

Stalking Statutes in Review

Current as of January 2022

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Introduction

Stalking is pervasive. Society's growing recognition of the widespread nature of the offense, as well as its harms, has been reflected by modern U.S. law: since the first stalking statute was passed in 1990, there is now some version of the crime in all 50 states, the District of Columbia, the U.S. territories, the Military Code, the Federal Government, and many Tribal Codes. As this guide and its [accompanying compilation](#) make clear, these statutes vary in verbiage and scope, but their underlying commonality is a concern for harm caused by offenders who repeatedly target their victims.

Legal definitions of stalking vary by statute, but behaviorally, stalking is a course of conduct directed at a specific person that would cause a reasonable person to feel fear for their own safety or the safety of others, and/or to feel emotional distress. Some statutes define the number of incidents required to qualify as a stalking course of conduct, some narrowly define fear, and some require that the stalker intentionally or knowingly cause fear. Incidents that are part of a stalking course of conduct can become illegal when part of that stalking pattern, whether or not it would be a crime a single incident.

The vast majority of stalking victims know the offender, belying the popular myth that stalking is an obsessed offender following, watching, and effectively hunting a victim who is a total stranger. While this mode of stalking does occur, stalking comes in many forms, is perpetrated through a variety of tactics, and most often involves parties with some sort of preexisting relationship.

Stalking laws generally encompass a wide range of conduct; in their broadest sense, they prohibit individuals from engaging in repeated acts that target and negatively impact another. This can include a domestic violence abuser who repeatedly engages in physical, emotional, or psychological abuse against a victim. Stalking can also encompass patterns of conduct perpetrated by sex offenders, who select, groom, shame, and intimidate their victims into silence over a period of weeks, months, or years. Given the various methods of coercive control utilized by traffickers of sex and labor, it is difficult to imagine a human trafficking case that does not also involve stalking. Essentially, stalking laws could potentially apply to any criminal episode other than a random, singular encounter between an offender and a victim who have no preexisting relationship. Therefore, stalking charges should be carefully considered in a variety of cases, particularly when the parties know one another and/or there is evidence of ongoing harmful contact.

Stalkers can frequently be charged with a variety of criminal statutes stemming from behaviors that were part of their stalking course of conduct. Common co-occurring crimes include harassment, battery, domestic violence, sexual offenses, protection order violations, threats of bodily harm, voyeurism, vandalism, trespassing, forcible entry, burglary, computer crimes, nonconsensual distribution of intimate images, and witness intimidation. Many stalkers combine behaviors that are crimes on their own with other tactics that are not criminal on their own (like sending gifts or messages), but can become criminal when part of a stalking course of conduct.

Most jurisdictions' laws require an offender to commit multiple acts in order for their conduct to constitute stalking, providing an opportunity to hold offenders appropriately accountable for the full scope of their behaviors and criminal conduct. This "course of conduct" requirement may be viewed as a complexity; law enforcement, prosecutors, judicial officers, victim advocates, and even victims themselves may overlook the series of acts necessary to support a stalking charge or the issuance of a protection order if they are fixated on a specific instance of the offender's criminal conduct. However, the "repeated acts" requirement can also be viewed as an opportunity to hold offenders accountable for a wider range of their conduct. By charging stalking alongside incidents of domestic violence and harassment, sexual offenses, and trafficking, along with other co-occurring crimes, actors within the criminal justice system have an instrument to introduce evidence of both subtle and overt methods of coercive control — including verbal abuse, harassment, direct threats, any subsequent witness intimidation, and other acts that, by themselves, may not be considered criminal. These repeated acts can also be used by victim advocates and civil attorneys filing protection orders on behalf of their clients. Adding this information to a petition for a restraining order can be essential in ensuring that the order is granted.

Witness intimidation can be part of a broader stalking course of conduct, and stalking can also be a means of witness intimidation. Perpetrators of human trafficking, domestic violence, sexual offenses, and other crimes — ranging from drug offenses and gang violence to white-collar crime — may stalk in order to intimidate witnesses. Offenders or their allies may repeatedly drive by the witness's home, park on the witness's street, or make threats against the witness or the witness's family. Offenders may use social media to threaten witnesses or expose their participation on social media or other websites. Repetitive acts of this type may be sufficient to support a stalking charge or finding. Considering witness intimidation — especially after the victim has reported to law enforcement or applied for a protection order — is a vital piece of a stalking case; stalkers often threaten victims about reporting to and/or participating in the criminal or civil justice system. Considering post-intervention stalker behavior is key, and stalking may actually increase during this time.

A stalking charge can provide context to a case and change it from a snapshot of one crime into the big picture.

Compilation of Stalking, Harassment, & Related Offenses

[The compilation](#) is a central repository for the stalking laws of all fifty states, the District of Columbia, the Military Code of Justice, the Federal Government, and the five permanently inhabited U.S. territories. For each jurisdiction, we first examine answers to the following questions, designed to summarize the requirements set by statute and interpreted through case law:

- What constitutes a “course of conduct” / pattern of behavior?
- What types of threats are required
- What is the required intent of the offender (*i.e.*, does the offender have to intend to create fear in the victim)?
- Does an offender's actions toward persons *other than* the victim help establish a course of conduct?
- What type of victim fear is required?
- Does fear include emotional distress?
- Is the fear requirement a subjective or objective (*i.e.*, "reasonable person") standard, or both?
- If the reasonable person standard is required, what constitutes a reasonable fear?
- Must the victim tell the defendant to stop in order to constitute stalking?
- Is stalking by proxy (*i.e.*, getting a third person to stalk the victim) covered by the stalking statute?
- Is technology-facilitated stalking covered by regular stalking statutes and accompanying case law, or is it covered under a separate offense?
- Does the stalking law require either the victim or the defendant to reside in the jurisdiction?
- Are stalking crimes misdemeanors or felonies? How are they graded?
- What aggravating circumstances elevate the gradation of a stalking offense?

Following this analysis, we then offer copies of each jurisdiction’s stalking or equivalent statute(s) as well as closely related offenses. For most jurisdictions, we also offer summaries of relevant case law related to that jurisdiction’s stalking statute that can serve as a beginning research point for stalking issues.

A few caveats should be noted. First, many jurisdictions have unique variations in terminology and phrasing, which makes a universalization of concepts challenging. In

West Virginia, for instance there is no explicit “stalking” statute. Rather, acts that would be considered stalking are prosecuted under the state's harassment statute. Secondly, much of the case law for stalking is less developed than might be expected for an offense that occurs so commonly and has been codified since the 1990s. This means that some questions are open or not easily determined in many jurisdictions. Hopefully, this compilation will help jurists and litigants identify authority from other jurisdictions that prove instructive for an issue that is novel in their own. Third, although we originally sought to assess variations in jurisdictional requirements for stalking offenses, we learned that jurisdictions generally permit prosecution for stalking if at least one element of the crime — one piece of a stalking course of conduct — occurred within the jurisdiction.¹ There are no jurisdictions that require the victim or the offender to be residents of the jurisdiction in which the stalking occurs, as a prerequisite for prosecution. Finally, it should be noted that this document does not contain any analysis of stalking under the tribal codes of Native Nations. Although we would have preferred to include this information, there was no practical method to give adequate consideration to all 574 federally recognized American Indian and Alaska Native tribes and villages. This is not to say that stalking is any less prevalent in tribal communities; in fact, nationally representative data show that American Indians and Alaska Natives experience stalking at some of the highest rates.² Rather, we hope that the analysis and information in this compilation can provide guidance for practitioners in tribal jurisdictions. We encourage all practitioners, including those in tribal communities, to reach out to SPARC and AEquitas for assistance in stalking cases by emailing tta@stalkingawareness.org, as well as utilize the resources listed in the brief Native Nations section.

Below, we summarize key elements and aspects of stalking laws across the United States in greater detail.

I. Course of Conduct

A. Requirements for Repeated Acts and Time Constraints

Most jurisdictions’ stalking statutes require that the offender’s conduct be repeated, which generally means that they must commit two or more acts.³ However, at least

¹ See, e.g., MINN. STAT. ANN. § 609.748(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(e)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(B)(West 2021); UTAH CODE ANN. § 76-5-106.5 (5)(West 2021); VA. CODE ANN. § 18.2-60.3(C)(West 2021); WIS. STAT. ANN. § 940.32(1)(West 2021); WYO. STAT. ANN. § 6-2-506(g)(West 2021).

² Sharon G. Smith et al., *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Stalking*, CTR. DISEASE CONTROL & PREVENTION (2022).

³ See, e.g., *State v. Randall*, 669 So. 2d 223 (Ala. Crim. App. 1995); *Petersen v. State*, 930 P.2d 414 (Alaska. Ct. App. 1996) (the term “repeated” means more than once); ARK. CODE ANN. § 5-71-

two jurisdictions, Delaware and Massachusetts, require that the offender commit three or more acts,⁴ while Arkansas's statute for stalking in the third degree merely requires “an act.”⁵ Many jurisdictions impose no constraints on the timeframes within which these acts must occur; their statutes or case law specify that the acts may take place “over a period of time, however short.”⁶ An Indiana court, for instance, upheld a defendant’s conviction for stalking based on three incidents over a mere five-hour period, during which the defendant banged on a victim's door and window, requested to be let in, and berated the victim.⁷

229(f)(1)(West 2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(West 2021); CAL. PENAL CODE § 646(f)(West 2021); COLO. REV. STAT. § 18-3-601(2)(d)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); IOWA CODE ANN. § 708.11(1)(d) (West 2021); KAN. STAT. ANN. § 21-5427(f)(1)(West 2021); KY. REV. STAT. ANN. § 508.130(b)(2)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (2)(A) (West 2021); MICH. COMP. LAWS ANN. §§ 750.411H(a), 750.411i(a)(West 2021); MINN. STAT. ANN. § 609.749 (5)(b)(1)-(12)(West 2021); MISS. CODE ANN. § 97-3-107 (8)(a)(West 2021); MO. STAT. ANN. § 565.002(4)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); NEV. REV. STAT. ANN. § 200.575 (11)(a)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (II)(a)(West 2021); N.J. STAT. ANN. § 2C:12-10 (a)(1),(2)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1 (1)(a)(West 2021); OHIO REV. CODE ANN. § 2903.211 (D)(1)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); OR. REV. STAT. ANN. § 163.730 (7)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1 (f)(West 2021); 11 R.I. GEN. LAWS ANN. § 11-59-1(1)(West 2021); S.C. CODE ANN. § 16-3-1700(D)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1)(West 2021); TEX. PENAL CODE § 42.072(a)(West 2021); UTAH CODE ANN. § 76-5-106.5 (1)(a)(West 2021); VT. STAT. ANN. tit. 13, § 1061 (1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(West 2021); WYO. STAT. ANN. § 6-2-506 (a)(i)(West 2021); 18 U.S.C.A. § 2266(2)(West 2021); AM. SAMOA CODE § 46.3501(c)(2021); 6 N. MAR. I. CODE § 1471(a)(2021); 33 P.R. LAWS ANN. tit. § 4013(a)(b)(2021); V.I. CODE ANN. tit. 14, § 2071(c)(2021).

