

HOUSE BILL 4948

720 ILCS 5/12-7.3, 7.4, AND 7.5

ENHANCEMENTS FOR STALKING VICTIMS UNDER THE AGE OF 18

INSUFFICIENT DATA TO SUPPORT A FULL FISCAL IMPACT ANALYSIS

House Bill 4948 ([HB4948](#)) proposes increasing the felony class by one level for stalking, aggravated stalking, and cyberstalking when the victim is under 18 years old. Increasing the class increases the minimum sentence for the offense, which increases the probability of a longer prison term, and length of stay in the Illinois Department of Corrections (IDOC).

SPAC used criminal history records information (CHRI) from 2014, 2015, and 2016 to determine the number of arrests, convictions, and sentences for stalking offenses. SPAC also used IDOC data from 2015, 2016, and 2017 for IDOC admissions, exits, and prison population. During the past three years, the data show:

Three Years		Stalking (720 ILCS 5.0/12-7.3)	Aggravated Stalking (720 ILCS 5.0/12-7.4)	Cyberstalking (720 ILCS 5.0/12-7.5)
Arrests		343	93	112
Convictions		121	69	27
Withheld Judgements		<10	<10	<10
Standard Probation	<i>Class 1</i>	-	-	-
	<i>Class 2</i>	-	-	-
	<i>Class 3</i>	-	24	-
	<i>Class 4</i>	74	-	14
	Total Probation	75	24	14
IDOC Admissions	<i>Class X</i>	-	-	-
	<i>Class 1</i>	-	-	-
	<i>Class 2</i>	-	2	-
	<i>Class 3</i>	1	43	-
	Total Prison	43	45	10
June 30, 2017 Prison Population	<i>Class X</i>	-	-	-
	<i>Class 1</i>	-	-	-
	<i>Class 2</i>	-	1	-
	<i>Class 3</i>	-	16	-
	Total Prison Population	3	17	1
Average Sentence Imposed		2.5 years	3.9 years	2.7 years
Average Pretrial Detention Time Served		0.3 years	0.4 years	0.3 years
Average Prison Time Served		0.7 years	1 year	0.6 years

Illinois does not report the age of stalking or cyberstalking victims into any statewide database. Therefore, SPAC uses the National Incident-Based Reporting System (NIBRS) to provide some perspective on the age of these victims.¹ The national data report the age of victims of “intimidation” crimes, which include stalking, cyberstalking, and other crimes that place a victim in reasonable fear of bodily harm without the use of any weapon or actual physical attack. NIBRS includes data reported from Rockford, Illinois, *the only Illinois jurisdiction that reported detailed NIBRS data in 2015*.

According to NIBRS 2015 data, approximately 13% of national intimidation incidents are of victims under 18 years old. The Rockford Police Department reported a slightly lower rate of 9% of intimidation incidents. Because the offense definition differs from HB4948, the data are not sufficient to support a fiscal impact analysis.

