

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1064

By: Boyd (Laura)

AS INTRODUCED

An Act relating to criminal procedure; amending 22 O.S. 1991, Sections 60.1 and 60.6, as last amended by Sections 54 and 59, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1994, Sections 60.1 and 60.6), which relate to domestic abuse and sexual assault; modifying definition; increasing a certain punishment and fine; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 22 O.S. 1991, Section 60.1, as last amended by Section 54, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1994, Section 60.1), is amended to read as follows:

Section 60.1 As used in Section 60 et seq. of this title and in the Domestic Abuse Reporting Act, Sections 40.5 and 40.6 of this title and Section 150.12B of Title 74 of the Oklahoma Statutes:

1. "Domestic abuse" means any act of physical harm, or the threat of imminent physical harm which is committed by an adult, emancipated minor, or minor age thirteen (13) years or older against another adult, emancipated minor or minor child who are family or household members;

2. "Stalking" means the willful, malicious, and repeated following of a person by an adult, emancipated minor, or minor thirteen (13) years of age or older, with the intent of placing the person in reasonable fear of death or great bodily injury;

3. "Harassment" means a knowing and willful course or pattern of conduct by an adult, emancipated minor, or minor thirteen (13) years of age or older, directed at a specific person which seriously alarms or annoys the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial distress to the person. "Harassment" shall include, but not be limited to, harassing or obscene telephone calls in violation of Section 1172 of Title 21 of the Oklahoma Statutes; and

4. "Family or household members" means spouses, ex-spouses, present spouses of ex-spouses, parents, children, persons otherwise related by blood or marriage, persons living in the same household or who formerly lived in the same household, ~~or~~ persons who are the biological parents of the same child, regardless of their marital status, or whether they have lived together at any time or persons who are or were in a dating, courtship or engagement relationship. This shall include the elderly and handicapped.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 60.6, as last amended by Section 59, Chapter 290, O.S.L. 1994 (22 O.S. Supp. 1994, Section 60.6), is amended to read as follows:

Section 60.6 A. Except as otherwise provided by this section any person who has been served with an ex parte or final protective order and is in violation of such protective order, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by a term of imprisonment in the county jail of not more than one (1) year, or both such fine and imprisonment.

B. Any person who after a previous conviction of a violation of a protective order is convicted of a second or subsequent offense pursuant to the provisions of this section shall, upon conviction, be deemed guilty of a ~~misdemeanor~~ felony and shall be punished by a term of imprisonment in the county jail of not less than ~~ten (10)~~ thirty (30) days and not more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine of not less than ~~Five Hundred Dollars (\$500.00) and not more than One Thousand Dollars (\$1,000.00)~~ and not more than Five Thousand Dollars (\$5,000.00).

C. 1. Any person who has been served with an ex parte or final protective order who violates said protective order and without justifiable excuse causes physical injury or physical impairment to the plaintiff or to any other person named in said protective order shall, upon conviction, be guilty of a misdemeanor and shall be punished by a term of imprisonment in the county jail for not less than ten (10) days nor more than one (1) year. In addition to the term of imprisonment, the person may be punished by a fine not to exceed Five Thousand Dollars (\$5,000.00).

2. In determining the term of imprisonment required by this section, the jury or sentencing judge shall consider the degree of physical injury or physical impairment to the victim.

3. The provisions of this subsection shall not affect the applicability of Sections 644, 645, 647 and 652 of Title 21 of the Oklahoma Statutes.

D. The minimum sentence of imprisonment issued pursuant to the provisions of subsections B and C of this section shall not be subject to statutory provisions for suspended sentences, deferred sentences or probation, provided the court may subject any remaining penalty under the jurisdiction of the court to the statutory provisions for suspended sentences, deferred sentences or probation.

E. In addition to any other penalty specified by this section, the court may require a defendant to undergo the treatment or participate in the counseling services necessary to bring about the cessation of domestic abuse against the victim or to bring about the cessation of stalking or harassment of the victim.

F. Ex parte and final protective orders shall include notice of these penalties.

G. When a minor child violates the provisions of any protective order, the court may, if the violation is to be heard in a juvenile proceeding, order the child to participate in counseling services necessary to bring about the cessation of domestic abuse against the victim and order community service hours to be performed in lieu of any fine or imprisonment authorized by this section.

SECTION 3. This act shall become effective November 1, 1995.

45-1-5559

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