SPARC STALKING PREVENTION, AWARENESS, AND RESOURCE CENTER

AEQUITAS

Stalking, Harassment, & Related Offenses: Colorado

Current as of June 2023

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Summary

What constitutes a "course of conduct" / pattern of behavior?	Acts that further, advance, promote, or have a continuity of purpose, and may occur before, during, or after the credible threat. Colo. Rev. Stat. § 18-3-601(2)(a). Acts must be repeated, which means "more than once." Colo. Rev. Stat. § 18-3-601(2)(d).
What types of threats are required (credible, explicit, implicit, bodily injury?)	Colo. Rev. Stat. § 18-3-601 §§ (1)(a) and (1)(b) require a credible threat, but § (1)(c) does not require a credible threat. A "credible threat" means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person's safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. The threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear. Colo. Rev. Stat. § 18-3-601(2)(b).
What is the required intent of the offender? *(i.e., does the offender have to intend to create fear in the victim?)*	Offender must act knowingly. Colo. Rev. Stat. § 18-3-602(1) This *mens rea* requirement applies to the "course of conduct" part of the statute, *not* whether the conduct would reasonably cause the victim to have fear/suffer emotional distress. *People v. Cross*, 127 P.3d 71 (Colo. 2006).
Do offender actions toward persons *other than* the victim help establish course of conduct?	Yes, stalking includes actions against the victim's immediate family member or person with whom victim has or has had a continuing relationship. Colo. Rev. Stat. § 18-3-601. "Immediate family" means spouse and the person's parent, grandparent, sibling, or child. Colo. Rev. Stat. § 18-3-601(2)(c).

What type of victim fear is required? (for safety, of bodily injury, etc.)?	For Colo. Rev. Stat. §§ 18-3-601(1)(a) and (1)(b), requires fear for safety. For Colo. Rev. Stat. § 18-3-601(1)(c), requires serious emotional distress.
Does fear include emotional distress?	Colo. Rev. Stat. § 18-3-601(1)(c) requires that the victim, a member of the victim's immediate family, or someone with whom the victim has or has had a continuing relationship to suffer serious emotional distress. A victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress. *Id.*
Is the fear requirement a subjective (victim must feel fear) or objective standard (reasonable person standard), or both?	For Colo. Rev. Stat. § 18-3-601 §§ (1)(a) and (1)(b), reasonable person standard only (see definition of "credible threat," which is defined in part by conduct that would cause a reasonable person to be in fear, Colo. Rev. Stat. § 18-3-601(2)(b)). For Colo. Rev. Stat. Ann. § 17-3-601(1)(c), reasonable person standard and actual serious emotional distress. *See also People v. Cross,* 127 P.3d 71 (Colo. 2006) (discussing the state legislature's conscious choice to employ both an objective and subjective standard for this stalking provision).
If reasonable person standard is required, what constitutes a reasonable fear? *(Look to case law)*	What constitutes reasonable fear is case specific. See, e.g., *People v. Folsom,* 431 P.3d 652 (Colo. App.2017) (finding that evidence that defendant was twice standing in victim's yard outside her window, a place where he had no legal right to be, could lead a reasonable juror to find a reasonable person would suffer serious emotional distress). *See also People v. Chase*, 411 P.3d 740 (Colo. App. 2013) (holding that implicit and explicit threats in emails, referencing defendant's past conviction for