HB4948 Changes to Stalking and Aggravated Stalking

Stalking 720 ILCS 5/12-7.3		Current Law	Proposed under HB4948 for Victims Under 18
(a) Knowingly engages in course of conduct directed at a specific person ... know[ing] this course of conduct would cause a reasonable person to (1) fear for his or her safety ... or (2) suffer other emotional distress.	First Offense	Class 4	Class 3
(a-3) Knowingly and without lawful justification, on at least two separate occasions follows ... or places the person under surveillance ... and (1) transmits a threat ... or (2) places the person in reasonable apprehension of harm ...			
(a-5) Previously convicted of stalking, and knowingly and without lawful justification ... (1) follows or places under surveillance [the previous victim] and (2) transmits a threat ...	Second or Subsequent Offense	Class 3	Class 2
<p>“Course of conduct” means 2 or more acts, including but not limited to acts in which a defendant directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, engages in other non-consensual contact, or interferes with or damages a person’s property or pet. A course of conduct may include contact via electronic communications. 720 ILCS 5/12-7.3(c)(1).</p> <p>The Illinois Supreme Court in <i>People v. Releford</i>, 2017 IL 121094, ¶63, found that “subsection (a) of the stalking statute that makes it criminal to negligently “communicate[] to or about” a person, where the speaker knows or should know that the communication would cause a reasonable person to suffer emotional distress, is facially unconstitutional. Additionally, because subsection (a) of the cyberstalking statute imposes criminal liability based on similar language, it is unconstitutionally overbroad as well.”</p>			
Aggravated Stalking 720 ILCS 5/12-7.4		Current Law	Proposed under HB4948 for Victims Under 18
(a) Stalking and (1) causes bodily harm to the victim, (2) confines or restrains the victim, or (3) violates temporary restraining order [or other such orders].	First Offense	Class 3	Class 2
(a-1) Stalking and registered sex offender and victim was victim or family of victim of original offense.	Second or Subsequent Offense	Class 2	Class 1

¹ National Archive of Crime Justice Data, Uniform Crime Reporting Program Data: National Incident-Based Reporting System, 2015 (ICPSR 36851), available at <https://www.icpsr.umich.edu/icpsrweb/NACJD/studies/36851>
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HB4948 Changes to Cyberstalking

<p align="center">Cyberstalking 720 ILCS 5/12-7.5</p>	<p align="center">Current Law</p>	<p align="center">Proposed under HB4948 for Victims Under 18</p>	
<p>(a) Engages in course of conduct <i>using electronic communication</i> directed at a specific person ... know[ing] this course of conduct would cause a reasonable person to (1) fear for his or her safety ... or (2) suffer other emotional distress.</p>	<p align="center">First Offense</p>	<p align="center">Class 4</p>	<p align="center">Class 3</p>
<p>(a-3) Knowingly <i>and without lawful justification</i>, on at least two separate occasions <i>harasses</i> another person through the use of electronic communication and (1) <i>transmits a threat ...</i> or (2) <i>places the person in reasonable apprehension of harm</i></p>			
<p>(a-4) Knowingly, <i>surreptitiously</i>, and without lawful justification, <i>installs ... monitoring software ...</i> as a means to harass ... and (1) transmits a threat ... or (2) places the person in reasonable apprehension of harm ... or (3) ... <i>knowingly solicits ... a violation of this [Criminal] Code</i></p>	<p align="center">Second or Subsequent Offense</p>	<p align="center">Class 3</p>	<p align="center">Class 2</p>
<p>(a-5) Knowingly and without lawful justification, <i>creates and maintains an Internet website ... which ... contains statements harassing another person</i> and (1) transmits a threat ... or (2) places the person in reasonable apprehension of harm ... or (3) ... knowingly solicits ... a violation of this [Criminal] Code</p>			
<p>"Harass" means to engage in a knowing and willful <i>course of conduct</i> directed at a specific person that alarms, torments, or terrorizes that person. 720 ILCS 5/12-7.5(c)(4). See also Illinois Supreme Court's decision in <i>People v. Releford</i>, 2017 IL 121094, ¶63, that invalidated 720 ILCS 5/12-7.5(a).</p>			

DEMOGRAPHIC IMPACT OF PROPOSED LEGISLATION:

Table 1 shows the race and gender of offenders admitted to IDOC. Table 2 shows where these commitments to IDOC originate. Finally, Table 3 shows the relationship between geography and race for Stalking, Aggravated Stalking and Cyberstalking commitments to State prisons. Here, race is self-identified upon admission to prison. The “Other” includes self-identified Hispanic, Asian/Island Pacific, Native American, and Unknown races.

