Model Legislation

Anti-Stalking Act

Summary

This Act would provide definitions and create the offenses of stalking and aggravated stalking. The Act would also provide criminal penalties and would allow police officers to arrest, without a warrant, any person he or she has probable cause to believe is committing the act of stalking or aggravated stalking.

Model Legislation

(Title, enacting clause, etc.)

Section 1. {Title.} This Act may be cited as the Anti-Stalking Act.

Section 2. {Definitions.} As used in this Act:

(A) "Harass" means to engage in a course of conduct directed at a specific person that causes substantial emotional distress in such person and serves no legitimate purpose.

(B) "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. Constitutionally protected activity is not included within the meaning of "course of conduct." Such constitutionally protected activity includes picketing or other organized protests.

(C) "Credible threat" means a threat made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.

Section 3. {Penalties.}

(A) Any person who willfully, maliciously, and repeatedly follows or harasses another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in [state penal code].

(B) Any person who willfully, maliciously, and repeatedly follows or harasses another person, and makes a credible threat with intent to place that person in reasonable fear of death or bodily injury, commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in [state penal code].

(C) Any person who, after an injunction for protection against repeat violence or an injunction for protection against domestic violence, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows or harasses another person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in [state penal code].

Section 4. {Arrest procedure.} Any law enforcement officer may arrest, without a warrant, any person he or she has probable cause to believe is committing the act of stalking or aggravated stalking.

Section 5. {Severability clause.}

Section 6. {Repealer clause.}

Section 7. {Effective date.}

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