

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
FIRST REGULAR SESSION)

'04 JUL -7 P1:33

SENATE

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Senate Bill No. 1412

Introduced By Senator Pangilinan

EXPLANATORY NOTE

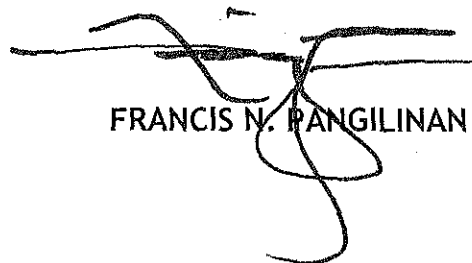
There is an alarming upsurge of criminality in the country brought about partly by the employment of stalking methods in the commission of extortion and terrorism. This can be attributed to the fact that there is no law at present defining and penalizing the act of stalking. Existing Philippine criminal and civil remedies do not adequately address and punish stalking and all of its peculiar devises.

There is basis, however, for penalizing the act of stalking. The Philippine Constitution, the primordial law of the land, recognizes the dignity of every human person. Article II, Section 11 of the 1987 Constitution provides that: "The State values the dignity of every human person and guarantees full respect for human rights". Article II, Section 5 thereof further provides that: "The maintenance of peace and order, the protection of life, liberty, and property, and the promotion of the general welfare are essential for the enjoyment by all people of the blessings of democracy". On the other hand, the *International Covenant on Civil and Political Rights* and *The Universal Declaration of Human Rights* recognizes every person's right against unlawful and arbitrary interference with his privacy, and attacks against his honor and reputation, peace of mind and security of person.

To implement this Constitutional directive and the international laws binding on the Philippines, Congress, in the interest of justice, public order and the rule of law, should penalize stalking as a distinct offense. Stalking is an offense against human dignity, against every person's right to privacy, security of person, and psychological and emotional well-being. Stalking offends common standards of decency, morality and good customs in a just and civilized society.

In response to the increase in stalking incidents in the country, there is a need to enact legislation that will ensure the protection of victims and will give redress to the severe wrong and injury caused by stalking,


Hence, the approval of the bill is most earnestly sought.


FRANCIS N. PANGILINAN

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Senate Bill No. 1412

Introduced By Senator Francis N. Pangilinan

AN ACT DEFINING AND PENALIZING STALKING, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Title.* - This Act shall be known as the "Anti-Stalking Act of 2003."

Sec. 2. *Declaration of Policy.* - It is the policy of the State to protect and promote every individual's dignity, right to privacy, peace of mind, security of person and psychological and emotional welfare, to punish acts which undermine said rights, and to protect every citizen's safety and well-being.

Sec. 3. *Definition of Terms.* - As used in this Act, the following terms shall mean or be interpreted and construed as hereunder defined:

- (a) *Repeatedly* - shall mean at least three (3) separate occasions closely related in time evidencing a continuity of purpose;
- (b) *Follows* - shall mean maintaining a visible physical proximity to another person or pursuing or conducting surveillance upon that person over a period of time and without legitimate purpose so as to cause a reasonable person to suffer substantial emotional distress and to actually cause substantial emotional distress to the person followed or pursued;
- (c) *Harasses* - shall mean a knowing and willful course of conduct directed at a specific person which seriously alarms, intimidates, torments or terrorizes the person and serves no legitimate purpose;
- (d) *Course of Conduct* - shall mean a series of three (3) or more separate, noncontinuous acts, closely related over a period of time, however short, evidencing a continuity of purpose, including, but not limited to, unconsented contact with another person. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress and must actually cause substantial emotional distress to the person;
- (e) *Unconsented contact* - shall mean any contact with another individual that is initiated or continued in malicious and willful disregard of that individual's expressed desire that the conduct be

avoided or discontinued and with the intent to place that person in reasonable fear of his or her safety, including, but not limited to:

