

Act on the Punishment of Stalking

(abbreviation: Stalking Punishment Act)

[Enforced on October 21, 2021] [Law No. 18083, enacted on April 20, 2021]

Ministry of Justice (Criminal Justice Division) 02-2110-3712

Chapter 1: General Provisions

Article 1 (Purpose) By prescribing special cases regarding the punishment and procedures of stalking crimes and protection procedures for victims of stalking crimes, It aims to protect victims and contribute to the establishment of a healthy social order.

Article 2 (Definition) The meanings of the terms used in this Act are as follows:

1. "Stalking act" refers to the following actions against the other party, cohabitant, or family against the other party's will and without justifiable reasons: It means to cause anxiety or fear to the other person by doing any of the following acts.
 - a. An act of approaching, following, or blocking the path
 - b. An act of waiting or watching in or near a residence, workplace, school, or other place where one lives on a daily basis (hereinafter referred to as "residential, etc.").
 - c. An act of reaching an object, writing, speech, sign, sound, picture, video, image (hereinafter referred to as "object, etc.") by mail, telephone, fax, or using an information and communication network under Article 2 (1) 1 of the Act on Promotion of Information and Communication Network Utilization
 - d. An act of allowing an object, etc. to be reached directly or through a third party, or placing an object, etc. in a residence, etc. or near it
 - e. An act of damaging an object, etc. placed in or near a residence, etc.
 - i. "Stalking" refers to the act of stalking continuously or repeatedly.
 - ii. "Victim" refers to a person who has been directly harmed by stalking.
 - iii. "Victim, etc." refers to the victim and the other party to the stalking act.

Chapter 2: Procedures for dealing with stalking

Article 3 (Emergency Measures for Reports of Stalking) When a judicial police officer receives a report on an ongoing stalking act, he/she shall immediately go to the scene and take the following measures:

1. Suspension of stalking behavior, notice of suspension of stalking behavior in the future, and warning of punishment if stalking behavior is continuously or repeatedly performed
2. Separation of stalking actors and victims and criminal investigation
3. Guidance on procedures for requesting emergency and provisional measures for victims, etc
4. Delivery of victims, etc. to counseling centers or protection facilities related to stalking damage (only if the victims, etc. agree)

Article 4 (Emergency Measures) ① A judicial police officer may take the following measures by one's authority or at the request of the counterparty of the stalking act, or at the request of the person who reported the stalking act, if the stalking act is likely to occur continuously or repeatedly and urgently to prevent the stalking crime.

1. Prohibition of access within 100 meters from the counterparty of stalking or his residence, etc.
2. Prohibition of access to the counterparty of stalking activities using telecommunication under Article 2, Subparagraph 1 of the Framework Act on Telecommunications/

② When a judicial police officer takes measures under paragraph (1) (hereinafter referred to as "emergency emergency measures"), he/she shall immediately prepare a written decision on emergency emergency measures, including the gist of stalking actions, reasons for emergency measures, details of emergency measures, etc.

Article 5 (Application for Approval of Emergency Measures) ① When a judicial police officer takes emergency emergency measures, he/she shall request the prosecutor to request the district court judge for follow-up approval of the relevant emergency measures without delay.

② Upon receipt of the application under paragraph (1), the prosecutor shall request the district court judge for follow-up approval of the relevant emergency measure within 48 hours from the time of the emergency measure. In such cases, a written decision on emergency emergency measures prepared pursuant to Article 4 (2) shall be attached.

③ A district court judge may approve emergency emergency measures requested pursuant to paragraph ②, if deemed necessary to prevent stalking from being carried out continuously or repeatedly.

④ The judicial police officer shall immediately cancel the emergency emergency measure if the prosecutor does not request post-approval of the emergency measure pursuant to paragraph (2) or the district court judge does not approve the request under paragraph (2).

⑤ The period of emergency measures shall not exceed one month.

Article 6 (Notification of Emergency Measures) ① When a judicial police officer takes emergency measures, he/she shall notify the counterparty of the stalking act or his/her legal representative.

② When a judicial police officer takes emergency emergency measures, he/she shall notify the person subject to the relevant emergency measures (hereinafter referred to as "person subject to emergency measures") of the details of the measures, methods of objection, etc.

Article 7 (Change of Emergency Measures) ① A person subject to emergency emergency measures or his/her legal representative may apply to the judicial police officer for cancellation of emergency measures or modification of their type.

② The counterparty to the stalking act or his/her legal representative may apply to the judicial police officer for a change in emergency measures if the counterparty to the stalking act moves his/her residence, etc. after emergency measures under Article 4 (1) 1.

③ The counterparty of the stalking act or his/her legal representative may apply to the judicial police officer for the cancellation of the relevant emergency measure if emergency emergency measures are not required.

④ If a judicial police officer deems that there is a justifiable reason, he/she may cancel the emergency measures ex officio or upon an application under paragraphs (1) through (3), and may change the type of emergency measures with the approval of a district court judge.

