

No. 1993-28

AN ACT

HB 3

Amending Titles 18 (Crimes and Offenses) and 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, providing for the crime of stalking, for penalties and for robbery of motor vehicle; and further providing for protective orders and warrantless arrests relative to victim and witness intimidation and for relief relative to protection from abuse.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2709 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2709. Harassment *and stalking*.

(a) *Harassment*.—A person commits [a summary offense] *the crime of harassment* when, with intent to harass, annoy or alarm another person:

- (1) he strikes, shoves, kicks or otherwise subjects him to physical contact, or attempts or threatens to do the same; or
- (2) he follows a person in or about a public place or places; or
- (3) he engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose.

(b) *Stalking*.—A person commits *the crime of stalking* when he engages in a course of conduct or repeatedly commits acts toward another person, including following the person without proper authority, under circumstances which demonstrate either of the following:

- (1) an intent to place the person in reasonable fear of bodily injury;
- or
- (2) an intent to cause substantial emotional distress to the person.

(c) *Grading*.—

(1) An offense under subsection (a) shall constitute a summary offense.

(2) (i) An offense under subsection (b) shall constitute a misdemeanor of the first degree.

(ii) A second or subsequent offense under subsection (b) or a first offense under subsection (b) if the person has been previously convicted of any crime of violence involving this same victim, family or household members, including, but not limited to, a violation of section 2701 (relating to simple assault), 2702 (relating to aggravated assault), 2705 (relating to recklessly endangering another person), 2901 (relating to kidnapping), 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse) or 3128 (relating to spousal sexual assault), an order issued under section 4954 (relating to

protective orders) or an order issued under 23 Pa.C.S. § 6108 (relating to relief), shall constitute a felony of the third degree.

(d) False reports.—A person who knowingly gives false information to any law enforcement officer with the intent to implicate another under this section commits an offense under section 4906 (relating to false reports to law enforcement authorities).

(e) Application of section.—This section shall not apply to conduct by a party to a labor dispute as defined in the act of June 2, 1937 (P.L.1198, No.308), known as the Labor Anti-Injunction Act, or to any constitutionally protected activity.

(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Course of conduct.” A pattern of actions composed of more than one act over a period of time, however short, evidencing a continuity of conduct.

“Emotional distress.” A temporary or permanent state of great physical or mental strain.

“Family or household member.” Spouses or persons who have been spouses, persons living as spouses or who lived as spouses, parents and children, other persons related by consanguinity or affinity, current or former sexual or intimate partners or persons who share biological parenthood.

Section 2. Title 18 is amended by adding a section to read:

§ 3702. Robbery of motor vehicle.

(a) Offense defined.—A person commits a felony of the first degree if he steals or takes a motor vehicle from another person in the presence of that person or any other person in lawful possession of the motor vehicle.

(b) Sentencing.—The Pennsylvania Commission on Sentencing, pursuant to 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for a sentencing enhancement for an offense under this section.

Section 3. Section 4954 of Title 18 is amended to read:

§ 4954. Protective orders.

Any court with jurisdiction over any criminal matter may, after a hearing and in its discretion, upon substantial evidence, which may include hearsay or the declaration of the prosecutor that a witness or victim has been intimidated or is reasonably likely to be intimidated, issue protective orders, including, but not limited to, the following:

(1) An order that a defendant not violate any provision of this subchapter *or section 2709 (relating to harassment and stalking).*

(2) An order that a person other than the defendant, including, but not limited to, a subpoenaed witness, not violate any provision of this subchapter.

(3) An order that any person described in paragraph (1) or (2) maintain a prescribed geographic distance from any specified witness or victim.

(4) An order that any person described in paragraph (1) or (2) have no communication whatsoever with any specified witness or victim, except through an attorney under such reasonable restrictions as the court may impose.

Section 4. Title 18 is amended by adding a section to read:

§ 4954.1. Notice on protective order.

All protective orders issued under section 4954 (relating to protective orders) shall contain in large print at the top of the order a notice that the witness or victim should immediately call the police if the defendant violates the protective order. The notice shall contain the telephone number of the police department where the victim or witness resides and where the victim or witness is employed.

Section 5. Section 4955 of Title 18 is amended to read:

§ 4955. Violation of orders.

(a) **Punishment.**—Any person violating any order made pursuant to section 4954 (relating to protective orders) may be punished in any of the following ways:

(1) For any substantive offense described in this subchapter, where such violation of an order is a violation of any provision of this subchapter.

(2) As a contempt of the court making such order. No finding of contempt shall be a bar to prosecution for a substantive offense under section 2709 (*relating to harassment and stalking*), 4952 (relating to intimidation of witnesses or victims) or 4953 (relating to retaliation against witness or victim), but:

(i) any person so held in contempt shall be entitled to credit for any punishment imposed therein against any sentence imposed on conviction of said substantive offense; and

(ii) any conviction or acquittal for any substantive offense under this title shall be a bar to subsequent punishment for contempt arising out of the same act.

(3) By revocation of any form of pretrial release, or the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding him to custody. Revocation may, after hearing and on substantial evidence, in the sound discretion of the court, be made whether the violation of order complained of has been committed by the defendant personally or was caused or encouraged to have been committed by the defendant.

(b) **Arrest.**—*An arrest for a violation of an order issued under section 4954 may be without warrant upon probable cause whether or not the violation is committed in the presence of a law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with the appropriate police department.*

(c) **Arraignment.**—*Subsequent to an arrest, the defendant shall be taken*

without unnecessary delay before the court that issued the order. When that court is unavailable, the defendant shall be arraigned before a district justice or, in cities of the first class, a Philadelphia Municipal Court Judge, in accordance with the Pennsylvania Rules of Criminal Procedure.

Section 6. Section 6108(a) of Title 23 is amended by adding a paragraph to read:

§ 6108. Relief.

(a) General rule.—The court may grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children. The order or agreement may include:

* * *

(9) Directing the defendant to refrain from stalking or harassing the plaintiff and other designated persons as defined in 18 Pa.C.S. § 2709 (relating to harassment and stalking).

* * *

Section 7. This act shall take effect immediately.

APPROVED—The 23rd day of June, A.D. 1993.

MARK S. SINGEL
ACTING GOVERNOR