- (1) following or coming into visual presence of that individual;
 - (2) approaching or confronting that individual in a public place or on private property;
 - (3) placing that individual under surveillance by waiting at or outside the workplace, school or residence of that individual;
 - (4) entering onto or remaining on property owned, leased, or occupied by that individual;
 - (5) contacting that individual by telephone;
 - (6) sending mail or other written communications to that individual; or
 - (7) damaging that individual's home or property.
- (f) *Substantial emotional distress* - shall mean severe mental anguish, fright, anxiety, wounded feelings, moral shock, social humiliation and similar injury.
- (g) *Physical injury* - shall mean those injuries defined and punished under Title Eight, Chapter Two, specifically Articles 262 to 266 of the Revised Penal Code;
- (h) *Restraint* - shall mean those offenses defined and punished under Title Nine, Chapter One, Section One, specifically Articles 267 and 268, and Title Eleven, Chapter Four, specifically Article 342, of the Revised Penal Code;
- (i) *Sexual assault* - shall mean those offenses defined and punished under Title Eleven, Chapter Two, specifically Articles 335 and 336 of the Revised Penal Code;
- (j) *Family* - shall mean the spouse, parent, child, any person related within the third degree of consanguinity, or any person who regularly resides in the household of the victim.

Sec. 4. There shall be incorporated after Article 282 of the Revised Penal Code, as amended, a new section to read as follows:

"Article 282-A. Definitions of the Crime of Stalking. - Any person who willfully, maliciously, and with the intent to place another person in reasonable fear of death, physical injury, unlawful restraint or sexual assault, repeatedly follows or harasses the said person after having been given reasonable warning or request to desist by or on behalf of the person so followed or harassed, shall be guilty of Stalking, an offense punishable by *prision correccional* in its minimum and medium periods and/or a fine of not less than One Thousand Pesos (PhP1,000) and not more than Ten Thousand Pesos (PhP10,000).

"In case of conviction, the offender shall also be required to post a bond to keep the peace conditioned upon his undertaking that he will refrain from further committing acts of stalking against the same victim for a period and amount to be determined by the Court in its discretion. Should the person

sentenced fail to give the bond as required, he shall be detained for a period which shall in no case exceed three (3) months.

"Article 282-B. *Definition of the Crime of Qualified Stalking.* - (a) A person is guilty of the crime of Qualified Stalking when he commits the acts defined under Article 282-A hereof, and he threatens the person followed or harassed with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, if the offender makes the threat demanding money or imposing any other condition, whether or not he has attained his purpose.

"Qualified Stalking is punishable by the penalty of *prision correccional* its minimum and medium period and the penalty next lower in degree than that prescribe by law for a crime he threatened to commit in its maximum period, if the threat be made in writing or through a middleman, or in its medium period, if otherwise, and the offender shall have attained his purpose. A fine of not less than Fifty Thousand Pesos (PhP50,000) nor more than One Hundred Thousand Pesos (PhP100,000) may likewise be imposed by the court. If the offender has not attained his purpose, the penalty shall be *prision correccional* its minimum and medium periods and the penalty two degrees lower than that prescribed by law for the crime he threatened to commit in its maximum period, if the threat be made in writing or through a middleman, or in its medium period, if otherwise. Likewise, a fine of not less than Ten Thousand Pesos (PhP10,000) nor more than Fifty Thousand Pesos (PhP50,000) may likewise be imposed by the court.

"If the threat was not made subject to any condition, the penalty shall be *prision correccional* in its maximum period and / or a fine of not less than Ten Thousand Pesos (PhP10,000) nor more than Fifty Thousand Pesos (PhP50,000) may likewise be imposed by the court.

"(b) If the offender threatens his victim with the commission of any wrong not constituting a crime and the threat is coupled with a demand for money or imposing any other condition, the penalty shall be *prision mayor* in its minimum period and/ or a fine of not less than Fifty Thousand Pesos (PhP50,000) nor more than One Hundred Thousand Pesos (PhP100,000), if the threat be made in writing or through a middleman, or *prision correccional prision correccional* in its maximum period and/ or a fine of not less than than Ten Thousand Pesos (PhP10,000) nor more than Fifty Thousand Pesos (PhP50,000), if otherwise. If the threat was not made subject to any condition, the penalty shall be *prision correccional* in its medium period and/ or a fine of not less than Ten Thousand Pesos (PhP10,000) nor more than Fifty Thousand Pesos (PhP50,000).