⑤ Emergency emergency measures (including cases where the type thereof has been changed pursuant to paragraph (4). Hereinafter the same shall apply in this paragraph) shall cease to be effective in any of the following cases:

1. When the period prescribed by the emergency measure has passed

2. When the court makes the following decisions to the person subject to emergency measures:

(a) Determination of measures under Article 9 (1) 2 with the same person as the counterparty of stalking acts as the victim under Article 4 (1) 1 emergency measures

(b) Determination of measures pursuant to Article 9 (1) 2 by using a place such as a residence of a victim (limited to the case where the same person as the counterparty of the stalking act is the victim) under Article 4 (1) 1 as an emergency measure

(c) Determination of measures under Article 9 (1) 3 with the same person as the counterparty of the stalking act as the victim pursuant to the emergency measures under Article 4 (1) 2

Article 8 (Request for Provisional Measures) ① If the prosecutor deems that there is a risk of recurrence of a stalking crime, he/she may request the court to take measures referred to in the subparagraphs of Article 9 (1) ex officio or upon the request of a judicial police officer.

- ② The victim or his/her legal representative may request a prosecutor or judicial police officer to request or apply for measures under paragraph (1), or state his/her opinion thereon.
- ③ Where a judicial police officer fails to file an application under paragraph (1) even after receiving a request for an application under paragraph (2), he/she shall report the grounds therefor to the prosecutor.

Article 9 (Provisional Measures for Stalking Perpetrators) ① If the court deems it necessary for the smooth investigation, hearing, or the protection of victims of stalking crimes, it may take any of the following measures (hereinafter referred to as "temporary measures") to stalking actors by decision:

1. Written warnings about the suspension of stalking crimes against victims
2. Prohibition of access within 100 meters from the victim or his residence, etc
3. Prohibition of access to victims using telecommunications under subparagraph 1 of Article 2 of the Framework Act on Telecommunications

4. Detaining at holding cell or detention center at a national police station

- ② Temporary measures referred to in the subparagraphs of paragraph (1) may be combined.
- ③ When the court decides on provisional measures, it shall notify the prosecutor, the victim, and his/her legal representative.
- ④ Where provisional measures are taken pursuant to paragraph (1) 4, the court shall notify the stalking actor that he/she can appoint an attorney and appeal pursuant to Article 12, and notify the following persons of the provisional measures:
 1. Where the stalking actor has an attorney: an attorney
 2. Where the stalking actor does not have an attorney: a legal representative or a person designated by the stalking actor
- ⑤ The period of provisional measures under paragraph (1) 2 and 3 shall not exceed two months, and the period of provisional measures under paragraph 4 shall not exceed one month. However, if the court deems it necessary to extend the period for the protection of the victim, it may extend the provisional measures under paragraph (1) 2 and 3 only twice within the scope of two months.

Article 10 (Execution of Provisional Measures) ① Where the court has made a decision on provisional measures, it may have court officials, judicial police officials, or correctional officials belonging to the detention center execute them.

- ② A person who executes a decision on provisional measures pursuant to paragraph (1) shall notify the stalking actor of the details of provisional measures, methods of objection, etc.

③ If the victim or his/her legal representative moves his/her residence, etc. after the decision on provisional measures under Article 9 (1) 2 has been made, he/she may apply to the court to change the decision on provisional measures.

Article 11 (Change of Provisional Measures) ① The stalking actor or his/her legal representative may apply to the court for cancellation of the provisional action decision or any change of its kind.

② The prosecutor may request the court to extend the provisional action period or change its type if it deems necessary during the investigation or trial, and may request the court to cancel the provisional action if it deems that it is not necessary.

③ If the court deems that there is a justifiable reason, it may cancel the relevant provisional measure, extend the period, or change its kind by officer's authority or at the request of paragraph (1).

④ Decisions on provisional measures (including decisions to extend or change the type of provisional measures in accordance with paragraph 3). The same shall apply in Articles 12 and 14 hereinafter) shall cease to be effective when the prosecutor disposes of non-prosecution against the stalking actor or when the judicial police officer makes a decision not to send him/her.

Article 12 (Appeal) ① The prosecutor, stalking actor, or his/her legal representative may file an appeal where the decision on emergency emergency measures or provisional measures falls under any of the following:

1. Where there is a violation of laws and regulations that have affected the decision, or there is a misunderstanding of serious facts
2. In the case where the decision is significantly unreasonable

② An appeal under paragraph (1) shall be filed within seven days from the date on which the decision is notified.

Article 13 (Submission of Petition of Appeal) ① When filing an appeal under Article 12, a complaint shall be submitted to the lower court.

② The court receiving the appeal shall send the record to the appellate court with a written opinion within three days.

Article 14 (Judgment on Appeal) ① If the appeal procedure is in violation of the law or the appeal is deemed without merit, the appeals court shall dismiss the appeal by decision.