⁴ DEL. CODE ANN. tit. 11, § 1312(e)(1)(West 2021); *Com. v. Walters*, 37 N.E.3d 980 (Mass. 2015).

⁵ ARK. CODE ANN. § 5-71-229(c)(1)(West 2021).

⁶ See, e.g., CAL. PENAL CODE § 646(f)(West 2021); FLA. STAT. ANN. 784.048(1)(b)(West 2021); KAN. STAT. ANN. § 21-5427(f)(1)(West 2021); *Jones v. Jones*, 617 S.W.3d 418 (Ky. Ct. App) (holding that Kentucky’s stalking statute does not require a specific length of time between acts for them to constitute a “course of conduct.”); LA. STAT. ANN. § 40.2 (A)(2)(2021); MISS. CODE ANN. § 97-3-107(8)(a)(West 2021); MO. STAT. ANN. § 565.002(4)(West 2021); NEB. REV. STAT. ANN. § 28-311.02(b)(West 2021); *Wandersee v. Pretto*, 183 A.D.3d 1245 (N.Y. App. Div. 2020); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1 (f)(West 2021); 11 R.I. GEN. LAWS ANN. § 11-59-1(1)(West 2021); S.C. CODE ANN. § 16-3-1700(D)(2021); S.D. CODIFIED LAWS § 22-19A-5 (2021); *Pomier v. State*, 326 S.W.3d 373, 379–80 (Tex. Crim. App. 2010) (holding that Texas’ stalking statute does not specify a time period in which the course of conduct must occur); 9 GUAM CODE ANN. § 19.69(b)(2021).

⁷ See *Johnson v. State*, 648 N.E.2d 666 (Ind. Ct. App. 1995) (“Indiana courts have also stated that conduct doesn't have to be ‘repeated’ if it is ‘continuous.’); See *Falls v. State*, 131 N.E.3d 1288 (Ind. Ct. App. 2019) (finding evidence of “continuous” harassment where defendant followed victim in his car for two and one half hours); but see *Mysliwy v. Mysliwy*, 953 N.E.2d 1072 (Ind. Ct. App. 2011) (holding that offender's damage to different pieces of victim's property in same night constituted a single occurrence and not continuous harassment).

A few jurisdictions, however, specify certain time constraints between the acts constituting a course of conduct:

- Arkansas requires two or more acts, separated by at least 36 hours, but occurring within one year for stalking in the first and second degrees.⁸
- The District of Columbia’s statute specifies that when a single act is of a “continuing nature”, each 24-hour period constitutes a separate occasion.⁹
- Minnesota requires the acts to occur within a five-year period.¹⁰
- Ohio states that the acts must be “closely related in time.”¹¹

It should be noted that there are generally no limitations as to *where* the victim can be stalked. Georgia, however, provides that a victim cannot be stalked in the defendant's own residence, unless the victim resides with the defendant.¹²

B. Proscribed Acts

Stalking laws generally require that an offender engage in a “course of conduct” directed at a specific individual. Almost half of U.S. jurisdictions broadly define a “course of conduct” as a series of acts that evidence a continuity of purpose.¹³ Many stalking laws go on to specify proscribed acts that could help establish a course of conduct, which commonly include, but are not limited to:

- Following or maintaining visual or physical proximity to a specific person;¹⁴

⁸ ARK. CODE ANN. § 5-71-229(f)(1)(West 2021).

⁹ D.C. CODE ANN. § 22-3133(c)(West 2021).

¹⁰ MINN. STAT. ANN. § 609.749 (5)(b)(1)-(12)(West 2021).

¹¹ OHIO REV. CODE ANN. § 2903.211 (D)(1)(West 2021).

¹² GA. CODE ANN. § 16-5-90 (a)(1) (West 2021).

¹³ See, e.g., ALA. CODE ANN. § 13A-6-92(a)(2021); CAL. PENAL CODE § 646(f)(West 2021); COLO. REV. STAT. ANN. § 18-3-601(2)(a)(West 2021); FLA. STAT. ANN. 784.048(1)(b)(West 2021); KAN. STAT. ANN. § 21-5427(f)(1)(West 2021); KY. REV. STAT. ANN. § 508.130(b)(2)(West 2021); MD. CODE ANN. § 3-801 (West 2021); MICH. COMP. LAWS ANN. § 750.411H(a)(West 2021); MISS. CODE ANN. § 97-3-107 (8)(a)(West 2021); MO. ANN. STAT. § 565.002(4)(West 2021); NEB. REV. STAT. ANN § 28-311.02(b)(West 2021); NEV. REV. STAT. ANN. § 200.575 (11)(a)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (II)(a)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1 (1)(a)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(f)(West 2021); 11 R.I. GEN. LAWS ANN. § 11-59-1(1)(West 2021); S.C. CODE ANN. § 16-3-1700(D)(2021); S.D. CODIFIED LAWS § 22-19A-5 (2021); TENN. CODE ANN. § 39-17-315(a)(1)(West 2021); WASH. REV. CODE ANN. § 10.14.020(1)(West 2021); WIS. STAT. ANN. § 940.32 (1)(a)(West 2021); WYO. STAT. ANN. (West 2021) § 6-2-506 (a)(i); 18 U.S.C.A. § 2266(2)(West 2021); 9 GUAM CODE ANN. § 19.69(b)(2021); V.I. CODE ANN. tit. 14, § 2071(c)(2021).

¹⁴ See, e.g., ALASKA STAT. ANN. § 11.41.270(a)(1), (4)(A)(West 2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(a)(i)(West 2021); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312(e)(1) (West 2021); D.C. CODE ANN. § 22-3132(8)(A)(West 2021); HAW. REV. STAT. ANN. § 711-1106.5(1)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(i)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1), (5)(West 2021); IND. CODE ANN. §§ 35-45-10-1, 35-45-10-3(1)(West 2021); IOWA CODE

- Monitoring or observing a person, or placing them under surveillance;¹⁵
- Contacting or communicating with or about a person without their consent;¹⁶
- Entering, interfering with, or damaging a person's real or personal property;¹⁷
- Threatening or intimidating a person;¹⁸

ANN. § 708.11(1)(b)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(B)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); NEB. REV. STAT. ANN. § 28-311.02(2)(b)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(2)(West 2021); N.J. STAT. ANN. § 2C:12-10(a)(1)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(A)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(i)(West 2021); VT. STAT. ANN. tit. 12, § 1061(1)(A)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (1)(a)(b)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(A)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(1)(West 2021).

¹⁵ See e.g., ALASKA STAT. ANN. § 11.41.270(a)(1), (4)(H)-(I)(West 2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(a)(ii)(West 2021); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312(e)(1) (West 2021); D.C. CODE ANN. § 22-3132(8)(A)(West 2021); HAW. REV. STAT. ANN. § 711-1106.5(1)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(i)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); NEB. REV. STAT. ANN. § 28-311.02(2)(b)(West 2021); N.J. STAT. ANN. § 2C:12-10(a)(1)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(i)(West 2021); VT. STAT. ANN. tit. 12, § 1061 (1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(A)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(6m)(West 2021).

¹⁶ See e.g., ALASKA STAT. ANN. § 11.41.270(a)(1)(West 2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(a)(iii)(West 2021); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312(e)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(A)(West 2021); HAW. REV. STAT. ANN. § 711-1106.5(1)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(ii)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); IND. CODE ANN. §§ 35-45-10-1, 35-45-10-3(2)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(G)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); Mo. ANN. STAT. § 565.002(4)(West 2021); NEB. REV. STAT. ANN. § 28-311.02(2)(b)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(7)(West 2021); N.J. STAT. ANN. § 2C:12-10(a)(1)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(i)(West 2021); WASH. REV. CODE ANN. §§ 10.14.020, 10.14.030 (West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(B)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(6)(West 2021).

¹⁷ See, e.g., ALASKA STAT. ANN. § 11.41.270(a)(1), (4)(D)(West 2021); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312(e)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(B)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(iv)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1),(6)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(B)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(D)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(4)(West 2021); N.J. STAT. ANN. § 2C:12-10(a)(1)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(C)(West 2021); VT. STAT. ANN. tit. 12, § 1061 (1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(C)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(5)(West 2021) (includes entering the property but does not include any damage to real/personal property).

¹⁸ See, e.g., ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(A)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); IOWA CODE ANN. § 708.11(1)(b)(West 2021); KAN.

- Harassing a person;¹⁹
- Appearing at a person’s place of work or residence and/or contacting coworkers or neighbors;²⁰
- Sending or delivering a gift or object to a person or to their residence;²¹ and
- Harming or interfering with a pet.²²

Some less commonly-specified but noteworthy acts that could constitute a course of conduct include interfering with a person’s medical care or education;²³ using another’s personally identifying documents;²⁴ detaining or restraining the personal liberty of a person;²⁵ or preventing, obstructing, or delaying the performance of a public official, firefighter, or emergency medical services person.²⁶ There are generally no limits to where the victim can be stalked. Constitutionally-protected activities, as well as conduct necessary to carry out a “legitimate purpose,” are not criminalized by stalking laws.²⁷

STAT. ANN. 21-5427(f)(1)(A)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(1)(West 2021); N.J. STAT. ANN. § 2C:12-10(a)(1)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1 (f)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(i)(West 2021); VT. STAT. ANN. tit. 12, § 1061(1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(A)(West 2021).

¹⁹ See e.g., CONN. GEN. STAT. ANN. § 53a-181d(a)(1)(West 2021); IND. CODE ANN. § 35-45-10-1 (West 2021); IND. CODE ANN. § 35-45-10-1(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); WASH. REV. CODE ANN. §§ 10.14.020, 10.14.030 (West 2021).

²⁰ See e.g., ALASKA STAT. ANN. § 11.41.270(a)(1), (4)(C)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(iii)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1),(6)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(C)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(3)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(C)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(ii)(D)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (1)(a)(b)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(3)-(5)(West 2021).

²¹ See e.g., ALASKA STAT. ANN. § 11.41.270(a)(1), (4)(F)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a),(c)(vii)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(E)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(3)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1),(5)(G)(West 2021); UTAH CODE ANN. § 76-5-106.5(1)(a)(ii)(E)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(8)-(9)(West 2021).

²² See e.g., 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); KAN. STAT. ANN. 21-5427(f)(1)(F)(West 2021); N.H. REV. STAT. ANN. 633:3-A(II)(a)(6)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(C)(West 2021).

²³ DEL. CODE ANN. tit. 11, § 1312(e)(1) (West 2021).

²⁴ D.C. CODE ANN. § 22-3132(8)(C)(West 2021).

²⁵ NEB. REV. STAT. ANN § 28-311.02(b)(West 2021);

²⁶ OHIO REV. CODE ANN. § 2903.211(D)(1)(West 2021).

