

Colorado Revised Statutes

-  **Colorado Revised Statutes**
-  **TITLE 18 CRIMINAL CODE**
-  **ARTICLE 9 Offenses Against Public Peace, Order, and Decency**
-  **PART 1 PUBLIC PEACE AND ORDER**

18-9-111. Harassment — stalking.

(1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

(a) Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or

(b) In a public place directs obscene language or makes an obscene gesture to or at another person; or

(c) Follows a person in or about a public place; or

(d) Repealed.

(e) Initiates communication with a person, anonymously or otherwise by telephone, computer, computer network, or computer system in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, or computer system that is obscene; or

(f) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or

(g) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(h) Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

(1.5) As used in this section, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(2) Harassment pursuant to subsection (1) of this section is a class 3 misdemeanor; except that harassment is a class 1 misdemeanor if the offender commits harassment pursuant to subsection (1) of this section with the intent to intimidate or harass another person because of that person's actual or perceived race, color, religion, ancestry, or national origin.

(3) Any act prohibited by paragraph (e) of subsection (1) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic

communication was either made or received.

(4)(a) The general assembly hereby finds and declares that stalking is a serious problem in this state and nationwide. Although stalking often involves persons who have had an intimate relationship with one another, it can also involve persons who have little or no past relationship. A stalker will often maintain strong, unshakable, and irrational emotional feelings for his or her victim, and may likewise believe that the victim either returns these feelings of affection or will do so if the stalker is persistent enough. Further, the stalker often maintains this belief, despite a trivial or nonexistent basis for it and despite rejection, lack of reciprocation, efforts to restrict or avoid the stalker, and other facts that conflict with this belief. A stalker may also develop jealousy and animosity for persons who are in relationships with the victim, including family members, employers and co-workers, and friends, perceiving them as obstacles or as threats to the stalker's own "relationship" with the victim. Because stalking involves highly inappropriate intensity, persistence, and possessiveness, it entails great unpredictability and creates great stress and fear for the victim. Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm. The general assembly hereby recognizes the seriousness posed by stalking and adopts the provisions of this subsection (4) and subsections (5) and (6) of this section with the goal of encouraging and authorizing effective intervention before stalking can escalate into behavior that has even more serious consequences.

(b) A person commits stalking if directly, or indirectly through another person, such person knowingly:

(I) Makes a credible threat to another person and, in connection with such threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or

(II) Makes a credible threat to another person and, in connection with such threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or

(III) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this subparagraph (III), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.

(c) For the purposes of this subsection (4):

(I) Conduct "in connection with" a credible threat means acts which

further, advance, promote, or have a continuity of purpose, and may occur before, during, or after the credible threat;

(II) "Credible threat" means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person's safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. Such threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear.

(III) "Immediate family" includes the person's spouse and the person's parent, grandparent, sibling, or child; and

(IV) "Repeated" or "repeatedly" means on more than one occasion.

(5) Where a person commits stalking under paragraph (b) of subsection (4) of this section, the following shall apply:

(a) A person commits a class 5 felony for a first offense.

(a.5) For a second or subsequent offense, if such offense occurs within seven years of the date of a prior offense for which such person was convicted, the offender commits a class 4 felony.

(a.7) Stalking is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section [18-1.3-401](#)(10).

(b) If, at the time of the offense, there was a temporary or permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect against such person prohibiting the behavior described in paragraph (b) of subsection (4) of this section, such person commits a class 4 felony. In addition, when a violation under subsection (4) of this section is committed in connection with a violation of a court order, including but not limited to any protection order or any order that sets forth the conditions of a bond, any sentence imposed for such violation pursuant to this subsection (5) shall run consecutively and not concurrently with any sentence imposed pursuant to section [18-6-803.5](#) and with any sentence imposed in a contempt proceeding for violation of the court order. Nothing in this paragraph (b) shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings; however, before a criminal contempt proceeding is heard before the court, notice of the proceedings shall be provided to the district attorney for the district of the court where the proceedings are to be heard and the district attorney for the district of the court where the alleged act of criminal contempt occurred. The district attorney for either district shall be allowed to appear and argue for the imposition of contempt sanctions.

(6) A peace officer shall have a duty to respond as soon as reasonably possible to a report of stalking and to cooperate with the alleged victim in investigating such report.

Source: L. 71: R&RE, p. 469, § 1. C.R.S. 1963: § 40-9-111. L. 76: (1)(e) R&RE and (1.5) added, p. 561, §§ 1, 2, effective May 21. L. 81: (1)(e) amended, p. 981, § 6, effective May 13. L. 90: (1)(d) repealed, p. 926, § 11, effective March 27. L. 92: (2) amended and (4) to (6) added,