Table 1(a) Past Three Years Admissions to IDOC for Stalking

	Male	Female	Total	Percent
White	21	1	22	51%
Black	15	0	15	35%
Other	5	1	6	14%
Total	95%	5%	43	100%

Table 1(b) Past Three Years Admissions to IDOC for Aggravated Stalking

	Male	Female	Total	Percent
White	16	0	16	36%
Black	22	0	22	49%
Other	7	0	7	15%
Total	100%	0%	45	100%

Table 1(c) Past Three Years Admissions to IDOC for Cyberstalking

	Male	Female	Total	Percent
White	7	0	7	70%
Black	3	0	3	30%
Other	0	0	0	0%
Total	100%	0%	10	100%

Table 2(a) Top 10 Admitting Counties over Past Three Years for Stalking

County	Number of Admissions	Percent
Cook	16	37%
Macon	3	7%
Sangamon	3	7%
Winnebago	3	7%
Jefferson	2	4%
Kankakee	2	4%
McLean	2	4%
Madison	2	4%
Adams	1	2%
Champaign	1	2%
Other	8	19%
Total	43	100%

Table 2(b) Top 10 Admitting Counties over Past Three Years for Aggravated Stalking

County	Number of Admissions	Percent
Cook	23	51%
Macon	3	7%
Madison	3	7%
McLean	2	4%
Rock Island	2	4%
Winnebago	2	4%
Adams	1	2%
DeKalb	1	2%
DuPage	1	2%
Kane	1	2%
Other	6	13%
Total	45	100%

Table 2(c) Admitting Counties over Past Three Years for Cyberstalking

County	Number of Admissions	Percent
Cook	6	60%
Clay	1	10%
Morgan	1	10%
Whiteside	1	10%
Winnebago	1	10%
Total	10	100%

Table 3(a) Race by Geographic Region over Past Three Years for Stalking

	Cook	Collar	Urban	Rural	Percent
White	7	0	10	5	51%
Black	5	1	8	1	35%
Other	4	1	1	0	14%
Total	37%	5%	44%	14%	100%

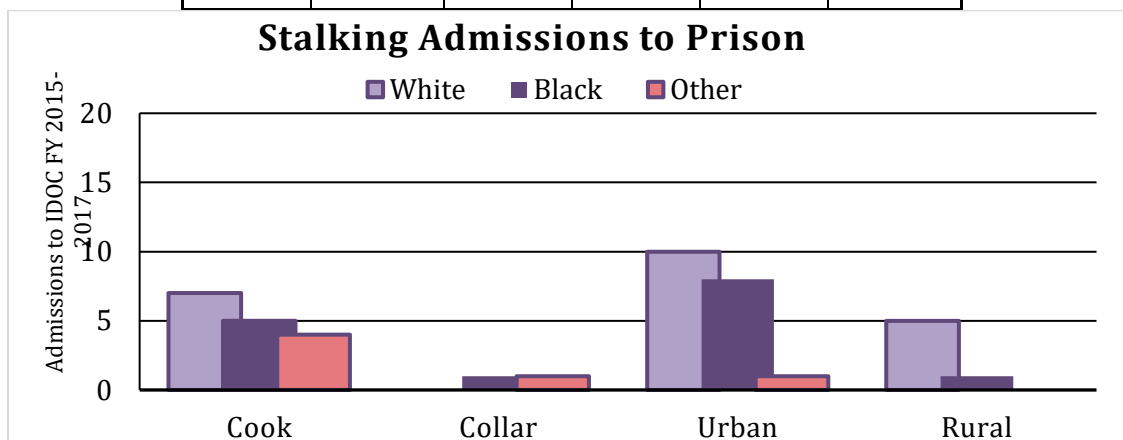


Table 3(b) Race by Geographic Region over Past Three Years for Aggravated Stalking

	Cook	Collar	Urban	Rural	Percent
White	16	1	5	0	49%
Black	2	1	11	2	36%
Other	5	2	0	0	15%
Total	37%	5%	44%	14%	100%