② If the appellate court deems that the appeal is with merit, the original decision shall be revoked and the case shall be remanded to the lower court or transferred to another competent court. However, if it is urgent to repatriate or transfer or otherwise deemed necessary, the original decision may be reversed and an appropriate provisional action decision may be made by itself.

Article 15 (Reappeal) ① As for the decision to dismiss the appeal, a re-appeal may be filed with the Supreme Court only if the decision violates laws and regulations.

② Articles 12 (2), 13 and 14 shall apply mutatis mutandis to the period of re-appeal under paragraph (1), submission of a re-appeal, and trial of re-appeal.

Article 16 (Suspension of Execution) An appeal have no effect of suspending the execution of a decision.

Article 17 (Exclusive Investigation System for Victims of Stalking Crimes) ① The prosecutor general shall designate a prosecutor dedicated to stalking crimes to the prosecutor general of each local prosecutor's office, and have a prosecutor dedicated to stalking crimes investigate victims, unless there are special circumstances.

② The head of the police office (meaning the head of the National Investigation Division, the head of the Metropolitan and Provincial Police Agency, and the head of the police station). The same shall apply hereinafter) designate a judicial police officer dedicated to stalking crimes and have the judicial police officer dedicated to stalking crimes investigate the victim unless there are special circumstances.

③ The prosecutor general and the head of the police station shall provide the prosecutor in charge of stalking crimes under paragraph (1) and the judicial police officer in charge of stalking crimes under paragraph (2) with expertise necessary for investigating stalking crimes, investigation methods, investigation procedures, etc.

Chapter 3: Penalties

Article 18 (Stalking) ① A person who commits a stalking crime is sentenced to up to three years in prison or a fine of up to 30 million won.

② A person who commits a stalking crime by carrying or using a weapon or other dangerous goods shall be punished by imprisonment with work for not more than five years or a fine of not more than 50 million won.

③ The crime under paragraph (1) shall not be prosecuted against the will specifically stated by the Victim.

Article 19 (Combination of Punishment and Instruction) ① Where a person who commits a stalking crime is convicted (excluding a suspension of sentence) or notified of a summary order, the court means a course order necessary for preventing recidivism (Act on Probation, etc.) within 200 hours: Hereinafter, the same shall apply) or a completion order of a stalking treatment program (hereinafter referred to as a "completion order") may be combined.

1. Course order: In the case of suspending the execution of the sentence, the medical department within the probation period

2. Completion order: In the case of a sentence of a fine or imprisonment, or a summary order, concurrent punishment;

② Where the execution of the sentence is suspended for a person who commits a stalking crime, the court may impose at least one disposition of probation or community service within the grace period in addition to the lecture order under paragraph (1).

③ The details of the course order or the completion order under paragraph (1) shall be as follows:

1. Diagnosis and counseling of stalking behavior

2. Education on sound social order and human rights

3. Other matters necessary for the prevention of recidivism of persons who have committed stalking crimes

④ An order to attend or complete a course under paragraph (1) shall be executed according to

the following classifications:

1. In the case of suspension of execution of the sentence: within the grace period for execution
 2. Where a fine is sentenced or a summary order is notified: within six months from the date of confirmation of the sentence
 3. In the case of sentence of imprisonment: within the sentence
- ⑤ Where a class order or a completion order under paragraph (1) is executed in combination with a fine or a suspended sentence, the head of the probation office shall execute it, and where the sentence of imprisonment is combined, the head of the correctional facility shall execute it. However, the head of the probation office shall execute the remaining completion order if the sentence is released or paroled or unable to be executed due to the number of days of pending detention before the execution of both the imprisonment and the combined completion order.
- ⑥ Except as otherwise provided for in this Act, the Act on Probation, etc. shall apply mutatis mutandis to probation, community service, class order, or completion order concurrently with punishment.

Article 20 (Failure to comply with provisional Measures) A person who fails to implement the provisional measures referred to in Article 9 (1) 2 or 3 shall be punished by imprisonment with work for not more than two years or a fine of not more than 20 million won

- Article 21 (Fine)** ① A fine of up to 10 million won shall be imposed on a person who fails to implement emergency measures (excluding cases where the prosecutor does not request follow-up approval for emergency measures under Article 5 (2) or where the district court judge fails to approve them under paragraph (3) of the same Article).
- ② A fine of not more than 5 million won shall be imposed on a person who fails to comply with an instruction under the Probation, etc. Act or the Punishment, Execution, and Treatment of Inmates Act without justifiable grounds after receiving a course order or completion order is issued pursuant to Article 19.
- ③ A fine for negligence under paragraphs (1) and (2) shall be imposed and collected by the head of the relevant administrative agency as prescribed by Presidential Decree.

Supplementary Provisions <No. 18083, April 20, 2021>

This Act shall come into force six months after its promulgation.