	arson, saying the victims better not "fuck" with him, saying that "they better put him away for life" or there would be "hell to pay" and claiming he had "nothing to lose" could cause a reasonable person to fear for their safety).
Must the victim tell the defendant to stop in order to constitute stalking?	No.
Is stalking by proxy included? *(i.e., getting a third person to stalk the victim)*	Yes. See Colo. Rev. Stat. Ann. § 18-3-602(1) ("...or indirectly through another person...").
Is technology-facilitated stalking covered by regular stalking statutes and accompanying case law, or is it covered under a separate offense?	While not explicitly mentioned, technology-facilitated stalking is covered by the regular stalking statute and accompanying case law. *See, e.g., People v. Chase*, 411 P.3d 740 (Colo. App. 2013) (upholding stalking conviction where defendant sent threatening emails to victims); *see also People v. Sullivan,* 53 P.3d 1181 (Colo. App. 2002) (holding that "surveillance" for purposes of Colo. Rev. Stat. Ann. § 18-3-602(1)(c) includes electronic surveillance); *see also People v. Burgandine*, 484 P.3d 739 (Colo. App. 2020) (holding that "contacts" under Colo. Rev. Stat. Ann. § 18-3-602(1)(a) included text and phone communications). Other statutes criminalize similar conduct such as harassing through electronic means. Colo. Rev. Stat. § 18-9-11.
Do the stalking laws have a resident requirement? *(i.e., must the victim or defendant reside in the jurisdiction in order for this to constitute a criminal offense?)*	There is no residency requirement. Further, (1) a person is subject to prosecution in Colorado "for an offense which he commits, by his own conduct or that of another for which he is legally accountable, if the conduct constitutes an offense and is committed either wholly or partly within the state." Colo. Rev. Stat. § 18-1-201 (1)(a).
Any unique provisions, elements, or requirements?	No.

Gradation of crimes *(list out statues in order of declining gradation and say what type of felony it is - felony, "wobbler" / felony under special circumstances, misdemeanor)*	Stalking is a Class 4 felony for a second or subsequent offense, if committed within 7 years of prior offense for which defendant was convicted; OR if conduct was in violation of a court order. Stalking is Class 5 felony for first offense. Colo. Rev. Stat. § 18-3-602.
What aggravating circumstances elevate the gradation of a stalking offense?	Second or subsequent offense committed within 7 years of first offense, or conduct violates a court order. *See* Colo. Rev. Stat. § 18-3-602(3)(b), (5).

Statutes

COLO. REV. STAT. ANN. § 18-3-601 (WEST 2023). LEGISLATIVE DECLARATION

(1) The general assembly hereby finds and declares that:

(a) Stalking is a serious problem in this state and nationwide;

(b) Although stalking often involves persons who have had an intimate relationship with one another, it can also involve persons who have little or no past relationship;

(c) A stalker will often maintain strong, unshakable, and irrational emotional feelings for his or her victim and may likewise believe that the victim either returns these feelings of affection or will do so if the stalker is persistent enough. Further, the stalker often maintains this belief, despite a trivial or nonexistent basis for it and despite rejection, lack of reciprocation, efforts to restrict or avoid the stalker, and other facts that conflict with this belief.

(d) A stalker may also develop jealousy and animosity for persons who are in relationships with the victim, including family members, employers and co-workers, and friends, perceiving them as obstacles or as threats to the stalker's own “relationship” with the victim;

(e) Because stalking involves highly inappropriate intensity, persistence, and possessiveness, it entails great unpredictability and creates great stress and fear for the victim;

(f) Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm.

(2) The general assembly hereby recognizes the seriousness posed by stalking and adopts the provisions of this part 6 with the goal of encouraging and authorizing effective intervention before stalking can escalate into behavior that has even more serious consequences.

COLO. REV. STAT. ANN. § 18-3-602 (WEST 2023). STALKING--PENALTY--DEFINITIONS--VONNIE'S LAW

(1) A person commits stalking if directly, or indirectly through another person, the person knowingly:

(a) Makes a credible threat to another person and, in connection with the threat, repeatedly follows, approaches, contacts, or places under surveillance that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship; or

(b) Makes a credible threat to another person and, in connection with the threat, repeatedly makes any form of communication with that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship, regardless of whether a conversation ensues; or

(c) Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this paragraph (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress.

(2) For the purposes of this part 6:

(a) Conduct “in connection with” a credible threat means acts that further, advance, promote, or have a continuity of purpose, and may occur before, during, or after the credible threat.

