

COMMITTEE ON HOMELAND SECURITY,
JUSTICE AND PUBLIC SAFETY

BILL NO. 31-0011

Thirty-first Legislature of the Virgin Islands

February 4, 2015

An Act amending Title 5 establishing Judicial procedures for stalking victims and amending Title 14 Virgin Islands Code, chapter 104 to rename the chapter and to better define stalking

PROPOSED BY: Senator Terrence “Positive” Nelson and Novelle Francis Jr.

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 5 Virgin Islands Code is amended by adding a new Chapter 50 to read as follows:

§ 600. Short title and declaration of purpose

(a) This chapter may be cited as “Virgin Islands Procedure for Victims of Stalking” and its general purposes are to:

(1) Assure that victims of stalking are granted the maximum protection from abuse that the law can provide;

(2) Create a flexible and speedy remedy to discourage violence and harassment against family members or others with whom the perpetrator has continuing contact;

(3) Expand the ability of the Virgin Islands Police Department and law enforcement officers to assist victims, to enforce the law effectively in cases of stalking, and to prevent further incidents of abuse;

(4) Develop a greater understanding within the Virgin Islands community of the incidences and causes of stalking;

(5) Facilitate equal enforcement of the criminal laws of the Territory by deterring and punishing violence against family members and others who are personally involved with the offenders; and

(6) Recognize that stalking is a serious crime which adversely effects its victims and which will no longer be excused or tolerated.

(b) This chapter shall be liberally construed to protect all victims of stalking and to ensure that they receive equal access to judicial protection.

§ 601. Definitions

As used in this chapter.

(1) “Stalking” as defined by 14§2071(a), means purposely and repeatedly following another person and engaging in a course of conduct or making a credible threat with the intent of annoying or placing that person in reasonable fear of death or bodily harm or injury.

(2) “Credible threat” as defined by 14§2071(b), means an explicit or implicit threat made with the intent and the apparent ability to carry out the threat, so as to cause the targeted person to reasonably fear for their safety or the safety of a member of their family.

(3) “Course of conduct” as defined by 14§2071(c) means two or more acts, over a period of time, however short directed at a specific person, evidencing a continuity of purpose which would cause a reasonable person to suffer substantial emotional distress; which includes but is not limited to the stalker directly or indirectly, by any action, method or device, follows, monitors observes, pursues, threatens or communicates to or about a person or interferes with a person’s property.

(4) “Harassment” as defined by 14§2071(d) means engaging in a knowing and intentional course of conduct directed at a specific person that alarms, annoys, torments or terrorizes the person and would cause a reasonable person to suffer emotional distress.

§ 602. Procedural requirements

(a) An adult person who feels that he is a victim of stalking may seek relief under this act by filing a verified petition on a form provided by the court with the Superior Court. A verified petition must allege sufficient facts to establish the following;

- (1) the name of the stalking victim;
- (2) the name or physical description of the perpetrator;
- (3) the dates on which the alleged stalking behavior occurred; and
- (4) the acts that the victim alleges constitute stalking.

(b) A minor who feels he is a stalking victim may have a parent, guardian or adult residing with the minor file a verified petition on his behalf of the minor as prescribed in subsection (a) above.

(c) Service of process upon the alleged perpetrator must be by personal service.

(d) The victim’s address and telephone number must remain confidential and may only be disclosed to authorized court or law enforcement personnel.

1 **§ 603. Hearing, temporary orders**

2 (a) Prior to a hearing upon good cause shown, the court on motion of a party,
3 may enter such temporary relief orders as it considers necessary.

4 (b) Within 10 days of the filing of a petition under §602 a hearing shall be
5 held at which the parties shall have an opportunity to present evidence and testimony.
6 The parties shall have the right to representation by counsel.

7 (c) If a hearing held pursuant to subsection (b) is continued, the court may
8 extend any temporary orders issued pursuant to subsection (a).

9 **§ 604. Orders, duration of orders and costs**

10 (a) The Superior Court may issue a protection from stalking order granting
11 any or all of the following relief;

12 (1) restraining the defendant or anyone acting on behalf of the
13 defendant from following, harassing by personal, telephonic, or computerized contact or
14 by any other form of communication with the victim.

15 (2) restraining the defendant or anyone acting on behalf of the
16 defendant from abusing, molesting or interfering with the privacy rights of the
17 victim.

