CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 85. LIABILITY FOR STALKING

Sec. 85.001. DEFINITIONS. In this chapter:

(1) "Claimant" means a party seeking to recover damages under this chapter, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff. In an action in which a party seeks recovery of damages under this chapter on behalf of another person, 'claimant' includes both that other person and the party seeking recovery of damages.

(2) "Defendant" includes any party from whom a claimant seeks recovery of damages under this chapter.

(3) "Family" has the meaning assigned by Section 71.003, Family Code.

(4) "Harassing behavior" means conduct by the defendant directed specifically toward the claimant, including following the claimant, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the claimant.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.001 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(b), eff. Sept. 1, 2003.

Sec. 85.002. LIABILITY. A defendant is liable, as provided by this chapter, to a claimant for damages arising from stalking of the claimant by the defendant.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.002 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997.

Sec. 85.003. PROOF. (a) A claimant proves stalking against a defendant by showing:

(1) on more than one occasion the defendant engaged in harassing behavior;

(2) as a result of the harassing behavior, the

claimant reasonably feared for the claimant's safety or the safety of a member of the claimant's family; and

(3) the defendant violated a restraining order prohibiting harassing behavior or:

(A) the defendant, while engaged in harassing behavior, by acts or words threatened to inflict bodily injury on the claimant or to commit an offense against the claimant, a member of the claimant's family, or the claimant's property;

(B) the defendant had the apparent ability to carry out the threat;

(C) the defendant's apparent ability to carry out the threat caused the claimant to reasonably fear for the claimant's safety or the safety of a family member;

(D) the claimant at least once clearly demanded that the defendant stop the defendant's harassing behavior;

(E) after the demand to stop by the claimant, the defendant continued the harassing behavior; and

(F) the harassing behavior has been reported to the police as a stalking offense.

(b) The claimant must, as part of the proof of the behavior described by Subsection (a)(1), submit evidence other than evidence based on the claimant's own perceptions and beliefs.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.003 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997.

Sec. 85.004. DAMAGES. A claimant who prevails in a suit under this chapter may recover actual damages and, subject to Chapter 41, exemplary damages.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.004 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997.

Sec. 85.005. DEFENSE. It is a defense to an action brought under this chapter that the defendant was engaged in conduct that consisted of activity in support of constitutionally or statutorily protected rights.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.005 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997.

Sec. 85.006. CAUSE OF ACTION CUMULATIVE. The cause of action created by this chapter is cumulative of any other remedy provided by common law or statute.

Added by Acts 1995, 74th Leg., ch. 662, Sec. 1, eff. June 14, 1995. Renumbered from Civil Practice and Remedies Code Sec. 83.006 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(7), eff. Sept. 1, 1997.