

By: Representative DeLano

To: Judiciary B

HOUSE BILL NO. 744

1 AN ACT TO AMEND SECTION 97-3-107, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR ENHANCED PENALTIES FOR THE CRIMES OF STALKING AND
3 AGGRAVATED STALKING WHEN THE PERSON CONVICTED USED AN ELECTRONIC
4 TRACKING DEVICE IN FURTHERANCE OF THE CRIME; AND FOR RELATED
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 97-3-107, Mississippi Code of 1972, is
8 amended as follows:

9 97-3-107. (1) (a) Any person who purposefully engages in a
10 course of conduct directed at a specific person, or who makes a
11 credible threat, and who knows or should know that the conduct
12 would cause a reasonable person to fear for his or her own safety,
13 to fear for the safety of another person, or to fear damage or
14 destruction of his or her property, is guilty of the crime of
15 stalking.

16 (b) A person who is convicted of the crime of stalking
17 under this section shall be punished by imprisonment in the county
18 jail for not more than one (1) year or by a fine of not more than



19 One Thousand Dollars (\$1,000.00), or by both such fine and
20 imprisonment.

21 (c) Any person who is convicted of a violation of this
22 section when there is in effect at the time of the commission of
23 the offense a valid temporary restraining order, ex parte
24 protective order, protective order after hearing, court approved
25 consent agreement, or an injunction issued by a municipal,
26 justice, county, circuit or chancery court, federal or tribal
27 court or by a foreign court of competent jurisdiction prohibiting
28 the behavior described in this section against the same party,
29 shall be punished by imprisonment in the county jail for not more
30 than one (1) year and by a fine of not more than One Thousand Five
31 Hundred Dollars (\$1,500.00).

32 (2) (a) A person who commits acts that would constitute the
33 crime of stalking as defined in this section is guilty of the
34 crime of aggravated stalking if any of the following circumstances
35 exist:

36 (i) At least one (1) of the actions constituting
37 the offense involved the use or display of a deadly weapon with
38 the intent to place the victim of the stalking in reasonable fear
39 of death or great bodily injury to self or a third person;

40 (ii) Within the past seven (7) years, the
41 perpetrator has been previously convicted of stalking or
42 aggravated stalking under this section or a substantially similar
43 law of another state, political subdivision of another state, of



44 the United States, or of a federally recognized Indian tribe,
45 whether against the same or another victim; or

46 (iii) At the time of the offense, the perpetrator
47 was a person required to register as a sex offender pursuant to
48 state, federal, military or tribal law and the victim was under
49 the age of eighteen (18) years.

50 (b) Aggravated stalking is a felony punishable as
51 follows:

52 (i) Except as provided in subparagraph (ii), by
53 imprisonment in the custody of the Department of Corrections for
54 not more than five (5) years and a fine of not more than Three
55 Thousand Dollars (\$3,000.00).

56 (ii) If, at the time of the offense, the
57 perpetrator was required to register as a sex offender pursuant to
58 state, federal, military or tribal law, and the victim was under
59 the age of eighteen (18) years, by imprisonment for not more than
60 six (6) years in the custody of the Department of Corrections and
61 a fine of Four Thousand Dollars (\$4,000.00).

62 (3) Upon conviction, the sentencing court shall consider
63 issuance of an order prohibiting the perpetrator from any contact
64 with the victim. The duration of any order prohibiting contact
65 with the victim shall be based upon the seriousness of the facts
66 before the court, the probability of future violations, and the
67 safety of the victim or another person.



68 (4) Every conviction of stalking or aggravated stalking may
69 require as a condition of any suspended sentence or sentence of
70 probation that the defendant, at his own expense, submit to
71 psychiatric or psychological counseling or other such treatment or
72 behavioral modification program deemed appropriate by the court.

73 (5) In any prosecution under this section, it shall not be a
74 defense that the perpetrator was not given actual notice that the
75 course of conduct was unwanted or that the perpetrator did not
76 intend to cause the victim fear.

77 (6) When investigating allegations of a violation of this
78 section, law enforcement officers shall utilize the Uniform
79 Offense Report prescribed by the Office of the Attorney General in
80 consultation with the sheriffs' and police chiefs' associations.
81 However, failure of law enforcement to utilize the Uniform Offense
82 Report shall in no way invalidate the crime charged under this
83 section.

84 (7) For purposes of venue, any violation of this section
85 shall be considered to have been committed in any county in which
86 any single act was performed in furtherance of a violation of this
87 section. An electronic communication shall be deemed to have been
88 committed in any county from which the electronic communication is
89 generated or in which it is received.

90 (8) For the purposes of this section:

91 (a) "Course of conduct" means a pattern of conduct
92 composed of a series of two (2) or more acts over a period of



93 time, however short, evidencing a continuity of purpose and that
94 would cause a reasonable person to fear for his or her own safety,
95 to fear for the safety of another person, or to fear damage or
96 destruction of his or her property. Such acts may include, but
97 are not limited to, the following or any combination thereof,
98 whether done directly or indirectly: (i) following or confronting
99 the other person in a public place or on private property against
100 the other person's will; (ii) contacting the other person by
101 telephone or mail, or by electronic mail or communication as
102 defined in Section 97-45-1; or (iii) threatening or causing harm
103 to the other person or a third party.

104 (b) "Credible threat" means a verbal or written threat
105 to cause harm to a specific person or to cause damage to property
106 that would cause a reasonable person to fear for the safety of
107 that person or damage to the property.

108 (c) "Reasonable person" means a reasonable person in
109 the victim's circumstances.

110 (9) The incarceration of a person at the time the threat is
111 made shall not be a bar to prosecution under this section.
112 Constitutionally protected activity is not prohibited by this
113 section.

114 (10) The penalty for any person convicted in this state of
115 any of the offenses listed in this section may be enhanced by
116 punishment for a term of imprisonment of up to twice that
117 authorized by law for the offense committed, or a fine of up to



118 twice that authorized by law for the offense committed, or both,
119 if the person convicted used or installed an electronic tracking
120 device that identifies, monitors and/or records the location of
121 another person or object in furtherance of the person's crime of
122 stalking or aggravated stalking.

123 **SECTION 2.** This act shall take effect and be in force from
124 and after July 1, 2018.