(b) “Credible threat” means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person's safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. The threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear.

(c) “Immediate family” includes the person's spouse and the person's parent, grandparent, sibling, or child.

(d) “Repeated” or “repeatedly” means on more than one occasion.

(3) A person who commits stalking:

(a) Commits a class 5 felony for a first offense except as otherwise provided in subsection (5) of this section; or

(b) Commits a class 4 felony for a second or subsequent offense, if the offense occurs within seven years after the date of a prior offense for which the person was convicted.

(4) Stalking is an extraordinary risk crime that is subject to the modified presumptive sentencing range specified in section 18-1.3-401(10).

(5) If, at the time of the offense, there was a temporary or permanent protection order, injunction, or condition of bond, probation, or parole or any other court order in effect against the person, prohibiting the behavior described in this section, the person commits a class 4 felony.

(6) Nothing in this section shall be construed to alter or diminish the inherent authority of the court to enforce its orders through civil or criminal contempt proceedings; however, before a criminal contempt proceeding is heard before the court, notice of the proceedings shall be provided to the district attorney for the judicial district of the court where the proceedings are to be heard and the district attorney for the judicial district in which the alleged act of criminal contempt occurred. The district attorney for either district shall be allowed to appear and argue for the imposition of contempt sanctions.

(7) A peace officer shall have a duty to respond as soon as reasonably possible to a report of stalking and to cooperate with the alleged victim in investigating the report.

(8) (a) When a person is arrested for an alleged violation of this section, the fixing of bail for the crime of stalking shall be done in accordance with section 16-4-105(4), C.R.S., and a protection order shall issue in accordance with section 18-1-1001(5).

(b) This subsection (8) shall be known and may be cited as “Vonnie's law”.

(9) When a violation under this section is committed in connection with a violation of a court order, including but not limited to any protection order or any order that sets forth the conditions of a bond, any sentences imposed pursuant to this section and pursuant to section 18-6-803.5 or any sentence imposed in a contempt proceeding for violation of the court order shall be served consecutively and not concurrently.

COLO. REV. STAT. ANN. § 18-6-803.5 (WEST 2023). CRIME OF VIOLATION OF A PROTECTION ORDER--PENALTY--PEACE OFFICERS' DUTIES--DEFINITIONS

(1) A person commits the crime of violation of a protection order if, after the person has been personally served with a protection order that identifies the person as a restrained person or otherwise has acquired from the court or law enforcement personnel actual knowledge of the contents of a protection order that identifies the person as a restrained person, the person:

(a) Contacts, harasses, injures, intimidates, molests, threatens, or touches the protected person or protected property, including an animal, identified in the protection order or enters or remains on premises or comes within a specified distance of the protected person, protected property, including an animal, or premises or violates any other provision of the protection order to protect the protected person from imminent danger to life or health, and such conduct is prohibited by the protection order;

(b) Except as permitted pursuant to section 18-13-126(1)(b), hires, employs, or otherwise contracts with another person to locate or assist in the location of the protected person; or

(c) Violates a civil protection order issued pursuant to section 13-14-105.5 or a mandatory protection order issued pursuant to section 18-1-1001(9) by:

(I) Possessing or attempting to purchase or receive a firearm or ammunition while the protection order is in effect; or

(II) Failing to timely file a signed affidavit or written statement with the court as described in section 13-14-105.5(10), 18-1-1001(9)(i), or 18-6-801(8)(i).

(1.5) As used in this section:

(a) "Protected person" means the person or persons identified in the protection order as the person or persons for whose benefit the protection order was issued. "Protected person" does not include the defendant.

