ENGROSSED HOUSE
BILL NO. 1804

By: Cargill, Kiesel and Nance of the House

and

Fisher of the Senate

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1172, as amended by Section 5, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1172), which relates to obscene, threatening, or harassing telephone calls; modifying term; expanding scope of prohibited acts; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1172, as amended by Section 5, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2004, Section 1172), is amended to read as follows:

Section 1172. A. It shall be unlawful for a person who, by means of a ~~telephone~~ telecommunication or other electronic communication device, willfully either:

1. Makes any comment, request, suggestion, or proposal which is obscene, lewd, lascivious, filthy, or indecent;

2. Makes a telecommunication or other electronic communication with intent to terrify, intimidate or harass, or threaten to inflict injury or physical harm to any person or property of that person;

3. Makes a ~~telephone call~~ telecommunication or other electronic communication, whether or not conversation ensues, with intent to put the party called in fear of physical harm or death;

~~3.~~ 4. Makes a ~~telephone call~~ telecommunication or other electronic communication, whether or not conversation ensues, without disclosing the identity of the person making the call or

communication and with intent to annoy, abuse, threaten, or harass any person at the called number;

~~4.~~ 5. Knowingly permits any ~~telephone~~ telecommunication or other electronic communication under the control of the person to be used for any purpose prohibited by this section; and

~~5.~~ 6. In conspiracy or concerted action with other persons, makes repeated calls or electronic communications or simultaneous calls or electronic communications solely to harass any person at the called number(s).

B. As used in this section, "telecommunication" and "electronic communication" mean any type of telephonic, electronic or radio communications, or transmission of signs, signals, data, writings, images and sounds or intelligence of any nature by telephone, including cellular telephones, wire, cable, radio, electromagnetic, photoelectronic or photo-optical system or the creation, display, management, storage, processing, transmission or distribution of images, text, voice, video or data by wire, cable or wireless means, including the Internet. The term includes:

1. A communication initiated by electronic mail, instant message, network call, or facsimile machine; and

2. A communication made to a pager.

C. Use of a telephone or other electronic communications facility under this section shall include all use made of such a facility between the points of origin and reception. Any offense under this section is a continuing offense and shall be deemed to have been committed at either the place of origin or the place of reception.

~~C.~~ D. Except as provided in subsection ~~D~~ E of this section, any person who is convicted of the provisions of subsection A of this section, shall be guilty of a misdemeanor.

~~D.~~ E. Any person who is convicted of a second offense under this section shall be guilty of a felony.

SECTION 2. This act shall become effective November 1, 2005.

Passed the House of Representatives the 9th day of March, 2005.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2005.

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Presiding Officer of the Senate