

# AN ACT

To amend sections 2903.211 and 2917.21 of the Revised Code to make any repeat offense of menacing by stalking, and any repeat offense of telephone harassment other than one involving certain threats to cause damage to property, a felony of the fifth degree.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 2903.211 and 2917.21 of the Revised Code be amended to read as follows:

Sec. 2903.211. (A) No person by engaging in a pattern of conduct shall knowingly cause another to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.

(B) Whoever violates this section is guilty of menacing by stalking, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section ~~involving the same person who is the victim of the current offense~~, menacing by stalking is a felony of the fifth degree.

(C) As used in this section:

(1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents.

(2) "Mental distress" means any mental illness or condition that involves some temporary substantial incapacity or mental illness or condition that would normally require psychiatric treatment.

Sec. 2917.21. (A) No person shall knowingly make or cause to be made a telephone call, or knowingly permit a telephone call to be made from a telephone under the person's control, to another, if the caller does any of the following:

(1) Fails to identify the caller to the recipient of the telephone call and makes the telephone call with purpose to harass, abuse, or annoy any person at the premises to which the telephone call is made, whether or not conversation takes place during the telephone call;

(2) Describes, suggests, requests, or proposes that the caller, recipient of

the telephone call, or any other person engage in any sexual activity as defined in division (C) of section 2907.01 of the Revised Code, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, has requested, in a previous telephone call or in the immediate telephone call, the caller not to make a telephone call to the recipient of the telephone call or to the premises to which the telephone call is made;

(3) During the telephone call, violates section 2903.21 of the Revised Code;

(4) Knowingly states to the recipient of the telephone call that the caller intends to cause damage to or destroy public or private property, and the recipient of the telephone call, any member of the family of the recipient of the telephone call, or any other person who resides at the premises to which the telephone call is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;

(5) Knowingly makes the telephone call to the recipient of the telephone call, to another person at the premises to which the telephone call is made, or to the premises to which the telephone call is made, and the recipient of the telephone call, or another person at the premises to which the telephone call is made, previously has told the caller not to call the premises to which the telephone call is made or not to call any persons at the premises to which the telephone call is made.

(B) No person shall make or cause to be made a telephone call, or permit a telephone call to be made from a telephone under the person's control, with purpose to abuse, threaten, annoy, or harass another person.

(C)(1) Whoever violates this section is guilty of telephone harassment.

(2) A violation of division (A)(1), (2), (3), or (5) or (B) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense ~~involving the same person, recipient, or premises.~~

(3) Except as otherwise provided in division (C)(3) of this section, a violation of division (A)(4) of this section is a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense. If a violation of division (A)(4) of this section results in economic harm of five hundred dollars or more but less than five thousand dollars, telephone harassment is a felony of the fifth degree. If a violation of division (A)(4) of this section results in economic harm of five thousand dollars or more but less than one hundred thousand dollars, telephone harassment is a felony of the fourth degree. If a violation of division (A)(4) of this section

results in economic harm of one hundred thousand dollars or more, telephone harassment is a felony of the third degree.

(D) As used in this section, "economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:

(1) All wages, salaries, or other compensation lost as a result of the criminal conduct;

(2) The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;

(3) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;

(4) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

(E) Nothing in this section prohibits a person from making a telephone call to a debtor that is in compliance with the "Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

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SECTION 2. That existing sections 2903.211 and 2917.21 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the  
\_\_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_