(a.5)(I) "Protection order" means any order that prohibits the restrained person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any protected person or protected animal, or from entering or remaining on premises, or from coming within a specified distance of a protected person or protected animal or premises or any other provision to protect the protected person or protected animal from imminent danger to life or health, that is issued by a court of this state or a municipal court, and that is issued pursuant to:

(A) Article 14 of title 13, section 18-1-1001, section 19-2.5-607, section 19-4-111, or rule 365 of the Colorado rules of county court civil procedure;

(B) Sections 14-4-101 to 14-4-105, C.R.S., section 14-10-107, C.R.S., section 14-10-108, C.R.S., or section 19-3-316, C.R.S., as those sections existed prior to July 1, 2004;

(C) An order issued as part of the proceedings concerning a criminal municipal ordinance violation; or

(D) Any other order of a court that prohibits a person from contacting, harassing, injuring, intimidating, molesting, threatening, or touching any person, or from entering or remaining on premises, or from coming within a specified distance of a protected person or premises.

(II) For purposes of this section only, "protection order" includes any order that amends, modifies, supplements, or supersedes the initial protection order. "Protection order" also includes any restraining order entered prior to July 1, 2003, and any foreign protection order as defined in section 13-14-110, C.R.S.

(b) "Registry" means the computerized information system created in section 18-6-803.7 or the national crime information center created pursuant to 28 U.S.C. sec. 534.

(c) "Restrained person" means the person identified in the order as the person prohibited from doing the specified act or acts.

(d) Deleted by Laws 2003, Ch. 139, § 6, eff. July 1, 2003.

(2) (a) Violation of a protection order is a class 2 misdemeanor; except that, if the restrained person has previously been convicted of violating this section or a former version of this section or an analogous municipal ordinance, or if the protection order is issued pursuant to section 18-1-1001, or the basis for issuing the protection order included an allegation of stalking or the parties were in an intimate relationship, the violation is a class 1 misdemeanor.

(a.5) Repealed by Laws 2022, Ch. 68 (H.B. 22-1229), § 26, eff. March 1, 2022.

(b) Deleted by Laws 1995, H.B.95-1179, § 3, eff. July 1, 1995.

(c) Nothing in this section shall preclude the ability of a municipality to enact concurrent ordinances. Any sentence imposed for a violation of this section shall run consecutively and not concurrently with any sentence imposed for any crime which gave rise to the issuing of the protection order.

(3) (a) Whenever a protection order is issued, the protected person shall be provided with a copy of such order. A peace officer shall use every reasonable means to enforce a protection order.

(b) A peace officer shall arrest, or, if an arrest would be impractical under the circumstances, seek a warrant for the arrest of a restrained person when the peace officer has information amounting to probable cause that:

(I) The restrained person has violated or attempted to violate any provision of a protection order; and

(II) The restrained person has been properly served with a copy of the protection order or the restrained person has received actual notice of the existence and substance of such order.

(c) In making the probable cause determination described in paragraph (b) of this subsection (3), a peace officer shall assume that the information received from the registry is accurate. A peace officer shall enforce a valid protection order whether or not there is a record of the protection order in the registry.

(d) The arrest and detention of a restrained person is governed by applicable constitutional and applicable state rules of criminal procedure. The arrested person shall be removed from the scene of the arrest and shall be taken to the peace officer's station for booking, whereupon the arrested person may be held or released in accordance with the adopted bonding schedules for the jurisdiction in which the arrest is made, or the arrested person may be taken to the jail in the county where the protection order was issued. The law enforcement agency or any other locally designated agency shall make all reasonable efforts to contact the protected party upon the arrest of the restrained person. The prosecuting attorney shall present any available arrest affidavits and the criminal history of the restrained person to the court at the time of the first appearance of the restrained person before the court.

(e) The arresting agency arresting the restrained person shall forward to the issuing court a copy of such agency's report, a list of witnesses to the violation, and, if applicable, a list of any charges filed or requested against the restrained person. The agency shall give a copy of the agency's report, witness list, and charging list to the protected party. The agency shall delete the address and telephone number of a witness from the list sent to the court upon request of such witness, and such address and telephone number shall not thereafter be made available to any person, except law enforcement officials and the prosecuting agency, without order of the court.

