

Idaho Stalking Laws

Idaho Code § 18-7905. Stalking in the first degree. (2004)

(1) A person commits the crime of stalking in the first degree if the person violates section 18-7906, Idaho Code, and:

- (a) The actions constituting the offense are in violation of a temporary restraining order, protection order, no contact order or injunction, or any combination thereof; or
- (b) The actions constituting the offense are in violation of a condition of probation or parole; or
- (c) The victim is under the age of sixteen (16) years; or
- (d) At any time during the course of conduct constituting the offense, the defendant possessed a deadly weapon or instrument; or
- (e) The defendant has been previously convicted of a crime under this section or section 18-7906, Idaho Code, or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment; or
- (f) The defendant has been previously convicted of a crime, or an attempt, solicitation or conspiracy to commit a crime, involving the same victim as the present offense under any of the following provisions of Idaho Code or a substantially conforming foreign criminal violation within seven (7) years, notwithstanding the form of the judgment or withheld judgment:
 - (1) Chapter 9, title 18;
 - (2) Chapter 15, title 18;
 - (3) Chapter 61, title 18;
 - (4) Section 18-4014 (administering poison with intent to kill);
 - (5) Section 18-4015 (assault with intent to murder);
 - (6) Section 18-4501 (kidnapping);
 - (7) Section 18-5501 (poisoning);
 - (8) Section 18-6608 (forcible sexual penetration by use of foreign object);
 - (9) Section 18-7902 (malicious harassment); or
 - (10) Section 18-8103 (act of terrorism).

(2) In this section, "course of conduct" and "victim" have the meanings given in section 18-7906(2), Idaho Code.

(3) For the purpose of this section, a "substantially conforming foreign criminal violation" exists when a person has pled guilty to or has been found guilty of a violation of any federal law or law of another state, or any valid county, city, or town ordinance of another state substantially conforming to the provisions of this section or section 18-7906, Idaho Code. The determination of whether a foreign criminal violation is substantially conforming is a question of law to be determined by the court.

(4) Stalking in the first degree is a felony punishable by a fine not exceeding ten thousand dollars (\$ 10,000) or

imprisonment in the state prison for not less than one (1) year nor more than five (5) years, or by both such fine and imprisonment.

Idaho Code § 18-7906. Stalking in the second degree. (2004)

(1) A person commits the crime of stalking in the second degree if the person knowingly and maliciously:

- (a) Engages in a course of conduct that seriously alarms, annoys or harasses the victim and is such as would cause a reasonable person substantial emotional distress; or
- (b) Engages in a course of conduct such as would cause a reasonable person to be in fear of death or physical injury, or in fear of the death or physical injury of a family or household member.

(2) As used in this section:

(a) "Course of conduct" means repeated acts of nonconsensual contact involving the victim or a family or household member of the victim, provided however, that constitutionally protected activity is not included within the meaning of this definition.

(b) "Family or household member" means:

- (1) A spouse or former spouse of the victim, a person who has a child in common with the victim regardless of whether they have been married, a person with whom the victim is cohabiting whether or not they have married or have held themselves out to be husband or wife, and persons related to the victim by blood, adoption or marriage; or
- (2) A person with whom the victim is or has been in a dating relationship, as defined in section 39-6303, Idaho Code; or
- (3) A person living in the same residence as the victim.

(c) "Nonconsensual contact" means any contact with the victim that is initiated or continued without the victim's consent, that is beyond the scope of the consent provided by the victim, or that is in disregard of the victim's expressed desire that the contact be avoided or discontinued. "Nonconsensual contact" includes, but is not limited to:

- (1) Following the victim or maintaining surveillance, including by electronic means, on the victim;
- (2) Contacting the victim in a public place or on private property;
- (3) Appearing at the workplace or residence of the victim;
- (4) Entering onto or remaining on property owned, leased or occupied by the victim;
- (5) Contacting the victim by telephone or causing the victim's telephone to ring repeatedly or continuously regardless of whether a conversation ensues;
- (6) Sending mail or electronic communications to the victim; or
- (7) Placing an object on, or delivering an object to, property owned, leased or occupied by the victim.

(d) "Victim" means a person who is the target of a course of conduct.

(3) Stalking in the second degree is punishable by imprisonment in the county jail for not more than one (1) year or by a fine of not more than one thousand dollars (\$ 1,000), or by both such fine and imprisonment.