

Cherokee Nation Code Annotated
Title 21: Crimes and Punishments
Part IV. Crimes Against Public Decency and Morality
Chapter 46: Domestic Abuse
§ 1134. Stalking
Cite as: 21 CNCA § 1134

A. Definitions. For purposes of this section:

1. **"Course of conduct"** means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."
2. **"Emotional distress"** means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.
3. **"Harasses"** means conduct directed toward a person that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.
4. **"Member of the immediate family"** means any spouse, parent, Child, person related within the third degree of consanguinity or affinity or any other person who regularly resides in the household or who has regularly resided in the household within the prior six (6) months.
5. **"Unconsented contact"** means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:
 - a. following or appearing within the sight of that individual;
 - b. approaching or confronting that individual in a public place or on private property;
 - c. appearing at the work place or residence of that individual;
 - d. entering onto or remaining on property owned, leased, or occupied by that individual;
 - e. contacting that individual by telephone;

f. sending mail or electronic communications to that individual; and

g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

B. Any person who willfully, maliciously, and repeatedly follows or harasses another person in a manner that:

1. would cause a reasonable person or a member of the immediate family of that person as defined in subsection (F) below to feel frightened, intimidated, threatened, harassed, or molested; or

2. actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed, or molested, upon conviction, shall be guilty of the crime of stalking which is punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), by imprisonment for not more than one (1) year, or both.

C. Any person who violates the above provisions when any of the following conditions exist at the time of the offense shall be guilty of a separate offense which is punishable by a fine of not more than Fifteen Thousand Dollars (\$15,000.00), by imprisonment for a term not exceeding three (3) years, or both:

1. there is a temporary restraining order, a protective order, emergency ex parte order or an injunction in effect prohibiting the behavior described in this section against the same party, when the person violating such provisions has actual notice of the issuance of such order or injunction;

2. said person is on probation or parole, a condition of which prohibits the behavior described in this section against the same party; or

3. said person, within ten (10) years preceding the violation of this section, completed the execution of sentence or conviction of a crime involving the use or threat of violence against the same party, or against a member of the immediate family of such party.

D. Any person who is convicted of a second act of stalking within ten (10) years of the completion of sentence for a prior conviction under this section shall be punished by a fine of not more than Fifteen Thousand Dollars (\$15,000.00), by imprisonment for a term not exceeding three (3) years, or both.

E. Evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, shall give rise to a rebuttable presumption

that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Historical Data

LA 10-13, eff. April 13, 2013. Amended LA 28-20, eff. December 14, 2020.