

## Stopping Stalking

"Violence is the last refuge of the incompetent."

– Isaac Asimov, author and futurist (1920-1992)

"Any intelligent fool can make things bigger, more complex, and more violent. It takes a touch of genius – and a lot of courage – to move in the opposite direction." – E. F. Schumacher, author of "Small Is Beautiful: Economics As If People Mattered" (1911-1977)

Tennessee has a strong order of protection law. The law can be used fairly swiftly when adults (or minors) have been threatened or hurt by current or previous partners or relatives. The law also applies when victims' belongings have been vandalized.

In 2005, the Tennessee legislature added stalking and sexual assault as stand-alone grounds for getting an order of protection – regardless of whether the victim had a relationship or kinship with the stalker or attacker.

### Q. What is "stalking"?

Tennessee law defines stalking as:

- A willful, or intentional, series of two or more acts...
- Involving repeated or continuing harassment of another person...
- That would cause "a reasonable person" to feel "terrorized, frightened, intimidated, threatened, harassed, or molested"...
- And that actually does cause the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Stalking is a Class A misdemeanor (punishable by jail of up to 11 months, 29 days and/or fine of up to \$2,500).

### Q. What is "harassment"?

Harassment means unconsented contact that would cause a "reasonable person" to suffer emotional distress, and that actually causes emotional distress to the victim. Like stalking, harassment is a crime. The law carefully notes, however, that harassment "does not include constitutionally protected activity or conduct that serves a legitimate purpose."

### Q. So, what does "unconsented contact" mean?

Unconsented contact happens when one person makes or continues contact with another person without that person's consent, or in disregard of that

person's expressed desire that the contact be avoided or discontinued.

### Q. Can you give some examples?

Yes. "Unconsented contact" includes, but is not limited to, any of the following:

- Following another person or appearing within sight of that person;
- Approaching or confronting that person in a public place or on private property;
- Coming onto or remaining on property owned, leased, or occupied by that person;
- Unwanted contact of that person by telephone;
- Unwanted mail or e-mail sent to that person;
- Placing an object on, or delivering an object to, property owned, leased, or occupied by that person.

### Q. My ex-boyfriend won't stop contacting me, even though I told him to stop. What should I do?

What you describe is harassment, which is a Class A misdemeanor, whether done by telephone, writing, e-mail or even by text message. Harassment also includes "offensively repetitious" calls and one or more anonymous calls, or calls at a time "known to be inconvenient to the victim" and without a legitimate purpose of communication. If these contacts cause fear or intimidation, this may be stalking.

Immediately call the police or sheriff's office and make a report of the contacts. The main key to breaking the cycle of domestic violence is to break the silence. If you – or persons you know – are being stalked or harassed, get help. If you are in immediate danger, call 911. You can call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) for 24-hour help and a referral to local groups that can help.

by Jim Hawkins, Managing Attorney, Gallatin office, Legal Aid Society

**Note:** This column is not intended to take the place of legal advice. All cases are different and need individual attention. Consult with a private attorney of your choice to review the facts and law specific to your case.

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