²⁷ See, e.g., ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(West 2021); ARK. CODE ANN. § 5-71-229(f)(2)(West 2021); CAL. PENAL CODE § 646(f)(West 2021); FLA. STAT. ANN. 784.048(1)(b)(West 2021); IDAHO CODE ANN. § 18-7906(2)(a)(West 2021); IND. CODE ANN. §§ 35-45-10-1, 35-45-10-2 (West 2021); KAN. STAT. ANN. 21-5427 (f)(1)(West 2021); LA. STAT. ANN. § 40.2 (A)(2)(2021); N.H. REV. STAT. ANN. § 633:3-a

Many states explicitly criminalize an offender directing or manipulating a third party to commit acts of stalking against a victim, otherwise known as stalking by proxy.²⁸ Most states also criminalize conduct directed at the primary victim's immediate family member or other associate, which will be discussed more thoroughly in the "Fear" section, below.²⁹

C. Technology-Facilitated Stalking

With the advent and advancement of technology, perpetrators of stalking have learned to use computers, mobile devices, social media, software, and other devices to monitor, contact, control, and isolate their victims, as well as to damage their victims' credibility or reputation.³⁰ Every U.S. jurisdiction has a statute criminalizing this type of technology-facilitated abuse. The majority of jurisdictions' stalking statutes explicitly recognize acts facilitated through technology: "course of conduct" is generally defined to include digital, electronic, and telephonic communication, contact, or surveillance.³¹

(II)(a)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1 (1)(a)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); VT. STAT. ANN. tit. 13, § 1061 (1)(A)(West 2021); WASH. REV. CODE ANN. § 10.14.020 (West 2021); *See also VanHorn v. State*, 889 N.E.2d 908 (Ind. Ct. App. 2008) (holding that a defendant's conduct was not impermissible where he repeatedly parked on a city street and watched the victim's house through binoculars, as his right to remain in a public place was protected by the due process clause).

²⁸ *See, e.g.*, ARIZ. REV. STAT. ANN. § 13-2923(D)(1)(West 2021); ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); COLO. REV. STAT. ANN. § 18-3-602(1)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(1)(West 2021); DEL. CODE ANN. tit. 11 § 1312(e)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); LA. STAT. ANN. § 40.2 (C)(1)(2021); MINN. STAT. ANN. § 609.749(2)(c)(West 2021); N.H. REV. STAT. ANN. § 644:4 (II)(West 2021); N.J. STAT. ANN. § 2C:12-10 (a)(1)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A (b)(1)(West 2021); OHIO REV. CODE ANN. § 2903.211 (A)(1)(2)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (6)(West 2021); OR. REV. STAT. ANN. § 163.730(3)(f),(h),(i),(k)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1); UTAH CODE ANN. § 76-5-106.5 (1)(a)(ii); WASH. REV. CODE § 10.14.020(1); W. VA. CODE ANN. § 61-2-9a (a), (h)(2)(West 2021); WIS. STAT. ANN. § 940.32(1)(a)(10)(West 2021); N. MAR. I. CODE § 1471(a)(2021); *United States v. Gonzalez*, 905 F.3d 165 (3d Cir. 2018) (defendant's stalking conviction upheld where he instructed his family members to mail letters that accused the victim of sexual abuse to numerous media outlets).

²⁹ *See discussion infra*

³⁰ Jane Anderson & Kaofeng Lee, *The Internet and Intimate Partner Crimes: Technology Changes, Abuse Doesn't*, AEQUITAS (2017), <https://aequitasresource.org/wp-content/uploads/2018/09/The-Internet-and-Intimate-Partner-Violence-Technology-Changes-Abuse-Does-Not-Issue16.pdf>

³¹ *See, e.g.*, Ala. Code § 13A-6-90.1(a)(2021); Ga. Code Ann. § 16-5-90 (a)(1)(West 2021); HAW. REV. STAT. ANN. § 711-1106.5(3)(West 2021); IDAHO CODE ANN. § 18-7906(c)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); KAN. STAT. ANN. § 21-5427(f)(2)(West 2021); LA. STAT. ANN. § 40.2 (2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(2) (West 2021); MISS. CODE ANN. § 97-3-107(8)(a)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(2) (West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021);

Some stalking statutes also explicitly cover the use of monitoring or recording devices, such as GPS monitoring, spyware/stalkerware (software that secretly gathers information about a device's activity without the user's consent/knowledge), and audio and/or visual recorders (e.g., spycams, listening devices).³²

Other jurisdictions, while not explicitly mentioning technology, criminalize stalking by “any action, method, device, or means,”³³ meaning that contact or surveillance through the use of computers, mobile phones, and other technologies would almost certainly be covered. In some jurisdictions that have statutes with broad or ambiguous language, courts have interpreted stalking to include acts through technology-facilitated means.³⁴

A few states do not explicitly address technology-facilitated stalking through either their general stalking statutes or through case law, but criminalize such conduct through separate laws, such as Maryland’s statutes criminalizing misuse of telephone facilities or equipment, misuse of electronic mail, and camera surveillance.³⁵ It should be noted that many jurisdictions — including those that expressly cover technology-facilitated stalking through their general stalking statutes — have separate laws

WASH. REV. CODE ANN. § 10.14.020(1)(West 2021); WIS. STAT. ANN. § 940.32 (1)(a)(6)-(7m), (2m)(c)(West 2021); WYO. STAT. ANN. § 6-2-506(b)(1)(West 2021).

³² See, e.g., ARIZ. REV. STAT. ANN. § 13-2923 (D)(1)(ii)(West 2021); D.C. CODE ANN. § 22-3132(1)-(2)(West 2021); IOWA CODE ANN. § 708.11(1)(b)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1(1)(c)(2)(West 2021).

³³ See, e.g., ARK. CODE ANN. § 5-71-229(f)(1)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(1)(West 2021); D.C. CODE ANN. § 22-3132(8)(West 2021); DEL. CODE ANN. tit. 11, §§ 932, 1335 (West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(c)(1)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(2)(A)(West 2021); MO. STAT. ANN. § 565.002(4)(West 2021); MONT. CODE ANN. § 45-5-220 (2)(a)(West 2021); N.J. STAT. ANN. § 2C:12-10 (a)(1),(2)(West 2021); N.M. STAT. ANN. § 30-3A-3(B)(2)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(b)(1)(West 2021); TENN. CODE ANN. § 39-17-315(a)(1)(West 2021); VT. STAT. ANN. tit. 13, § 1061(1)(A)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(2)(West 2021); 6 N. MAR. I. CODE § 1471(a)(2021); V.I. CODE ANN. tit. 14, § 2071(c)(2021).

³⁴ See, e.g., *People v. Sullivan*, 53 P.3d 1181 (Colo. App. 2002) (holding that “surveillance” for purposes of Colo. Rev. Stat. Ann. § 18-3-602(1)(c) includes electronic surveillance); *State v. Graham*, 553 S.W.3d 411 (Mo. Ct. App. 2018) (holding that evidence was sufficient to support aggravated stalking conviction based in part on defendant's harassing text messages to victim's son); *Hawkins v. Delgado*, 953 N.W.2d 765 (Neb. 2021) (considering evidence of perpetrator's repeated texts, emails, and calls to victim to uphold continuation of an ex parte harassment restraining order); *Parker v. Commonwealth*, 485 S.E.2d 150, 154 (Va. Ct. App. 1997) (upholding conviction of stalking where only course of conduct was based on repeated phone calls from jail).

³⁵ MD. CODE ANN. §§ 3-804, 3-805, 3-903 (West 2021); See also 11 R.I. GEN. LAWS ANN. § 11-69-1 (West 2021).

specifically criminalizing contact, eavesdropping, or surveillance through electronic or telephonic means; installation of GPS tracking devices; and/or cyberbullying.³⁶

D. Threat Requirements

Some stalking provisions require that the offender threaten the victim.³⁷ These threats can typically be expressed verbally or through writing, or they can be implied through conduct.³⁸ While not every jurisdiction with such a requirement specifies the actions or words that could constitute a threat, some statutory provisions require that the offender threaten to cause death, physical injury or harm, or property damage, or require that the threat causes the victim fear for their safety or the safety of others.³⁹ Some jurisdictions require the threat to be credible, meaning that the offender must have the “apparent ability” to carry out the threat.⁴⁰ However, jurisdictions with such a requirement generally do not require that the offender actually have intended to carry out the threat.⁴¹

³⁶ See, e.g., ARIZ. REV. STAT. ANN. § 13-2916 (West 2021); ARK. CODE ANN. §§ 5-71-217, 5-71-209, 5-41-108 (West 2021); CONN. GEN. STAT. ANN. §§ 53a-181f, 53a-189 (West 2021); DEL. CODE ANN. tit. 11, § 1335 (West 2021); GA. CODE ANN. §§ 16-11-39, 16-11-62 (West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.5(West 2021); IND. CODE ANN. § 35-45-10-3 (West 2021); LA. STAT. ANN. § 40.3 (2021); MICH. COMP. LAWS ANN. §§ 750.411s, 750.411x (West 2021); MISS. CODE ANN. §§ 97-45-15, 97-29-45 (West 2021); N.Y. PENAL LAW § 250.05 (McKinney 2021); S.D. CODIFIED LAWS § 49-31-31 (2021); VT. STAT. ANN. tit. 13, § 1027(West 2021); WASH. REV. CODE ANN. § 9.61.230 (West 2021).

³⁷ See, e.g., ALA. CODE ANN. § 13A-6-92(b)(West 2021); CAL. PENAL CODE § 646(g)(West 2021); COLO. REV. STAT. ANN. § 18-3-601(2)(b)(West 2021); FLA. STAT. ANN. 784.048(3)(West 2021); HAW. REV. STAT. ANN. § 707-715 (West 2021); LA. STAT. ANN. § 40.2(A)(2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(2)(West 2021); NEV. REV. STAT. ANN. § 200.575(3)(West 2021); OHIO REV. CODE ANN. § 2903.211(2)(b) (West 2021).

³⁸ See, e.g., ALA. CODE ANN. § 13A-6-92(b)(West 2021); *Lowry v. State*, 216 S.W.3d 101 (Ark. 2005); CAL. PENAL CODE § 646(g)(West 2021); COLO. REV. STAT. ANN. § 18-3-601(2)(b)(West 2021); FLA. STAT. ANN. 784.048(1)(c)(West 2021); HAW. REV. STAT. ANN. § 707-715 (West 2021); LA. STAT. ANN. § 40.2(A)(2021);

³⁹ See, e.g., ALA. CODE ANN. § 13A-6-92(b)(West 2021); ARK. CODE ANN. § 5-71-229(b)(1)(West 2021), COLO. REV. STAT. ANN. § 18-3-601(2)(b)(West 2021); FLA. STAT. ANN. 784.048(1)(c)(West 2021); HAW. REV. STAT. ANN. § 707-715 (West 2021); LA. STAT. ANN. § 40.2(A)(2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(2)(West 2021); NEV. REV. STAT. ANN. § 200.575(3)(West 2021); OHIO REV. CODE ANN. § 2903.211(2)(b)(West 2021).

⁴⁰ See, e.g., ALA. CODE ANN. § 13A-6-92(West 2021); CAL. PENAL CODE § 646(g)(West 2021); FLA. STAT. ANN. 784.048(1)(c)(West 2021); See also *State v. Chung*, 862 P.2d 1063 (Haw. 1993)(holding that threats must be “so unambiguous and have such immediacy that they convincingly express an intention to be carried out.”).