18 (3) restraining the defendant or anyone acting on behalf of the
19 defendant from entering upon the victim's property, residence or place of
20 employment or within fifty feet thereof.

21 (4) providing any further relief that the court deems necessary based
22 on the facts of the case.

23 (b) All protection from stalking orders must contain language stating that if
24 the order is violated such violation may constitute stalking as defined by 14§2072 and
25 must remain in effect for a period not to exceed one year or until amended, modified or
26 dismissed by the court.

1 (c) Upon motion of the plaintiff demonstrating good cause the court may
2 extend the order for an additional year.

3 (d) The court may amend its order at any time upon motion filed by either
4 party.

5 (e) The court shall assess costs against the defendant and may award attorney
6 fees to the victim in any case in which the court issues a protection from stalking order
7 pursuant to this act. The court may award attorney fees to the defendant in any case
8 where the court finds that the petition to seek relief was frivolous.

9 **§ 605. Notice of Protection Orders**

10 A copy of all protection orders issued pursuant to this chapter must be served
11 upon the parties and copies provided to the Virgin Islands Police Department.

12 **SECTION 2.** Title 14 Virgin Islands Code, chapter 104, §2071 is deleted in its
13 entirety and a new §2071 is added to read as follows:

14 **§2071 Definitions**

15 As used in this chapter:

16 (a) “Stalking” means purposely and repeatedly following another person and
17 engaging in a course of conduct or making a credible threat with the intent of annoying or
18 placing that person in reasonable fear of death or bodily harm or injury.

19 (b) “Credible threat” means an explicit or implicit threat made with the intent
20 and the apparent ability to carry out the threat, so as to cause the targeted person to
21 reasonably fear for their safety or the safety of a member of their family.

22 (c) “Course of conduct” means two or more acts, over a period of time,
23 however short, directed at a specific person, evidencing a continuity of purpose which
24 would cause a reasonable person to suffer substantial emotional distress; which includes
25 but is not limited to the stalker directly or indirectly, by any action, method or device,

1 follows, monitors observes, pursues, threatens or communicates to or about a person or
2 interferes with a person's property.

3 (d) "Harassment" means engaging in a knowing and intentional course of
4 conduct directed at a specific person that alarms, annoys, torments or terrorizes the
5 person and would cause a reasonable person to suffer emotional distress.

6 **BILL SUMMARY**

7 Section 1 of this bill seeks to enact the "Virgin Islands Protection from Stalking
8 Act".

9 The Legislature has found that stalking is a crime that affects 3.4 million people
10 each year in the United States. Almost half of those victims experience at least one
11 unwanted contact per week.

12 Twenty-nine percent of stalking victims fear that the stalking will never end. The
13 prevalence of anxiety, insomnia, social dysfunction and severe depression is much higher
14 among stalking victims than the general population.

15 Three in four stalking victims are stalked by someone they know, and at least
16 thirty percent of stalking victims are by a current or former intimate partner. For many of
17 those victims, the domestic violence protection order is a tool they can access to help
18 ensure their safety and minimize their anxiety. For those who have not had an intimate
19 relationship with the person stalking them, there are few legal remedies available.

20 Victims who do not report the crime still need protection from the offender.
21 Additionally many of the reported cases are not prosecuted and in those instances the
22 victim has no recourse as there is no civil remedy available.

23 It is the intent of the Legislature that the stalking protection order created by this
24 legislation be a remedy for those victims who do not qualify for a domestic violence
25 order of protection.

1 It is also the intent of the Legislature that courts when issuing stalking protection
2 orders to specifically distinguish between stalking conduct covered by the stalking
3 protection order and common acts of harassment or nuisance covered by any other order
4 of protection. This will ensure that law enforcement personnel can rely on the specificity
5 of the orders and properly enforce same.

6 Victims of stalking deserve the same access to and protection of the justice
7 system as that afforded to victims of domestic violence and sexual assault. This
8 protection can be accomplished without infringing upon the constitutionally protected
9 speech or actions of others. The Legislature finds that preventing the issuance of
10 conflicting orders is in the interest of both petitioners and respondents.

11 Section 2 of this legislation revises the language of title 14 Virgin Islands Code
12 chapter 104, §2071 Definitions to make the definitions in the criminal code consistent
13 with those in the judicial procedure chapter of title 5 of the code.

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16 **BR15-0062/February 9, 2015/ LHM/Reviewed by YLT**
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