by or has contracted with a newspaper, periodical, press
49 association or radio or television station and is acting solely within that professional
50 capacity.

51 (3) The activities of a person that are carried out in the normal course of
52 his lawful employment.

(4) Any activities carried out in the exercise of the constitutionally protected rights of freedom of speech and assembly.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 176A.413 is hereby amended to read as follows:

176A.413 1. Except as otherwise provided in subsection 2, if a defendant is convicted of stalking with the use of an Internet or network site, ~~for~~ electronic mail, *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560 and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The court is not required to impose a condition of probation or suspension of sentence set forth in subsection 1 if the court finds that:

(a) The use of a computer by the defendant will assist a law enforcement agency or officer in a criminal investigation;

(b) The defendant will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

(c) The use of the computer by the defendant will assist companies that require the use of the specific technological knowledge of the defendant that is unique and is otherwise unavailable to the company.

3. Except as otherwise provided in subsection 1, if a defendant is convicted of an offense that involved the use of a computer, system or network and the court grants probation or suspends the sentence, the court may, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension that the defendant not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

4. As used in this section:

(a) "Computer" has the meaning ascribed to it in NRS 205.4735.

(b) "Network" has the meaning ascribed to it in NRS 205.4745.

(c) "System" has the meaning ascribed to it in NRS 205.476.

(d) "Text messaging" has the meaning ascribed to it in NRS 200.575.

Sec. 4. NRS 213.1258 is hereby amended to read as follows:

213.1258 1. Except as otherwise provided in subsection 2, if the Board releases on parole a prisoner convicted of stalking with the use of an Internet or network site, ~~for~~ electronic mail, *text messaging* or any other similar means of communication pursuant to subsection 3 of NRS 200.575, an offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive, or luring a child or a person with mental illness through the use of a computer, system or network pursuant to paragraph (a) or (b) of subsection 4 of NRS 201.560, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee not own or use a computer, including, without limitation, use electronic mail, a chat room or the Internet.

2. The Board is not required to impose a condition of parole set forth in subsection 1 if the Board finds that:

(a) The use of a computer by the parolee will assist a law enforcement agency or officer in a criminal investigation;

(b) The parolee will use the computer to provide technological training concerning technology of which the defendant has a unique knowledge; or

1 (c) The use of the computer by the parolee will assist companies that require
2 the use of the specific technological knowledge of the parolee that is unique and is
3 otherwise unavailable to the company.

4 3. Except as otherwise provided in subsection 1, if the Board releases on
5 parole a prisoner convicted of an offense that involved the use of a computer,
6 system or network, the Board may, in addition to any other condition of parole,
7 require as a condition of parole that the parolee not own or use a computer,
8 including, without limitation, use electronic mail, a chat room or the Internet.

9 4. As used in this section:

10 (a) "Computer" has the meaning ascribed to it in NRS 205.4735.

11 (b) "Network" has the meaning ascribed to it in NRS 205.4745.

12 (c) "System" has the meaning ascribed to it in NRS 205.476.

13 (d) *"Text messaging" has the meaning ascribed to it in NRS 200.575.*