⁴¹ *Hayes v. State*, 717 So.2d 30 (Ala. Crim. App. 1997); CAL. PENAL CODE § 646(g)(West 2021); FLA. STAT. ANN. 784.048(1)(c)(West 2021).

II. Fear

A. Standards for Determining Fear

There are two standards for determining fear. The objective standard requires that a reasonable person in the victim's circumstances would feel fearful in response to the offender's conduct. The subjective standard requires a finding that the victim actually suffered fear or emotional distress. Most jurisdictions employ a reasonable person standard, while one state, Ohio, has only a subjective standard.⁴² Some jurisdictions have a combination of both standards, requiring both where the victim's fear must be reasonable and the victim must actually suffer fear or emotional distress.⁴³ For example, in Connecticut, stalking in the second degree requires reasonable fear only, while stalking in the third degree requires both reasonable and subjective fear.⁴⁴ In recent years, two states, Maine and Iowa, have removed the subjective standard from their statutes in favor of a reasonable person standard.⁴⁵ Maine shifted to the reasonable person standard "to make clear that stalking is criminal whether or not the victim knows about the stalking conduct."⁴⁶

What constitutes reasonable fear is generally very fact-dependent and case-specific. However, courts have consistently found fear to be reasonable in considering cases with some common fact patterns, including those in which the offender follows the victim;⁴⁷ installs a Global Positioning Device (GPS) on the victim's vehicle;⁴⁸ repeatedly

⁴² OHIO REV. CODE ANN. § 2903.211 (A)(1)(West 2021).

⁴³ ALA. CODE ANN. § 13A-6-92(c)(2021); ARIZ. REV. STAT. ANN. § 13-2923 (West 2021); CAL. PENAL CODE § 646.9 (g),(e)(West 2021); COLO. REV. STAT. ANN. § 18-3-601(1)(c),(2)(c)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(2)(West 2021); IDAHO CODE ANN. § 18-7906(1)(a)(West 2021); IND. CODE ANN. § 35-45-10-1(West 2021); KAN. STAT. ANN. § 21-5427(a)(West 2021); MICH. COMP. LAWS ANN. § 750.411H(d)(West 2021); MINN. STAT. ANN. § 609.749 (5)(a)(West 2021); N.H. REV. STAT. ANN. § 633:3-a(I)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (A)(West 2021); OR. REV. STAT. ANN. § 163.732 (1)(b)-(c)(West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021); TENN. CODE ANN. § 39-17-315(a)(4)(West 2021); TEX. PENAL CODE ANN. § 42.072(a)(West 2021); WIS. STAT. ANN. § 940.32(2)(West 2021); 10 U.S.C.A. § 930(a)(1)-(3)(West 2021).

⁴⁴ CONN. GEN. STAT. ANN. § 53a-181d(a)(2)(West 2021).

⁴⁵ H.F. 263, 87th Gen. Assemb., Reg. Sess. (Iowa 2017)(Iowa eliminated the subjective requirement in 2017); S.P. 681, 123rd Leg., 1st Spec. Sess. (Me. 2008)(Maine eliminated the subjective requirement in 2008).

⁴⁶ S.P. 681, 123rd Leg., 1st Spec. Sess. (Me. 2008).

⁴⁷ *Hayes v. State*, 717 So.2d 30 (Ala. Crim. App. 1997); *State v. Jurado*, No. 2 CA-CR 2018-0089, 2019 WL 1417364 (Ariz. Ct. App. March 27, 2019); *Coleman v. United States*, 202 A.3d 1127 (D.C. 2019); *State v. Evans*, 671 N.W.2d 720 (Iowa 2003); *State v. Elliott*, 987 A.2d 513 (Me. 2010); *State v. Gubitosi*, 886 A.2d 1029 (N.H. 2005).

⁴⁸ *State v. Jurado*, No. 2 CA-CR 2018-0089, 2019 WL 1417364 (Ariz. Ct. App. March 27, 2019); *State v. Vasquez*, No. A-4646-17, 2021 WL 3701376 (N.J. Super. Ct. App. Div. Aug. 20, 2021); *State v. Rashid*, 483 P.3d 87 (Utah Ct. App. 2021).

calls, messages, or contacts the victim;⁴⁹ threatens the victim;⁵⁰ or breaks into the victim's home (or attempts to).⁵¹ In determining reasonable fear, some courts have held that the fear or emotional distress does not need to be contemporaneous with the offender's conduct.⁵² In other words, it is reasonable for a victim to be fearful or to suffer emotional distress when the victim is unaware of the conduct *at the moment it is happening* but becomes aware of the conduct later on. For example, in *People v. Norman*, a California court upheld a stalking conviction where the victim — who was in another country with his family on vacation — was unaware of the defendant's conduct until days after the conduct occurred, noting that the stalking statute “necessarily encompasses situations where there is a delay between the defendant's harassment and his victim's awareness of the defendant's conduct.”⁵³ Lastly, many courts have found the victim's fear to be reasonable when there have been previous incidents of violence or abuse.⁵⁴ Even when the offender's conduct, standing alone, might not seem threatening or likely to cause fear, courts have pointed to historical patterns of abusive conduct in order to put the victim's reasonable fear into context.

B. Types of Fear

Stalking laws generally require that the offender's course of conduct causes the victim, or a reasonable person in the victim's position, to feel fear. Generally, the fear elements in stalking statutes are broad and encompass many types of fears, such as

⁴⁹ *Hayes v. State*, 717 So.2d 30 (Ala. Crim. App. 1997); *People v. Taylor*, 148 N.E.3d 708 (Ill. Ct. App. 2020); *Nicholson v. State*, 963 N.E.2d 1096 (Ind. 2012); *Banks v. Commonwealth*, 795 S.E.2d 908 (Va. Ct. App. 2017); *State v. Sveum*, 584 N.W.2d 137 (Wis. Ct. App. 1998); *Dugan v. State*, 451 P.3d 731, 740 (Wyo. 2019).

⁵⁰ *See Hayes v. State*, 717 So.2d 30 (Ala. Crim. App. 1997); *People v. Chase*, 411 P.3d 740 (Colo. App. 2013); *Kayla M. v. Greene*, 136 A.3d 1 (Conn. App. Ct. 2016); *Dean v. State*, 339 P.3d 509 (Wyo. 2014).

⁵¹ *Mims v. State*, 816 So.2d 509 (Ala. Crim. App. 2001); *Bartlett v. State*, 701 So.2d 305 (Ala. Crim. App. 1997); *Com. v. Julien*, 797 N.E.2d 470 (Mass. App. Ct. 2003); *Dean v. State*, 339 P.3d 509 (Wyo. 2014); *United States v. Lull*, No. ACM 39555, 2020 WL 5269803 (A.F. Ct. Crim. App. Sept. 2, 2020).

⁵² *Libersat v. State*, 305 So. 3d 766 (Fla. Dist. Ct. App. 2020).

⁵³ *People v. Norman*, 89 Cal. Rptr. 2d 806, 810 (Cal. Ct. App. 1999).

⁵⁴ *Vince B. v. Sarah B.*, 425 P.3d 55 (Ala. 2018); *Cook v. State*, 36 P.3d 710 (Alaska Ct. App. 2001); *People v. Chase*, 411 P.3d 740 (Colo. App. 2013); *Libersat v. State*, 305 So. 3d 766 (Fla. Dist. Ct. App. 2020); *State v. Gallagher*, 463 P.3d 1119 (Haw. 2020); *State v. Hoak*, 216 P.3d 1291 (Idaho Ct. App. 2009); *State v. DeBarge*, 210 So. 3d 377 (La. Ct. App. 2016); *State v. Lazinger*, 565 S.W.3d 220 (Mo. Ct. App. 2018); *State v. Hobson*, 819 S.E.2d 397 (N.C. Ct. App. 2018); *State v. Duty*, No. E200201772CCAR3CD, 2003 WL 23004991 (Tenn. Crim. App. Dec. 23, 2003); *State v. Hinchliffe*, 987 A.2d 988 (Vt. 2009); *Peters v. Commonwealth*, No. 1888-15-1, 2016 WL 6693949 (Va. Ct. App. Nov. 15, 2016); *Parker v. Commonwealth*, 485 S.E.2d 150 (Va. Ct. App. 1997); *State v. Jones*, 918 N.W.2d 127 (Wis. Ct. App. 2018).

fear of bodily harm,⁵⁵ fear of death,⁵⁶ fear of property damage,⁵⁷ and fear for one’s safety.⁵⁸ What is considered “safety” is not statutorily defined and is interpreted by

⁵⁵ See, e.g., ALA. CODE § 13A-6-90 (2021); ALASKA STAT. ANN. § 11.41.270 (West 2021); ARIZ. REV. STAT. ANN. § 13-2923(A)(1)(b)(West 2021); ARK. CODE ANN. § 5-71-229(b)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312 (1)(West 2021); *State v. Gallagher*, 463 P.3d 1119, 1134–35 (Haw. 2020)(harassment by stalking “requires the victim to ‘reasonably believe[]’ that the actor intends to cause bodily injury to the victim or damage to their property.”); IDAHO CODE ANN. § 18-7906(1)(b)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(a-3)(West 2021); IND. CODE ANN. § 35-45-10-1(b)(1)(West 2021); IOWA CODE ANN. § 708.11(2)(West 2021); KY. REV. STAT. ANN. 508.140(1)(a)(1.) (b.) (West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (1.) (A)(2)(West 2021); MD. CODE ANN. § 3-802(a)(1)(i)(1.) (West 2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(West 2021); MINN. STAT. ANN. § 609.749 (5)(a)(West 2021); MO. ANN. STAT. § 565.225(2.) (1)(West 2021); NEV. REV. STAT. ANN. § 200.575(3)(West 2021); N.M. STAT. ANN. § 30-3A-3 (A)(West 2021); N.Y. PENAL LAW § 120.50(3)(McKinney 2021); N.C. GEN. STAT. ANN. § 14-277.3A(c)(2)(West 2021); OHIO REV. CODE ANN. § 2903.211(1)(A)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(a)(1)(West 2021); 11 R.I. GEN. LAWS ANN. § 11-59-2 (West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021); S.D. CODIFIED LAWS § 22-19A-1(2)(2021); TENN. CODE ANN. § 39-17-315(c)(1)(D) (2021); TEX. PENAL CODE ANN. § 42.072(a)(1)(A)(West 2021); VA. CODE ANN. § 18.2-60.3(A)(West 2021); WASH. REV. CODE ANN. § 9A.46.110(1)(b)(West 2021); W. VA. CODE ANN. § 61-2-9a(h)(3)(West 2021); WIS. STAT. ANN. § 940.32(2)(West 2021); 18 U.S.C.A. § 2261A(1)(A),(2)(A)(West 2021); 9 GUAM CODE ANN. § 19.70(a)(2021); V.I. CODE ANN. tit. 14, § 2072(a)(2021).