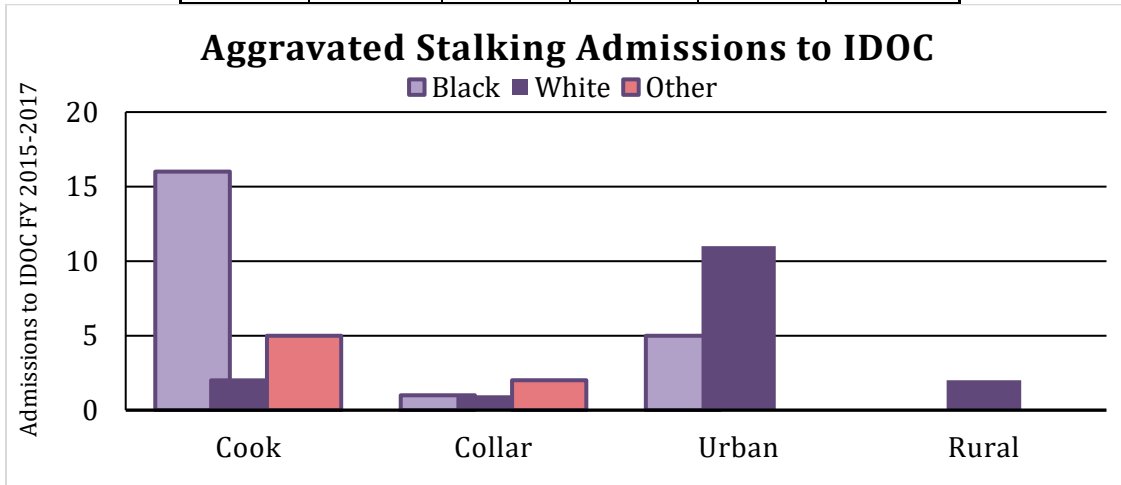
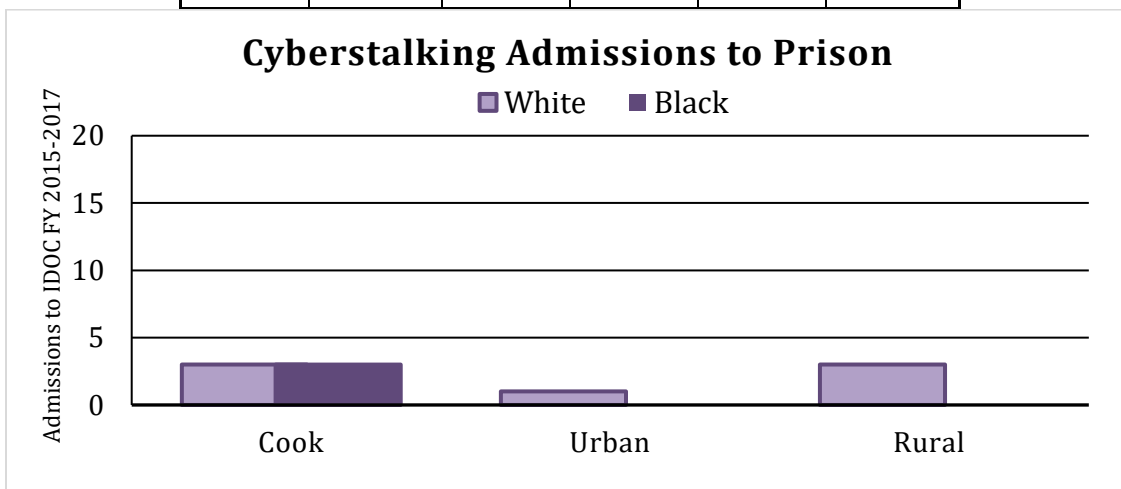


Table 3(b) Race by Geographic Region over Past Three Years for Cyberstalking

	Cook	Collar	Urban	Rural	Percent
White	3	0	1	3	70%
Black	3	0	0	0	30%
Other	0	0	0	0	0%
Total	60%	0%	10%	30%	100%



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