

DRAFT FOR CONSULTATION

Crimes (Stalking) Amendment Bill

Member's Bill

Explanatory note

General policy statement

New Zealand has a problem with violence, with 1 in 3 partnered women experiencing physical or sexual violence in their lifetime. Stalking is a particularly damaging form of violence with young women and public figures being the most likely to be targeted. Stalking enables family and gender-based violence, erodes the stalked person's freedoms, limits their social contacts, educational and employment prospects, restricts involvement in public life and causes psychological harm. Evidence demonstrates that 75% of Women's Refuge clients experience stalking pre-separation and 65% experience stalking post-separation.

Stalking can include following, watching, monitoring, tracking or spying on a person; contacting, or attempting to contact a person; publishing material about a person; monitoring, loitering, or obstructing a person's movements; interfering with a person's property; or using a third party – individual or other entity – to harass or intimidate a person. Stalking is associated with homicides of women, particularly partner or ex-partner homicides, such as in the case of Jasmine Wilson, or rejected and jealous intimacy seekers, as in the case of Farzana Yaqubi.

There is real concern that New Zealand is falling behind other jurisdictions and failing to provide the legislative protection needed to prevent such violence. Unlike most European Union countries, the USA, the UK and Australia, New Zealand does not have a criminal stalking law which makes the prosecution of stalking difficult.

This bill has been developed to introduce a new offence for stalking for New Zealand. It has been designed with the intent of increasing the focus on victims' rights and to prevent people being the repeated target of threats, assaults and serious physical violence.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides for this Bill to come into force the day after Royal assent.

Part 1 amends the Crimes Act 1961 to insert a new offence of stalking.

Part 2 makes consequential amendments to the Arms Act 1983, the Family Violence Act 2018, and the Sentencing Act 2002.

Hon Ginny Andersen

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Crimes (Stalking) Amendment Act **2024**.

2 Commencement

This Act comes into force on the day after Royal assent.

**Part 1
Amendment to Crimes Act 1961****3 Principal Act**

This Part amends the Crimes Act 1961.

4 New section 204AA and cross-heading inserted

After section 204, insert:

*Stalking***204AA Stalking**

- (1) A person (**A**) commits stalking and is liable to imprisonment for a term not exceeding five years who, without lawful authority or reasonable excuse, engages in a course of conduct with the intent to cause another person (**B**)—
 - (a) to fear that violence will be used against B or another person connected to B; or
 - (b) alarm or distress that has an adverse impact on B's usual day-to-day activities.
- (2) For the purposes of this section, A has the intention required under **subsection (1)** if—
 - (a) A knows that, or is reckless as to whether, engaging in a course of conduct of that kind would be likely to cause such fear, alarm, or distress; or
 - (b) A ought to know that engaging in a course of conduct of that kind would be likely to cause such fear, alarm, or distress and it actually did have that result.
- (3) For the purposes of this section, a **course of conduct** means undertaking an act on 2 or more occasions.
- (4) Without limiting **subsections (1) to (3)**, the following are acts that, as part of a course of conduct, may constitute stalking:
 - (a) following, watching, monitoring, tracking or spying upon a person:
 - (b) contacting, or attempting to contact, a person by any means (including, for example, telephone calls, emails, text messages, and unwanted gifts):

- (c) publishing any statement or other material relating or purporting to relate to a person, or purporting to originate from a person:
- (d) monitoring the use by a person of the internet, email or any other form of electronic communication:
- (e) loitering in any place (whether public or private):
- (f) interfering with any property in the possession of a person:
- (g) interrupting a person's quiet enjoyment of their home or other premises:
- (h) obstructing the movement of a person:
- (i) using a third party (whether an individual or other entity (incorporated or unincorporated)) to harass or intimidate a person.

Part 2

Consequential amendments

Subpart 1—Amendment to Arms Act 1983

5 Principal Act

This subpart amends the Arms Act 1983.

6 Section 22H amended (Persons disqualified from holding firearms licence)

In section 22H(a)(iii), after “202C,” insert “**204AA**,”.

Subpart 2—Amendment to Family Violence Act 2018

7 Principal Act

This subpart amends the Family Violence Act 2018.

8 Section 9 amended (Meaning of family violence)

(1) After section 9(4), insert:

(4A) To avoid doubt, violence against a person may be or include behaviour that constitutes stalking (as described in **section 204AA** of the Crimes Act 1961).

(2) In section 9(5), replace “subsections (3) and (4)” with “subsections (3), (4) and **(4A)**”.

Subpart 3—Amendment to Sentencing Act 2002

9 Principal Act

This subpart amends the Sentencing Act 2002.

10 Section 9 amended (Aggravating and mitigating factors)

After section 9(1)(ca), insert:

(cb) that the offence involved stalking (as described in **section 204AA** of the Crimes Act 1961):