⁵⁶ See, e.g., ALA. CODE § 13A-6-90 (2021); ALASKA STAT. ANN. § 11.41.270 (West 2021); ARIZ. REV. STAT. ANN. § 13-2923(A)(2)(West 2021); ARK. CODE ANN. § 5-71-229(b)(1)(West 2021); IDAHO CODE ANN. § 18-7906(1)(b)(West 2021); IND. CODE ANN. § 35-45-10-1(b)(1)(West 2021); IOWA CODE ANN. § 708.11(2)(West 2021); KY. REV. STAT. ANN. 508.140(1)(a)(1.) (c.) (West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (1.) (A)(3)(West 2021); MD. CODE ANN. § 3-802(a)(1)(i)(5.) (West 2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(West 2021); MO. ANN. STAT. § 565.225(2.) (1)(West 2021); NEV. REV. STAT. ANN. § 200.575(3)(West 2021); N.M. STAT. ANN. § 30-3A-3 (A)(West 2021); N.Y. PENAL LAW § 120.50(3)(McKinney 2021); N.C. GEN. STAT. ANN. § 14-277.3A(c)(2)(West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021); S.D. CODIFIED LAWS § 22-19A-1(2)(2021); TENN. CODE ANN. § 39-17-315(c)(1)(D) (West 2021); TEX. PENAL CODE ANN. § 42.072(a)(1)(A)(West 2021); VA. CODE ANN. § 18.2-60.3(A)(West 2021); WIS. STAT. ANN. § 940.32(2)(West 2021); 18 U.S.C.A. § 2261A(1)(A),(2)(A)(West 2021); 9 GUAM CODE ANN. § 19.70(a)(2021); V.I. CODE ANN. tit. 14, § 2072(a)(2021).

⁵⁷ See, e.g., ARIZ. REV. STAT. ANN. § 13-2923(A)(1)(a)(West 2021); *State v. Gallagher*, 463 P.3d 1119, 1134–35 (Haw. 2020) (harassment by stalking “requires the victim to ‘reasonably believe[]’ that the actor intends to cause bodily injury to the victim or damage to their property.”); ME. REV. STAT. ANN. tit. 17-A, § 210-A (1.) (A)(3)(West 2021); MISS. CODE ANN. § 97-3-107(1)(a)(West 2021); MO. ANN. STAT. § 565.225(2.) (1)(West 2021); N.Y. PENAL LAW § 120.45(1)(McKinney 2021); TEX. PENAL CODE ANN. § 42.072(a)(1)(C)(West 2021); WASH. REV. CODE ANN. § 9A.46.110(1)(b)(West 2021); WYO. STAT. ANN. § 6-2-506(a)(ii)(C)(West 2021); AM. SAMOA CODE ANN. § 46.3525(a)(1)(2021); 33 P.R. LAWS ANN tit. § 4014(a),(d)(2021).

⁵⁸ See, e.g., ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); CAL. PENAL CODE § 646.9(a)(West 2021); COLO. REV. STAT. ANN. §§ 18-3-601(1)(a),(1)(b)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(b)(1)(West 2021); D.C. CODE ANN. § 22-3133(a)(1)(A) (West 2021); FLA. STAT. ANN. 784.048(3)(West 2021); GA. CODE ANN. § 16-5-90 (a)(1)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(a)(West 2021); KAN. STAT. ANN. § 21-5427(a)(West 2021); MISS. CODE ANN. § 97-3-107(1)(a)(West 2021); MO. ANN. STAT. § 565.225(2.) (1)(West 2021); MONT. CODE ANN. § 45-5-220(1)(a)(West 2021); NEV. REV. STAT. ANN. § 200.575(1)(West 2021); N.H. REV. STAT. ANN. § 633:3-a(I)(West 2021); N.J. STAT. ANN. § 2C:12-

limited case law. In California, for example, safety is “not limited to physical safety.”⁵⁹ In the District of Columbia, fear for safety means “fear of significant injury or a comparable harm.”⁶⁰ Most jurisdictions also include emotional distress as an element of fear or a type of fear.⁶¹ Other jurisdictions include specific types of fear, such as fear

10(b)(West 2021); N.Y. PENAL LAW § 120.45(1)(McKinney 2021); N.C. GEN. STAT. ANN. § 14-277.3A(c)(1)(West 2021); OR. REV. STAT. ANN. § 163.732 (1)(c)(West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021); UTAH CODE ANN. § 76-5-106.5 (2)(a)(West 2021); VT. STAT. ANN. tit. 13, § 1061(4)(West 2021); W. VA. CODE ANN. § 61-2-9a(a)(West 2021); WYO. STAT. ANN. § 6-2-506(a)(ii)(C)(West 2021); AM. SAMOA CODE ANN. § 46.3525(a)(1)(2021); 9 GUAM CODE ANN. § 19.69(c)(2021); 6 N. MAR. I. CODE § 1472(a)(1)(2021); V.I. CODE ANN. tit. 14, § 2071(b)(2021).

⁵⁹ *People v. Borelli*, 91 Cal. Rptr. 2d 851 (Cal. Ct. App. 2000).

⁶⁰ *Coleman v. United States*, 202 A.3d 1127 (D.C. 2019).

⁶¹ See, e.g., ALA. CODE § 13A-6-90.1 (2021); ARIZ. REV. STAT. ANN. § 13-2923(D)(2)(West 2021); ARK. CODE ANN. §§ 5-71-229(a)(1); (c)(1)(West 2021); COLO. REV. STAT. ANN. § 18-3-601(1)(c)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(a)(2)(West 2021); DEL. CODE ANN. tit. 11, § 1312 (a)(2)(West 2021); D.C. CODE ANN. § 22-3133(a)(1)(C)(West 2021); FLA. STAT. ANN. 784.048(1)(West 2021); GA. CODE ANN. § 16-5-90 (a)(1)(West 2021); IDAHO CODE ANN. § 18-7906(1)(a)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(b)(West 2021); IND. CODE ANN. § 35-45-10-2 (West 2021); KY. REV. STAT. ANN. § 508.130(1)(b)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (2)(D)(West 2021); MD. CODE ANN. § 3-802(a)(2)(West 2021); MASS. GEN. LAWS ANN. CH. 265, § 43(a)(West 2021); MICH. COMP. LAWS ANN. § 750.411H(b)(West 2021); MINN. STAT. ANN. § 609.749 (2)(b)(4)(West 2021); MO. ANN. STAT. §§ 565.225(1), 565.227(1) (West 2021); MONT. CODE ANN. § 45-5-220(1)(b)(West 2021); N.J. STAT. ANN. § 2C:12-10(b)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(c)(2)(West 2021); N.Y. PENAL LAW § 120.45(2)(McKinney 2021); OHIO REV. CODE ANN. § 2903.211(1)(A)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (F)(2)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(a)(1)(West 2021); 11 R.I. GEN. LAWS §§ 11-59-2(a), 11-59-1(2) (West 2021); TENN. CODE ANN. § 39-17-315(a)(3)(West 2021); TEX. PENAL CODE ANN. §§ 42.072(a)(2)(D), 42.07(a)(8)(West 2021); UTAH CODE ANN. § 76-5-106.5 (2)(b)(West 2021); VT. STAT. ANN. tit. 13, § 1061(4)(West 2021); WASH. REV. CODE ANN. § 9A.46.110(1)(c)(West 2021); W. VA. CODE ANN. § 61-2-9a(a)(West 2021); WIS. STAT. ANN. § 940.32(2)(West 2021); WYO. STAT. ANN. § 6-2-506(a)(ii)(A)(West 2021); 18 U.S.C.A. § 2261A(1)(B),(2)(B)(West 2021); AM. SAMOA CODE ANN. § 46.3525(a)(2)(2021); 9 GUAM CODE ANN. § 19.69(a)(2021); 6 N. MAR. I. CODE § 1472(a)(2)(2021); V.I. CODE ANN. tit. 14, § 2071(a)(2021).

of harm to one's domestic animal or livestock,⁶² fear of sexual assault or another related offense,⁶³ or fear of detriment to one's career or losing one's employment.⁶⁴

In most jurisdictions, fear is not limited to fear for oneself. Rather, most statutes encompass a victim's fear that a third party will suffer bodily injury, death, emotional distress, or other harms. A little more than half of these jurisdictions require there be a specified relationship between the victim and the third party, such as immediate family members, household members, or intimate partners.⁶⁵ The remaining jurisdictions do not require any relationship between the victim and a third party in order for the "fear for others" element to be satisfied.⁶⁶

⁶² See, e.g., ARIZ. REV. STAT. ANN. § 13-2923(A)(1)(b)(ii), (A)(2)(a) (West 2021); CONN. GEN. STAT. ANN. § 53a-181d(b)(1) (West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (1.) (A)(5) (West 2021); 18 U.S.C.A. § 2261A(1)(A)(iv), (2)(A) (West 2021).

⁶³ See, e.g., 720 ILL. COMP. STAT. ANN. 5/12-7.3(a-3) (West 2021) (fear of sexual assault, confinement, or restraint); IND. CODE ANN. § 35-45-10-1(b)(1) (West 2021) (fear of sexual battery); KY. REV. STAT. ANN. 508.140(1)(a)(1.) (a.) (West 2021) (fear of sexual contact); MD. CODE ANN. § 3-802(a)(1)(i) (West 2021) (fear of rape, a sexual offense, or false imprisonment); N.M. STAT. ANN. § 30-3A-3(A) (West 2021) (fear of sexual assault, confinement, or restraint); N.Y. PENAL LAW § 120.50(3) (McKinney 2021) (fear of a sexual offense); S.C. CODE ANN. § 16-3-1700(C)(4) (2021) (fear of criminal sexual contact); VA. CODE ANN. § 18.2-60.3(A) (West 2021) (fear of sexual assault); 10 U.S.C.A. § 930(2) (West 2021) (fear of sexual assault).

⁶⁴ See, e.g., ALA. CODE § 13A-6-90.1 (2021) ("...fear that business, career, or employment will be threatened"); CONN. GEN. STAT. ANN. § 53a-181d(b)(2) (West 2021) ("fear that such person's employment, business or career is threatened"); N.Y. PENAL LAW § 120.45(3) (McKinney 2021) ("fear that his or her employment, business or career is threatened"); AM. SAMOA CODE ANN. § 46.3525(a)(3) (2021) (cause such person to reasonably fear that his employment, business or career is threatened).

⁶⁵ See, e.g., ALASKA STAT. ANN. § 11.41.270(a) (West 2021); ARIZ. REV. STAT. ANN. § 13-2923(A) (West 2021); CAL. PENAL CODE §§ 646.9(a), (g) (West 2021); COLO. REV. STAT. ANN. § 18-3-601(2)(c) (West 2021); FLA. STAT. ANN. 784.048(1)(c) (West 2021); GA. CODE ANN. § 16-5-90 (a)(1) (West 2021); IDAHO CODE ANN. § 18-7906(2) (West 2021); IOWA CODE ANN. § 708.11(2) (West 2021); KAN. STAT. ANN. § 21-5427(a) (West 2021); LA. REV. STAT. ANN. § 40.2(a) (2021); ME. REV. STAT. ANN. tit. 17-A, §§ 210-A(1.) (A)(2), (3) (West 2021); MINN. STAT. ANN. § 609.749(5)(a) (West 2021); MO. ANN. STAT. § 565.225(2.) (1) (West 2021); NEV. REV. STAT. ANN. § 200.575(1) (West 2021); N.Y. PENAL LAW § 120.45 (McKinney 2021); N.C. GEN. STAT. ANN. § 14-277.3A(c)(1) (West 2021); OHIO REV. CODE ANN. § 2903.211(1)(A) (West 2021); OKLA. STAT. ANN. tit. 21, § 1173 (A)(1) (West 2021); S.C. CODE ANN. § 16-3-1700(C) (2021); TEX. PENAL CODE ANN. § 42.072 (a)(2) (West 2021); VA. CODE ANN. § 18.2-60.3(A) (West 2021); WIS. STAT. ANN. § 940.32(2) (West 2021). 18 U.S.C.A. § 2261A(1)(A)(ii)-(iii), (2)(A) (West 2021); AM. SAMOA CODE ANN. § 46.3525(a)(2) (2021); 9 GUAM CODE ANN. § 19.70(a) (2021); V.I. CODE ANN. tit. 14, § 2071(b) (2021).

