

Stalking: Summary

1. **S.154 clarifies the Stalking Statutes:**

In Vermont, 3 out of every 4 Stalking Civil Protection Order filings are denied.ⁱ

Victims rarely receive the stalking civil protection orders they request for reasons related to the lack of clarity of the statute and, consequently, an inability of investigating law enforcement and presiding judges to clearly interpret the statute. Of the 705 cases disposed in FY15, a temporary restraining order was granted in 62% of the cases, but a final order was granted in only 25% of the cases filed

*The explanation for the high percentage of denials of both temporary and final orders lies in all probability with confusion around the definition of “stalking”.*ⁱⁱ

2. **S.154 sets forth clear elements that are both broad enough to meet the needs of victims, yet limiting enough to protect individuals from frivolous prosecutions.**

The elements of stalking include

- Purposefully engaging in a course of conduct
- The actions must be directed at a specific person
- The perpetrator knows or should have known that a reasonable person would fear for his or her safety, including both physical and emotional safety.

3. **S.154 redefines the stalker’s “course of conduct”** as two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property and applies to acts conducted by the person directly or indirectly, and by any action, method, device, or means. The current statute’s definition is vague and confusing, making judicial rulings more difficult. It also does not include the more sophisticated ways and technological means to track, intimidate and harass victims.

4. **S.154 specifically states that no overt threat is required.** Victims are often told there is no ability to pursue a protection order because no overt threat has been used by the alleged perpetrator. In understanding stalking, it is vital that one appreciate the role of context between the stalker and the victim. Stalkers often do not make overt threats, or they may make veiled threats in what appears to be innocent language. For example, the phrase “One day, I know we will be just like Romeo and Juliet” can have two very different meanings, depending upon the context.

5. **S.154 includes fear of physical harm and emotional distress.** Vermont’s current statutes include emotional distress; however, the language is unclear and so narrow that it is too difficult for law enforcement and prosecutors to effectively act under the current provisions.

6. **S.154 adds lewd and lascivious conduct to the definition of sexual assault and aligns the evidentiary requirements for stalking and sexual assault.** Too often orders are denied because lewd and lascivious behavior is not considered assaultive.

7. **S.154 allows minors to file for a stalking or sexual assault civil protection order at the age of 16,** because minors 16 years and older need greater access to these civil protection tools to manage their safety effectively. More than 1/3 of all sexual assaults occur when the victim is between the ages of 12 and 17.ⁱⁱⁱ National research indicates that teenagers are more likely to experience sexual violence than any other age group. In fact, females ages 16-24 are more vulnerable to intimate partner violence than any other age group – at a rate almost triple the national average.^{iv}

ⁱ Vermont Judiciary Statistical Report FY 2015, Appendix 1.

ⁱⁱ Vermont Judiciary, 2015 Annual Statistical Report, p.34.

ⁱⁱⁱ “Child Sexual Abuse: What Parents Should Know,” American Psychological Association. (<http://www.apa.org/pi/families/resources/child-sexual-abuse.aspx>) (February 19, 2014).

^{iv} U.S. Department of Justice, Bureau of Justice Statistics, Special Report: Intimate Partner Violence and Age of Victim, 1993-99 (Oct. 2001, rev. 11/28/01)