(4) If a restrained person is on bond in connection with a violation or attempted violation of a protection order in this or any other state and is subsequently arrested for violating or attempting to violate a protection order, the arresting agency shall notify the prosecuting attorney who shall file a motion with the court which issued the prior bond for the revocation of the bond and for the issuance of a warrant for the arrest of the restrained person if such court is satisfied that probable cause exists to believe that a violation of the protection order issued by the court has occurred.

(5) A peace officer arresting a person for violating a protection order or otherwise enforcing a protection order shall not be held criminally or civilly liable for such arrest or enforcement unless the peace officer acts in bad faith and with malice or does not act in compliance with rules adopted by the Colorado supreme court.

(6) (a) A peace officer is authorized to use every reasonable means to protect the alleged victim or the alleged victim's children to prevent further violence. Such peace officer may transport, or obtain transportation for, the alleged victim to shelter. Upon the request of the protected person, the peace officer may also transport the minor child of the protected person, who is not an emancipated minor, to the same shelter if such shelter is willing to accept the child, whether or not there is a custody order or an order allocating parental responsibilities with respect to such child or an order for the care and control of the child and whether or not the other parent objects. A peace officer who transports a minor child over the objection of the other parent shall not be held liable for any damages that may result from interference with the custody, parental responsibilities, care, and control of or access to a minor child in complying with this subsection (6).

(b) For purposes of this subsection (6), “shelter” means a battered women's shelter, a friend's or family member's home, or such other safe haven as may be designated by the protected person and which is within a reasonable distance from the location at which the peace officer found the victim.

(7) The protection order shall contain in capital letters and bold print a notice informing the protected person that such protected person may either initiate contempt proceedings against the restrained person if the order is issued in a civil action or request the prosecuting attorney to initiate contempt proceedings if the order is issued in a criminal action.

(8) A protection order issued in the state of Colorado shall contain a statement that:

(a) The order or injunction shall be accorded full faith and credit and be enforced in every civil or criminal court of the United States, another state, an Indian tribe, or a United States territory pursuant to 18 U.S.C. sec. 2265;

(b) The issuing court had jurisdiction over the parties and subject matter; and

(c) The defendant was given reasonable notice and opportunity to be heard.

(9) A criminal action charged pursuant to this section may be tried either in the county where the offense is committed or in the county in which the court that issued the protection order is located, if such court is within this state.

COLO. REV. STAT. ANN. § 18-9-111 (WEST 2023). HARASSMENT--KIANA ARELLANO'S LAW

(1) A person commits harassment if, with intent to harass, annoy, or alarm another person, he or she:

(a) Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or

(b) In a public place directs obscene language or makes an obscene gesture to or at another person; or

(c) Follows a person in or about a public place; or

(d) Repealed by Laws 1990, H.B.90-1118, § 11.

(e) Directly or indirectly initiates communication with a person or directs language toward another person, anonymously or otherwise, by telephone, telephone network, data network, text message, instant message, computer, computer network, computer system, or other interactive electronic medium in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone, computer, computer network, computer system, or other interactive electronic medium that is obscene; or

(f) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or

(g) Makes repeated communications at inconvenient hours that invade the privacy of another and interfere in the use and enjoyment of another's home or private residence or other private property; or

(h) Repeatedly insults, taunts, challenges, or makes communications in offensively coarse language to, another in a manner likely to provoke a violent or disorderly response.

(1.5) As used in this section, unless the context otherwise requires, “obscene” means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(2) (a) A person who violates subsection (1)(a) or (1)(c) of this section or violates any provision of subsection (1) of this section with the intent to intimidate or harass another person, in whole or in part, because of that person's actual or perceived race; color; religion; ancestry; national origin; physical or mental disability, as defined in section 18-9-121 (5)(a); or sexual orientation, as defined in section 18-9-121 (5)(b), commits a class 1 misdemeanor.