⁶⁶ See, e.g., ALA. CODE § 13A-6-90.1 (2021); ARK. CODE ANN. § 5-71-229(a)(1), (c)(1) (West 2021); CONN. GEN. STAT. ANN. §§ 53a-181d(b)(1), (b)(3) (West 2021); DEL. CODE ANN. tit. 11, § 1312 (1) (West 2021); D.C. CODE ANN. § 22-3133(a)(1)(A) (West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(a) (West 2021); MD. CODE ANN. § 3-802(a)(1) (West 2021); MISS. CODE ANN. § 97-3-107(1)(a) (West 2021); MONT. CODE ANN. § 45-5-220(1)(a) (West 2021); N.H. REV. STAT. ANN. § 633:3-a(I) (West 2021); N.J. STAT. ANN. § 2C:12-10(b) (West 2021); N.M. STAT. ANN. § 30-3A-3(A) (West 2021); OR. REV. STAT. ANN. § 163.732 (1)(c) (West 2021); UTAH CODE ANN. § 76-5-106.5 (2)(a) (West 2021); VT. STAT. ANN. tit. 13, § 1061(4) (West 2021);

C. Offender's Intent

About half of U.S. jurisdictions have some requirement that the offender — at least under certain provisions of the stalking statute — intend to create fear, or, more broadly, intend to annoy, harass, or intimidate the victim.⁶⁷ Other jurisdictions do not require that the offender intend to cause fear, but merely require that the offender intend to engage in a course of conduct that would cause fear, or that the offender knew or should have known that their conduct would cause fear.⁶⁸

III. Gradation of Crimes and Aggravating Factors

Most jurisdictions' stalking laws articulate a number of circumstances which, if present in a particular case, escalate the seriousness of the offense.⁶⁹ This occurs by either elevating the crime from a misdemeanor to a felony, increasing the degree of the offense (*e.g.*, from a crime in the second degree to a crime in the first degree), and/or enhancing the possible sentence for the crime. Nearly every jurisdiction, for example, escalates the seriousness of the offense when the offender has previously been

WASH. REV. CODE ANN. § 9A.46.110(1)(b)(West 2021); W. VA. CODE ANN. § 61-2-9a(a)(West 2021); WYO. STAT. ANN. § 6-2-506(a)(ii)(B)(West 2021); 6 N. MAR. I. CODE § 1472(a)(1)(2021).

⁶⁷ See, *e.g.*, ALA. CODE ANN. § 13A-6-90 (2021); CONN. GEN. STAT. ANN. § 53a-181d(b)(2)(West 2021); D.C. CODE ANN. § 22-3133(a)(1)(West 2021); GA. CODE ANN. § 16-5-90 (a)(1)(West 2021); HAW. REV. STAT. ANN. § 711-1106.5(1)(West 2021); KY. REV. STAT. ANN. 508.150 (West 2021); MD. CODE ANN. § 3-802(a)(1)(West 2021); MO. ANN. STAT. § 565.225(2)(West 2021); NEB. REV. STAT. ANN. § 28-311.03 (West 2021); NEV. REV. STAT. ANN. § 200.575(3)(West 2021); N.M. STAT. ANN. § 30-3A-3(A)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(a)(1)-(2)(West 2021); S.C. CODE ANN. § 16-3-1700(C)(2021); S.D. CODIFIED LAWS § 22-19A-1(2)(2021); TENN. CODE ANN. § 39-17-315(a)(4)(West 2021); TEX. PENAL CODE ANN. §§ 42.072(a)(2)(D), 42.07 (West 2021); VA. CODE ANN. § 18.2-60.3(A)(West 2021); WASH. REV. CODE ANN. § 9A.46.110(1)(b)(West 2021); WYO. STAT. ANN. § 6-2-506(b)(West 2021); 18 U.S.C.A. § 2261A (1),(2)(West 2021); 9 GUAM CODE ANN. § 19.70(a)(2021); 33 P.R. LAWS ANN tit. § 4014(a)(2021); V.I. CODE ANN. tit. 14, § 2072(a)(2021).

⁶⁸ ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); COLO. REV. STAT. ANN. § 18-3-602(1)(West 2021); CONN. GEN. STAT. ANN. § 53a-181d(b)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312(a)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(a)(West 2021); IND. CODE ANN. § 35-45-10-1 (West 2021); IOWA CODE ANN. § 708.11(2)(West 2021); KAN. STAT. ANN. § 21-5427(a)(1)(West 2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A (1)(A) (West 2021); MICH. COMP. LAWS ANN. § 750.411H(d)(West 2021); MISS. CODE ANN. § 97-3-107 (1)(a)(West 2021); MONT. CODE ANN. § 45-5-220 (1)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (I)(a)(West 2021); N.J. STAT. ANN. § 2C:12-10 (b)(West 2021); N.Y. PENAL LAW § 120.45 (McKinney 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1(1)(c)(1)(West 2021); UTAH CODE ANN. § 76-5-106.5 (2)(West 2021); VT. STAT. ANN. tit. 13, § 1061 (4)(West 2021); WIS. STAT. ANN. § 940.32 (2)(a)-(c)(West 2021); 10 U.S.C.A. § 930 (a)(1)-(2)(West 2021); AM. SAMOA CODE ANN. § 46.3525(a)(2021); N. MAR. I. CODE § 1472 (a)(1)-(2), (b)(2)(2021).

⁶⁹ *But see* MD. CODE ANN. § 3-802 (West 2021)(Maryland has no aggravating factors for stalking; stalking is a misdemeanor that can be punished by up to 5 years imprisonment).

convicted of stalking.⁷⁰ Some states require that the previous conviction occur within a certain time frame – generally no more than five, seven, or ten years in the past.⁷¹ Other jurisdictions consider a “second or subsequent offense” to be an aggravating factor, but are not always clear on whether a prior conviction is required.⁷² More than half of jurisdictions elevate the seriousness of the offense when the stalker’s conduct violates a court order or injunction, such as a protective order; a no contact order; or a condition of probation, parole, or release.⁷³ Many statutes also increase the gradation

⁷⁰ See, e.g., ALASKA STAT. ANN. § 11.41.260 (West 2021); ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); CAL. PENAL CODE § 646.9 (West 2021); COLO. REV. STAT. ANN. § 18-3-602(3)(b),(5)(West 2021); CONN. GEN. STAT. ANN. § 53a-181c (West 2021); D.C. CODE ANN. § 22-3134 (West 2021); GA. CODE ANN. § 16-5-90(c)(West 2021); HAW. REV. STAT. ANN. § 711-1106.4 (West 2021); IDAHO CODE ANN. § 18-7905 (West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.3(b)(West 2021); IND. CODE ANN. § 35-45-10-5(c)(West 2021)(previous conviction must involve same victim); IOWA CODE ANN. § 708.11(3)(West 2021); KAN. STAT. ANN. 21-5427(b)(1)(B)(West 2021); LA. STAT. ANN. § 40.2(B)(2021); ME. REV. STAT. ANN. tit. 17-A, § 210-A(1)(West 2021); MASS. GEN. LAWS ANN. CH. 265, § 43 (West 2021); MICH. COMP. LAWS ANN. § 750.411i(3)(a)-(b)(West 2021); MISS. CODE ANN. § 97-3-107(2)(West 2021); MO. STAT. ANN. §§ 565.225(5); 565.227(4)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (VI)(a)(West 2021); N.M. STAT. ANN. § 30-3A-3(C)(West 2021); N.Y. PENAL LAW § 120.50 (McKinney 2021); N.C. GEN. STAT. ANN. § 14-277.3A(d)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1(6)(a)(West 2021); OHIO REV. CODE ANN. § 2903.211(B)(2)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173(B)-(D)(West 2021); OR. REV. STAT. ANN. § 163.732(b)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(c)(2)(West 2021); S.C. CODE ANN. § 16-3-1730 (C)(2021); S.D. CODIFIED LAWS § 22-19A-3 (2021); TENN. CODE ANN. § 39-17-315 (c)(2)(West 2021); TEX. PENAL CODE ANN. § 42.072 (b)(1)-(4)(West 2021); UTAH CODE ANN. § 76-5-106.5 (8)(West 2021); VT. STAT. ANN. tit. 13, § 1063 (West 2021); VA. CODE ANN. § 18.2-60.3(B)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (5)(b)(West 2021); W. VA. CODE § 61-2-9a (d)(West 2021); WIS. STAT. ANN. § 940.32(2m)(West 2021); WYO. STAT. ANN. § 6-2-506(e)(West 2021); 18 U.S.C.A. § 2265A (West 2021).

⁷¹ See D.C. CODE ANN. § 22-3134 (West 2021); HAW. REV. STAT. ANN. § 711-1106.4 (West 2021); IDAHO CODE ANN. § 18-7905 (West 2021); LA. STAT. ANN. § 40.2(B)(2021); MISS. CODE ANN. § 97-3-107(2)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(West 2021); N.H. REV. STAT. ANN. § 633:3-a (VI)(a)(West 2021); N.Y. PENAL LAW § 120.50 (McKinney 2021); OKLA. STAT. ANN. tit. 21, § 1173(B)-(D)(West 2021); TENN. CODE ANN. § 39-17-315 (c)(2)(West 2021); VA. CODE ANN. § 18.2-60.3(B)(West 2021); WIS. STAT. ANN. § 940.32(2m)(West 2021); WYO. STAT. ANN. § 6-2-506(e)(West 2021).

⁷² See ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); COLO. REV. STAT. ANN. § 18-3-602(3)(b),(5)(West 2021); IOWA CODE ANN. § 708.11(3)(West 2021); KAN. STAT. ANN. 21-5427(b)(1)(B)(West 2021); MONT. CODE ANN. § 45-5-220(4)(West 2021); NEV. REV. STAT. ANN. § 200.575(1)(a)-(c)(West 2021); N.J. STAT. ANN. § 2C:12-10(c)-(e)(West 2021); 18 PA. STAT. AND CONST. STAT. ANN. § 2709.1(c)(2)(West 2021).

