

## HOUSE BILL NO. 528

INTRODUCED BY E. HILL

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE OFFENSE OF STALKING; CLARIFYING THAT STALKING INCLUDES REPEATED ELECTRONIC COMMUNICATIONS TO THE STALKED PERSON OR REPEATEDLY POSTING HARASSING, THREATENING, INTIMIDATING, OR TERRIFYING INFORMATION ON A WEBSITE OR COMPUTER NETWORK; AMENDING SECTION 45-5-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 45-5-220, MCA, is amended to read:

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**"45-5-220. Stalking -- exemption -- penalty.** (1) A person commits the offense of stalking if the person purposely or knowingly causes another person substantial emotional distress or reasonable apprehension of bodily injury or death by repeatedly:

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(a) following the stalked person; ~~or~~

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(b) harassing, threatening, or intimidating the stalked person, in person or by mail, ~~electronic communication, as defined in 45-8-213,~~ or any other action, device, or method;

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(c) transmitting to the stalked person an electronic communication as defined in 45-8-213; or

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(d) posting information to a website or computer network that harasses, threatens, intimidates, or terrifies the stalked person or the stalked person's family and that serves no legitimate purpose.

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(2) This section does not apply to a constitutionally protected activity.

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(3) For the first offense, a person convicted of stalking shall be imprisoned in the county jail for a term not to exceed 1 year or fined an amount not to exceed \$1,000, or both. For a second or subsequent offense or for a first offense against a victim who was under the protection of a restraining order directed at the offender, the offender shall be imprisoned in the state prison for a term not to exceed 5 years or fined an amount not to exceed \$10,000, or both. A person convicted of stalking may be sentenced to pay all medical, counseling, and other costs incurred by or on behalf of the victim as a result of the offense.

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(4) Upon presentation of credible evidence of violation of this section, an order may be granted, as set forth in Title 40, chapter 15, restraining a person from engaging in the activity described in subsection (1).

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- 1 (5) For the purpose of determining the number of convictions under this section, "conviction" means:  
2 (a) a conviction, as defined in 45-2-101, in this state;  
3 (b) a conviction for a violation of a statute similar to this section in another state; or  
4 (c) a forfeiture of bail or collateral deposited to secure the defendant's appearance in court in this state  
5 or another state for a violation of a statute similar to this section, which forfeiture has not been vacated.  
6 (6) Attempts by the accused person to contact or follow the stalked person after the accused person has  
7 been given actual notice that the stalked person does not want to be contacted or followed constitutes prima facie  
8 evidence that the accused person purposely or knowingly followed, harassed, threatened, or intimidated the  
9 stalked person."

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11 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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13 NEW SECTION. **Section 3. Applicability.** [This act] applies to offenses committed on or after [the  
14 effective date of this act].

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