(b) A person who violates subsection (1)(e), (1)(f), (1)(g), or (1)(h) of this section commits a class 2 misdemeanor.

(c) A person who violates subsection (1)(b) of this section commits a petty offense.

(3) Any act prohibited by paragraph (e) of subsection (1) of this section may be deemed to have occurred or to have been committed at the place at which the telephone call, electronic mail, or other electronic communication was either made or received.

(4) Repealed by Laws 2010, Ch. 88, § 2, eff. Aug. 11, 2010.

(5) Repealed by Laws 2010, Ch. 88, § 2, eff. Aug. 11, 2010.

(6) Repealed by Laws 2010, Ch. 88, § 2, eff. Aug. 11, 2010.

(7) Paragraph (e) of subsection (1) of this section shall be known and may be cited as "Kiana Arellano's Law".

(8) This section is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

Relevant Case Law

***People v. Herron,* 251 P.3d 1190 (Colo. App. 2010)**
Defendant was convicted of multiple counts of stalking and appealed, arguing in part that the convictions violated the Double Jeopardy clause of the federal and state constitutions. The Court of Appeals held that the defendant's claim for Double Jeopardy was correct and that a defendant could not be sentenced to two separate charges of stalking stemming from the same course of conduct. The court explained that there cannot be a charge for each "incident" of stalking, since stalking is defined as the course of conduct taken together.

***People v. Chase,* 411 P.3d 740 (Colo. App. 2013)**
Defendant was convicted of three counts of stalking. Defendant appealed, arguing in part that evidence was insufficient to prove he made a credible threat. At trial, evidence was presented that defendant had sent emails to victims referring to his past conviction for arson, stated in all capital letters that the victims should not "fuck" with him, that they better put him away for life or there would be "hell to pay," that the defendant had "nothing to lose," and that he would "headbutt" or "kick" someone. Two of the emails made specific references to the named victims. Considering the explicit and implicit threats in the emails, and the testimony of the victims that they feared for the safety and the safety of their families, the court found that evidence was "more than sufficient" for the jury to find that reasonable person would be in fear for their safety. Furthermore, defendant argued that he did not make repeated communications to the victims because the victims opened and read the emails all in one sitting. The Court of Appeals rejected this argument, pointing to the fact that the emails represented 6 separate and individual communications made to the victims of a period of two days. The defendant could not be resolved of criminal liability simply because the victims did not retrieve the emails the moment they were delivered.

***People v. Brown,* 342 P.3d 564 (Colo. App. 2014)**
Defendant was convicted of stalking and appealed, arguing in part that evidence was insufficient to convict him. He contended that evidence did not established that he placed the victims "under surveillance" within the meaning of Colo. Rev. Stat. § 18-3-602(1)(c). The court pointed to the

meaning of “surveillance” in Webster's dictionary, which defines the term as “close watch kept over one or more persons” or “continuous observation of a person or area.” The Court of Appeals stated that a defendant need not be physically present to conduct surveillance; they may do so by means of an electronic device that records information for later use. The Court of Appeals found that defendant's use of video cameras, which were configured to observe and record activity in a bedroom and living room, constituted surveillance. The defendant further argued that his conduct did not constitute surveillance because he did have access to the recorded information when he was out of the country, pointing to *People v. Sullivan,* 53 P.3d 1181 (Colo. App. 2002), which held that “surveillance” includes electronic surveillance that records a person's whereabouts as that person moves from one location to another and allows the stalker to access that information either *simultaneously or shortly thereafter"* (emphasis added). However, the Court of Appeals here said that *Sullivan* did *not* hold that a defendant *must* access recorded information with a certain time frame to establish surveillance.