⁷³ ALA. CODE ANN. §§ 13A-6-91, 91.1 (West 2021); ALASKA STAT. ANN. § 11.41.260 (West 2021); ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); CAL. PENAL CODE § 646.9 (West 2021); COLO. REV. STAT. ANN. § 18-3-602(5)(West 2021); CONN. GEN. STAT. ANN. § 53A-181c (West 2021); DEL. CODE ANN. tit. 11, § 1312(c)(2) (West 2021); D.C. CODE ANN. § 22-3134 (West 2021); FLA. STAT. ANN. 784.048(4)(West 2021); GA. CODE ANN. § 16-5-91(a) (West 2021); IDAHO CODE ANN. § 18-7905(1)(a)(b) (West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.4(a)(West 2021); IND. CODE ANN. 35-45-10-5 (b)(2)(West 2021); IOWA CODE ANN. § 708.11(3)(b)(1)(West 2021); KAN. STAT. ANN. 21-5427(b)(1)(B)(West 2021); KY. REV. STAT. ANN. 508.140(b)(West 2021); LA. STAT. ANN. § 40.2(B)(1)(b)(3)(2021); MASS. GEN. LAWS ANN. CH. 265, § 43(b)(West 2021); MICH. COMP. LAWS ANN. § 750.411i(2)(a)-(b)(West 2021); MO. STAT. ANN. § 565.225(2)-

or penalties for stalking if the target is a minor under a certain age;⁷⁴ some of these require a specified age difference between the offender and the minor victim in order for enhanced penalties to apply.⁷⁵

An offender may also face enhanced stalking charges or penalties when:

- They possessed or represented that they possessed a deadly weapon while stalking the victim;⁷⁶

(4) West 2021); MONT. CODE ANN. § 45-5-220(4)(b)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(West 2021); N.J. STAT. ANN. § 2C:12-10 (c)-(e)(West 2021); N.M. STAT. ANN. § 30-3A-3.1(A)(West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(d)(West 2021); OHIO REV. CODE ANN. § 2903.211(B)(2)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(d)(West 2021); N.J. STAT. ANN. § 2C:12-10 (c)-(e)(West 2021); N.M. STAT. ANN. § 30-3A-3.1(A)(1)-(2) (West 2021); N.C. GEN. STAT. ANN. § 14-277.3A(d)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1(6)(a)(West 2021); OHIO REV. CODE § 2903.211(B)(2)(West 2021); OKLA. STAT. ANN. tit. 21, § 1173(B)(1)-(2)(West 2021); OR. REV. STAT. ANN. § 163.732(b)(West 2021); TENN. CODE ANN. § 39-17-315 (c)(1)(E)(West 2021); UTAH CODE ANN. § 76-5-106.5 (7)(d)(West 2021); VT. STAT. ANN. tit. 13, § 1063(a)(1)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (5)(b)(West 2021); W. VA. CODE ANN. § 61-2-9A (c),(e)(West 2021); WYO. STAT. ANN. § 6-2-506(e)(iii)-(iv) (West 2021); 18 U.S.C.A. § 2261(b)(West 2021); AM. SAMOA CODE ANN. § 46.3525(b)(2021); 9 GUAM CODE ANN. § 19.70(b)(2021); 6 N. MAR. I. CODE § 1472(c)(1)(2021); 33 P.R. LAWS ANN TIT. § 4014(b)(4)(2021); V.I. CODE ANN. tit. 14, § 2072(c)(2021).

⁷⁴ ALASKA STAT. ANN. § 11.41.260(West 2021); CONN. GEN. STAT. ANN. § 53a-181c (West 2021); DEL. CODE ANN. tit. 11, § 1312(c)(1)(West 2021); D.C. CODE ANN. § 22-3134(b)(3)(West 2021); FLA. STAT. ANN. 784.048(d)(5)(West 2021); IDAHO CODE ANN. § 18-7905(1)(c)(West 2021); IOWA CODE ANN. § 708.11(b)(3)(West 2021); LA. STAT. ANN. § 40.2(B)(1)(b)(2021); MICH. COMP. LAWS ANN. § 750.411H(2)(a)-(b)(West 2021); MISS. CODE ANN. § 97-3-107(2)(a)(iii)(West 2021); Mo. Ann. Stat. § 565.225(4)(West 2021); MONT. CODE ANN. § 45-5-220(4) (West 2021); NEB. REV. STAT. ANN. § 28-311.04(2) (West 2021); NEV. REV. STAT. ANN. § 200.575 (2)(West 2021); N.M. STAT. ANN. § 30-3A-3.1(A)(West 2021); N.Y. PENAL LAW § 120.55 (4)(McKinney 2021); OHIO REV. CODE ANN. § 2903.211(B)(2) (West 2021); S.D. CODIFIED LAWS § 22-19A-7 (2021); TENN. CODE ANN. § 39-17-315 (d)(2)(West 2021); VT. STAT. ANN. tit. 13, § 1063(A)(4)(West 2021); WIS. STAT. ANN. § 940.32(2m)(e)(West 2021); 18 U.S.C.A. § 2261B (West 2021).

⁷⁵ D.C. CODE ANN. § 22-3134(b)(3)(West 2021) (specifying that the victim must be under 18 years of age and the offender to be at least four years older than the victim); *See also* DEL. CODE ANN. tit. 11, § 1312(c)(1)(West 2021); MICH. COMP. LAWS ANN. § 750.411H(2)(a)-(b)(West 2021); Mo. Ann. Stat. § 565.225(4)(West 2021); MONT. CODE ANN. § 45-5-220(4) (West 2021); NEV. REV. STAT. ANN. § 200.575 (2)(West 2021); N.Y. PENAL LAW § 120.55 (4)(McKinney 2021); TENN. CODE ANN. § 39-17-315 (d)(2)(West 2021).

⁷⁶ ALASKA STAT. ANN. § 11.41.260(West 2021); ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); DEL. CODE ANN. tit. 11, § 1312 (d)(1)(West 2021); IDAHO CODE ANN. § 18-7905(1)(d)(West 2021); IND. CODE ANN. § 35-45-10-5(c); IOWA CODE ANN. § 708.11(3)(b); KY. REV. STAT. ANN. 508.140(b)(4)(West 2021); MISS. CODE ANN. § 97-3-107(2)(a)(West 2021); MONT. CODE ANN. § 45-5-220(4)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(West 2021); N.M. STAT. ANN. § 30-3A-3.1(A)(West 2021); N.Y. PENAL LAW § 120.55 (McKinney 2021); OHIO REV. CODE ANN. § 2903.211(B)(2)(West 2021); TENN. CODE ANN. § 39-17-315(c)(1)(A) (West 2021); VT. STAT. ANN. tit. 13, § 1063(5)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (5)(b) (West 2021); WIS. STAT. ANN. § 940.32(3)(c)(West 2021); 18 U.S.C.A. § 2261(b)(3)(West 2021).

- They have previously been convicted of a felony or an enumerated crime against the same victim or a member of the victim's family;⁷⁷
- They have previously committed or been convicted of enumerated crimes, regardless of whether they were against the same victim;⁷⁸
- They acted with the intent to cause a reasonable fear of bodily injury or death,⁷⁹ or they caused fear of bodily injury or death;⁸⁰
- Their actions amounted to a threat;⁸¹ or
- They physically injured the victim.⁸²

Less common, albeit noteworthy aggravating factors include:

- Targeting a victim because they belong to a specified group. For example, Connecticut escalates the seriousness of a stalking offense if the conduct was intentionally directed because of the victim's actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity/expression.⁸³ Maine, meanwhile, escalates the seriousness of the offense when the offender stalks two or more victims from an “identifiable” group.⁸⁴ In Missouri, offenders face enhanced penalties if they targeted the victim because they were a law enforcement officer or related to a law enforcement officer.⁸⁵
- Causing financial injury or property damage.⁸⁶

⁷⁷ See, e.g., ALASKA STAT. ANN. § 11.41.260 (West 2021); FLA. STAT. ANN. 784.048(4)(West 2021); KY. REV. STAT. ANN. 508.140(b)(3)(West 2021); NEB. REV. STAT. ANN. § 28-311.04(2)(e)(West 2021); N.D. CENT. CODE ANN. § 12.1-17-07.1(6)(a)(West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 2709.1(c)(2)(West 2021); UTAH CODE ANN. § 76-5-106.5 (7)(c)(West 2021); VT. STAT. ANN. tit. 13, § 1063(a)(2)(West 2021); WASH. REV. CODE ANN. § 9A.46.110 (5)(b)(West 2021); WIS. STAT. ANN. § 940.32(3)(West 2021);

⁷⁸ See, e.g., ARK. CODE ANN. § 5-71-229(a)(1)(West 2021); CAL. PENAL CODE § 646.9 (West 2021); MO. STAT. ANN. § 565.225(5)(West 2021); OHIO REV. CODE ANN. § 2903.211(B)(2)(West 2021).

⁷⁹ See, e.g., ALA. CODE ANN. § 13A-6-90(West 2021); ARK. CODE ANN. § 5-71-229(b)(1)(West 2021); IND. CODE ANN. 35-45-10-5 (b)(2)(West 2021); MISS. CODE ANN. § 97-3-107(2)(a) MISS. CODE ANN. § 97-3-107(2)(West 2021); TENN. CODE ANN. § 39-17-315 (c)(1)(D)(West 2021).

⁸⁰ See, e.g., ARIZ. REV. STAT. ANN. § 13-2923(A)(2)(West 2021); LA. STAT. ANN. § 40.2(B)(2021); N.Y. PENAL LAW § 120.50 (McKinney 2021); WYO. STAT. ANN. § 6-2-506(e)(West 2021).

⁸¹ See, e.g., DEL. CODE ANN. tit. 11, § 1312(c)(4)(West 2021); FLA. STAT. ANN. 784.048(d)(3)(West 2021); IND. CODE ANN. 35-45-10-5 (b)(1)(B)(West 2021); MICH. COMP. LAWS ANN. § 750.411i(2)(c)(West 2021); MO. STAT. ANN. § 565.225(1)(West 2021); NEV. REV. STAT. ANN. § 200.575 (3)(West 2021); OHIO REV. CODE ANN. § 2903.211(B)(2)(West 2021); TENN. CODE ANN. § 39-17-315(c)(2)(West 2021).

⁸² See, e.g., DEL. CODE ANN. tit. 11, § 1312(c)(5)(West 2021); 720 ILL. COMP. STAT. ANN. 5/12-7.4(a)(West 2021); N.Y. PENAL LAW § 120.60 (McKinney 2021); TENN. CODE ANN. § 39-17-315(d)(2)(West 2021); WIS. STAT. ANN. § 940.32(3)(West 2021); 18 U.S.C.A. § 2261 (West 2021).

⁸³ CONN. GEN. STAT. ANN. § 53a-181c (West 2021).

⁸⁴ ME. REV. STAT. ANN. tit. 17-A, § 210-A(D)(West 2021).

⁸⁵ MO. STAT. ANN. §§ 565.225(5), 565.227(4)(West 2021).

⁸⁶ See, e.g., D.C. CODE ANN. § 22-3134(b)(4)(West 2021); OHIO REV. CODE ANN. § 2903.211(b)(2)(West 2021).

