

New Law – Cyberstalking

Electronic Communications

Effective January 1, 2009, it is a Class 4 felony to:

- *knowingly* and *without lawful justification*
- on at least *two separate occasions*
- *harass another person*
- through the *use of electronic communication* and:
 - at any time transmit a *threat*:
 - of *immediate or future* bodily harm, sexual assault, confinement, or restraint
 - that is *directed toward that person* or a *family member* of that person *or*
 - *place that person* or a family member of that person in *reasonable apprehension of immediate or future* bodily harm, sexual assault, confinement, or restraint *or*
 - at any time *knowingly solicit* the commission of an act by any person that would be a violation of law directed toward that person or a family member of that person. (720 ILCS 5/12-7.5(a))

Internet Web Site/Page

Effective January 1, 2009, it is a Class 4 felony to:

- *knowingly* and *without lawful justification*
- *create and maintain* an *Internet web site* or *web page* that is accessible to one or more third parties for a period of at least 24 hours and that contains statements harassing another person and:
 - that communicates a threat of immediate or future bodily harm, sexual assault, confinement, or restraint, where the threat is directed toward that person or a family member of that person *or*
 - that places that person or a family member of that person in reasonable apprehension of immediate or future bodily harm, sexual assault, confinement, or restraint *or*
 - that knowingly solicits the commission of an act by any person that would be a violation of law directed toward that person or a family member of that person. (720 ILCS 5/12-7.5(a-5))

Enhanced Penalty

A second or subsequent violation is a Class 3 felony. (720 ILCS 5/12-7.5(c))

Statutory Definitions

► **Electronic Communication.** The term *electronic communication* “means any transfer of signs, signals, writings, sounds, data, or intelligence of any nature

transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system,” including “transmissions by a computer through the Internet to another computer.” (720 ILCS 5/12-7.5(b))

► **Harass.** The term *harass* means to “engage in a knowing and willful course of conduct directed at a specific person that alarms, torments, or terrorizes that person.” (720 ILCS 5/12-7.5(b))

► **Third Party.** *Effective January 1, 2009*, the term *third party* means “any person other than the person violating these provisions and the person or persons towards whom the violator’s actions are directed.” (720 ILCS 5/12-7.5(b))

Proof of Cyberstalking