"In any of the above instances, the offender shall also be required to post a bond to keep the peace conditioned upon his undertaking that he will refrain from further committing acts of stalking against the same victim for a period and an amount to be

determined by the Court in its discretion. Should the person sentenced fail to give the bond as required, he shall be detained for a period which shall in no case exceed six (6) months.

"Article 282-C. *Additional penalties for subsequent convictions.* - The following penalties shall be imposed in case of a second or subsequent conviction made within ten (10) years from the last release or conviction of the crimes defined and penalized under Articles 282-A and 282-B.

- (a) Upon a second conviction of the crime penalized in Article 282-A, the offender shall be sentenced to the penalty provided by this Act for the last crime of which he be found guilty, and to the additional penalty of *prision correccional* in its medium period;
- (b) Upon a second conviction of the crime penalized in Article 282-B, or a third conviction of the crime penalized in Article 282-A, the offender shall be sentenced to the penalty provided by this Act for the last crime of which he be found guilty, and to the additional penalty of *prision mayor* in its medium period;
- (c) Upon a third conviction of the crime penalized in Article 282-B, or a fourth conviction of the crime penalized in Article 282-A, the offender shall be sentenced to the penalty provided by this Act for the last crime of which he be found guilty, and to the additional penalty of *prision mayor* in its medium period;
- (d) Upon a fourth conviction of the crime penalized in Article 282-B, or the fifth or additional conviction of the crime penalized in Article 282-A, the offender shall be sentenced to the penalty provided by this Act for the last crime of which he be found guilty, and to the additional penalty of *prision mayor* in its medium period;
- (e) Upon a fifth or additional conviction of the crime penalized in Article 282-B, the offender shall be sentenced to the penalty provided by this Act for the last crime of which he be found guilty, and to the additional penalty of *prision mayor* in its maximum period."

Sec. 5. *Counselling.* - Any person convicted under the provisions of Articles 282-A, 282-B or 282-C of the Revised Penal Code, as amended, may be required to undergo medical, psychological or psychiatric examination and treatment and enter and remain in a specific institution, when required for that purpose.

Sec. 6. *Bond for good behavior pending trial.* - A person charged with any of the crimes defined in Articles 282-A or 282-B of the Revised Penal Code, as amended, where evidence of guilt is strong, shall be required to post a bond, either personally in cash or upon presentation of two sufficient sureties, conditioned upon the undertaking of the accused that he will refrain from following or harassing the offended party pending trial.

The amount of the said bond shall be fixed at the discretion of the Court before which the case has been filed, upon a finding that there is just cause to impose it, taking into consideration the seriousness of the harassments employed by the accused and the gravity of the threat, if any, made by him. The bond shall be ordered posted only after the filing of a written and verified motion, with proof of service upon the accused attached thereto, and hearing on the motion to determine whether the evidence of the prosecution is strong. At this hearing, the accused may *rebut the allegations and evidence of the offended party* and proffer his own evidence showing that the imposition of the bond would be unjustified and oppressive.

Sec. 7. *Conditions of Probation.* - Should the staking offender be entitled to and thereafter granted probation upon conviction under the provisions of Presidential Decree 968, as amended, or the Probation Law, the probation order shall impose the following conditions:

- (a) that the probationer will refrain from further molesting the offended party during the period of probation; and
- (b) that the probationer will undergo medical, psychological, or psychiatric examination and treatment and enter and remain in a specific institution, when required for that purpose.

Any violation of the aforementioned conditions, when proved in a hearing for that purpose, shall be considered a "serious violation" within the purview of Section 15 of the Probation Law and will be sufficient ground to warrant the arrest of the probationer and his incarceration to serve his original sentence, unless another prosecution is instituted for acts of staking committed by the probationer after his original conviction.

Sec. 8. *Separability of Provisions.* - If any provisions of this Act or the application thereof to any person or circumstance is held invalid or unconstitutional, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Sec. 9. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in two (2) newspaper of general circulation.

Approved.