- Committing stalking through electronic means.⁸⁷
- Cohabiting with the victim at the time of the offense.⁸⁸
- Confining or restraining the victim.⁸⁹
- Stalking a victim over 62 years of age.⁹⁰
- Stalking a prospective witness in an adjudicative proceeding.⁹¹
- Stalking with the intent to cause the victim to self-harm or commit suicide.⁹²

IV. Protection orders

Some jurisdictions have specific stalking protection order statutes or anti-harassment statutes that explicitly list stalking as grounds for issuance of a protection order.⁹³ A number of these specific stalking protection orders allow for petitions for protection based on other crimes such as sexual assault, sexual abuse, dating violence, and other enumerated crimes of violence.⁹⁴ Some statutes specifically list stalking as a basis for

⁸⁷ NEV. REV. STAT. ANN. § 200.575 (c)(4)(West 2021); WIS. STAT. ANN. § 940.32(2)(d)(West 2021).

⁸⁸ UTAH CODE ANN. § 76-5-106.5 (7)(e)(West 2021).

⁸⁹ 720 ILL. COMP. STAT. ANN. 5/12-7.4(a)(2)(West 2021).

⁹⁰ DEL. CODE ANN. tit. 11, § 1312 (c)(e)(West 2021).

⁹¹ WASH. REV. CODE ANN. § 9A.46.110 (5)(b)(West 2021).

⁹² W. VA. CODE ANN. § 61-2-9A (g)(West 2021).

⁹³ See, e.g., ALASKA STAT. ANN. § 18.65.855 (West 2022); ARIZ. REV. STAT. ANN. § 12-1809 (West 2022); CAL. CIV. PROC. CODE §§ 527.6, 646.91(West 2022); COLO. REV. STAT. ANN. § 13-14-104.5 (West 2022); CONN. GEN. STAT. ANN. § 46b-16a (West 2022); D.C. CODE ANN. § 16-1062 (West 2022); FLA. STAT. ANN. § 784.0485 (West 2022); GA. CODE ANN. § 16-5-94 (West 2022); HAW. REV. STAT. ANN. § 604-10.5 (West 2022); IDAHO CODE ANN. § 18-7907 (West 2022); 740 ILL. COMP. STAT. ANN. 21/80 (West 2022); KAN. STAT. ANN. § 60-31a05 (West 2022); KY. REV. STAT. ANN. § 508.155 (West 2022); LA. STAT. ANN. § 46:2173 (2021); ME. REV. STAT. ANN. tit. 5, § 4652 (West 2022); MASS. GEN. LAWS ANN. CH. 258E, § 3 (West 2022); MICH. COMP. LAWS ANN. § 600.2950a (West 2022); MINN. STAT. ANN. § 609.748 (West 2022); NEB. REV. STAT. ANN. § 28-311.09 (West 2022); NEV. REV. STAT. ANN. § 200.591 (West 2021); N.H. REV. STAT. ANN. § 633:3-a (2022); N.J. STAT. ANN. § 2C:12-10.1 (West 2022); N.M. STAT. ANN. § 40-13-3 (West 2022); OKLA. STAT. ANN. tit. 22, § 60.2 (West 2022); OR. REV. STAT. ANN. § 163.735 (West 2022); 42 PA. STAT. AND CONS. STAT. ANN. § 62A05 (West 2022); P.R. LAWS ANN. tit 33, § 4015 (2022); S.C. CODE ANN. § 16-3-1750 (2022); S.D. CODIFIED LAWS § 22-19A-8 (2022); TEX. CODE CRIM. PROC. ANN. art. 7B.002 (West 2021); V.I. CODE ANN. tit. 5, § 1475 (2021); UTAH CODE ANN. § 78B-7-701 (West 2022); VT. STAT. ANN. tit. 12, § 5134 (West 2022); VA. CODE ANN. § 19.2-152.8 (West 2022); WASH. REV. CODE ANN. § 7.92.050 (West 2022); W. VA. CODE ANN. § 53-8-4 (West 2022); WIS. STAT. ANN. § 813.125 (West 2022); WYO. STAT. ANN. § 7-3-507 (West 2022).

⁹⁴ See, e.g., ALASKA STAT. ANN. § 18.65.850 (West 2022) (sexual assault); CONN. GEN. STAT. ANN. § 46b-16a (West 2022) (sexual abuse or sexual assault); FLA. STAT. ANN. § 784.046 (West 2022) (repeat violence/stalking, sexual assault, or dating violence); IDAHO CODE ANN. § 18-7907 (West 2022) (malicious harassment or telephone harassment); KAN. STAT. ANN. § 60-31a05 (West 2022) (sexual assault or human trafficking); KY. REV. STAT. ANN. § 456.030 (West 2022) (dating violence or sexual assault); ME. REV. STAT. tit. 19-A, § 4005 (West 2022) (sexual assault, sex trafficking, false imprisonment, or unauthorized dissemination of certain private images); 42 PA. STAT. AND CONS. STAT. ANN. § 62A05 (West 2022) (sexual violence, harassment, or intimidation); S.D. CODIFIED LAWS § 22-19A-

a domestic violence protection order.⁹⁵ Other statutes list behaviors that include stalking tactics as grounds for domestic violence or harassment protection orders.⁹⁶

Conclusion

Charging stalking provides actors within the criminal justice system with the opportunity to hold offenders accountable for the full scope of their conduct. When

8 (2022) (assault resulting in physical injury or enumerated crime of violence); TEX. CODE CRIM. PROC. ANN. art. 7B.001 (West 2021) (sexual assault or abuse, indecent assault, or trafficking); VT. STAT. ANN. tit. 12, § 5134 (West 2022) (sexual assault); W. VA. CODE ANN. § 53-8-4 (West 2022) (sexual offense); WYO. STAT. ANN. § 7-3-507 (West 2022) (sexual assault).

⁹⁵ See, e.g., ALA. CODE ANN. § 30-5-5 (West 2022); ALASKA STAT. ANN. § 18.66.110 (West 2022); *McComas v. Kirn*, 105 P.3d 1130 (Alaska 2005) (incarcerated former husband’s crime of threats of harm against former wife, predicated on his sending threatening mail, could constitute stalking in second degree and thus was “crime involving domestic violence” to support issuance of domestic violence protective order); ARIZ. REV. STAT. ANN. § 13-3602 (West 2022); CAL. FAM. CODE § 6320 (West 2022); COLO. REV. STAT. ANN. § 13-14-104.5 (West 2022); CONN. GEN. STAT. ANN. § 46b-15 (West 2022); FLA. STAT. ANN. § 741.30 (West 2022); GA. CODE ANN. § 19-13-3 (West 2022); IND. CODE ANN. § 34-26-5-2 (West 2022); KY. REV. STAT. ANN. § 403.725 (West 2022); LA. STAT. ANN. § 46:2136 (2021); ME. REV. STAT. ANN. tit. 19-A, § 4005 (West 2022); MD. CODE ANN., FAM. LAW § 4-504 (West 2022); MICH. COMP. LAWS ANN. § 600.2950 (West 2022); MISS. CODE ANN. § 93-21-7 (West 2022); MO. ANN. STAT. § 455.020 (West 2021); MONT. CODE ANN. § 40-15-102 (West 2021); NEV. REV. STAT. ANN. § 33.020 (West 2021); N.J. STAT. ANN. § 2C:25-28 (West 2021); N.M. STAT. ANN. § 40-13-3 (West 2022); N.Y. FAM. CT. ACT § 842 (McKinney 2022); N.C. GEN. STAT. ANN. § 50B-2 (West 2021); OHIO REV. CODE ANN. § 3113.31 (West 2022); 15 R.I. GEN. LAWS ANN. § 15-15-3 (West 2022); S.D. CODIFIED LAWS § 25-10-3.3 (2022); TENN. CODE ANN. § 36-3-602 (West 2022); V.I. CODE ANN. tit. 16, § 98 (2022); UTAH CODE ANN. § 78B-7-602 (West 2022); VT. STAT. ANN. tit. 15, § 1103 (West 2022); VA. CODE ANN. § 16.1-253.1 (West 2022); WASH. REV. CODE ANN. § 26.50.030 (West 2022); W. VA. CODE ANN. § 48-27-501 (West 2022); WIS. STAT. ANN. § 813.12 (West 2022); 32 C.F.R. § 635.19 (2022).

⁹⁶ See, e.g., DEL. CODE ANN. tit. 10, § 1041 (West 2022) (“engaging in a course of alarming or distressing conduct in a manner which is likely to cause fear or emotional distress or to provoke a violent or disorderly response”); 750 ILL. COMP. STAT. ANN. 60/103 (West 2022) (“[...]conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner”); NEB. REV. STAT. ANN. § 42-903 (West 2022) (“Placing, by means of credible threat, another person in fear of bodily injury. For purposes of this subdivision, credible threat means a verbal or written threat, including a threat performed through the use of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct [...]”); N.D. CENT. CODE ANN. § 12.1-31.2-01 (West 2021) (disorderly conduct which means “intrusive or unwanted acts, words, or gestures that are intended to adversely affect the safety, security, or privacy of another person”); 23 PA. STAT. AND CONS. STAT. ANN. § 6102 (West 2022) (“Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, without proper authority, under circumstances which place the person in reasonable fear of bodily injury”).

stalking is not charged alongside co-occurring domestic violence, sexual violence, and human trafficking crimes, prosecutors may be more limited in the evidence they can introduce at trial. In some instances, they may be confined to charging or admitting evidence of singular episodes of victimization. Without the broader context of the offender's abuse, the offender's conduct and the victim's experience may be minimized. By charging stalking, prosecutors are better positioned to open the door to the full range of the offender's conduct towards a victim, in a manner similar to how RICO,⁹⁷ Corrupt Organizations, and conspiracy charges help to illuminate the full scope of a criminal enterprise.

The range of criminal activity potentially implicated by stalking laws should be self-evident from this compilation and analysis. Unfortunately, despite how pervasive stalking is in U.S. society, a successful basis to pursue stalking charges is not always readily apparent. This is partially due to a lack of awareness among the public, system professionals, and even victims as to the broad nature of stalking. Many people may be repeatedly targeted by an offender but not have the vocabulary to articulate that what is occurring to them is stalking. In addition, law enforcement practices designed to respond to the immediate exigencies of an incident of victimization may be too strained or myopic to look at the bigger picture — one that a stalking perspective brings into focus.

Particularized investigative and prosecutorial approaches are needed to see the forest through the trees. This is true regardless of whether stalking takes the stereotypical form of an obsessed offender following an unfortunate victim or when stalking co-occurs with domestic violence, human trafficking, sexual violence, and other related crimes. System professionals who conduct victim-centered, trauma-informed investigations and prosecutions; stay abreast of technologies used to stalk and threaten victims; analyze and admit digital and electronic evidence; collaborate across jurisdictions; and pursue historical evidence and records are in the best position to successfully pursue stalking charges.

Assistance related to these topics and more is available through resources on [AEquitas](#) and [SPARC](#) websites and/or by contacting AEquitas and SPARC directly at tta@stalkingawareness.org. Rather than being overwhelmed by the challenges presented by stalking cases, professionals can recognize them as opportunities to expand offenders' accountability for their conduct — criminal and otherwise — from snapshots into the complete picture.

⁹⁷ Racketeer Influenced and Corrupt Organization Act