***People v. Folsom,* 431 P.3d 652 (Colo. App. 2017)**
Defendant was convicted of stalking and appealed, arguing in part that evidence was insufficient to support his conviction. Evidence was presented at trial that the defendant appeared outside of victim's window, and that victim had seen him 6 months earlier doing the same thing. The defendant argued that that the first incident was an accident, and that he did not “knowingly” approach or contact the victim. The Court of Appeals, viewing the evidence in the light most favorable to the prosecution, held that a reasonable jury could conclude that the defendant “knowingly” followed, approached, or contacted the victim on two occasions. Second, the defendant argued that the first incident would not cause a reasonable person to suffer serious emotional distress. The court clarified that it is not each individual act of stalking that must cause a reasonable person to suffer emotional distress, but the combined acts of the defendant. The evidence, which presented that the defendant was twice in the victim's yard — a place where he had no legal right to be —could lead a reasonable juror to find a reasonable person would suffer serious emotional distress. Finally, the defendant argued that the prosecution did not establish that the victim suffered actual serious emotional distress. At trial, the victim testified that after the first incident, she did not feel safe in her home, she lost sleep for several months, and she started seeing a therapist. The Court of Appeals found that a reasonable juror could find that the victim actually experienced serious emotional distress.

***People v. Wagner, 434* P.3d 731 (Colo. App. 2018)**
Defendant was convicted of stalking and appealed, arguing evidence was insufficient to convict him. First, he argued that the evidence did not prove beyond a reasonable doubt that his conduct would cause a reasonable person to suffer serious emotional distress or that the victim actually suffered serious emotional distress. At trial, evidence was presented that the victim and the defendant separated and that for several months thereafter, defendant repeatedly texted, called, and followed the victim and her boyfriend; he also made several calls to her workplace. Additionally, defendant told the victim that if he could not have her then no one could and implied that she “had to come back to him or else.” On one phone conversation, victim believed she heard defendant “pull the slide back on a gun.” As a result of the defendant’s behavior, the victim testified that she did not feel safe or secure, was “always worried” that the defendant “was either going to hurt himself, [her], or

[her boyfriend],” started to carry a concealed firearm, altered her route to work and her schedule, and lost sleep because she was “pretty emotional.” In addition, the victim's boyfriend testified that he purchased a security system for his home and also started to carry a concealed gun. The Court of Appeals found that the evidence was sufficient to allow the jury to find the objective and subjective serious emotional distress elements had been established. Second, defendant argued that evidence was insufficient to establish that he had made credible threats. The Court of Appeals considered the fact that the defendant said, “If I can't have you, then no one can,” the victim's testimony that she had heard the defendant pull the slide of a gun back on the phone, and the defendant telling the victim that he knew where her family lived as sufficient evidence to support a credible threat.

People v. Burgandine, 484 P.3d 739 (Colo. App. 2020)
Defendant was convicted of harassment and credible threat stalking after relentlessly texting and calling his ex-girlfriend for seven hours, making threats against her and others. Defendant challenged conviction, arguing in part that the term "contacts" in the stalking statute does not include phone calls and text messages. However, the court disagreed and affirmed his conviction, stating that the plain and ordinary meaning of "contacts" includes general communications. The court also rejected the argument that "contacts" should be interpreted to require physical proximity, as it would create ambiguity and due process concerns. The court emphasized that the statute does not define "contacts" and that the broad definition, which encompasses communication, is consistent with other courts' interpretations.

People v. Moreno, 506 P.3d 849 (Colo. 2022)
Defendant was charged with harassment after repeatedly emailing his ex-wife with disparaging and vulgar comments. The charge was dismissed on grounds that defendant’s statements constitute protected speech, finding that the phrase “intended to harass” in the statute was unconstitutional. The prosecution appealed and the appellate court affirmed the district court’s order of dismissal, agreeing that the provision in question was substantially overbroad and unconstitutional. The Colorado Supreme Court applied the overbreadth doctrine and held that the phrase “intended to harass” in the statute encroaches on constitutionally protected speech. However, the court preserved the remainder of the statute, invalidating only that specific phrase.