

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 2042

By: Nichols

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2001, Section 1173, which relates to
9 stalking; clarifying language; providing penalty for
10 aggravated stalking; and declaring an emergency.

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

12 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1173, is
13 amended to read as follows:

14 Section 1173. A. Any person who willfully, maliciously, and
15 repeatedly follows or harasses another person in a manner that:

16 1. Would cause a reasonable person or a member of the immediate
17 family of that person as defined in subsection F of this section to
18 feel frightened, intimidated, threatened, harassed, or molested; and

19 2. Actually causes the person being followed or harassed to
20 feel terrorized, frightened, intimidated, threatened, harassed, or
21 molested,

22 upon conviction, shall be guilty of the crime of stalking, which is
23 a misdemeanor punishable by imprisonment in a county jail for not
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1 more than one (1) year or by a fine of not more than One Thousand
2 Dollars (\$1,000.00), or by both such fine and imprisonment.

3 B. Any person who violates the provisions of subsection A of
4 this section when:

5 1. There is a permanent or temporary restraining order, a
6 protective order, an emergency ex parte protective order, or an
7 injunction in effect prohibiting the behavior described in
8 subsection A of this section against the same party, when the person
9 violating the provisions of subsection A of this section has actual
10 notice of the issuance of such order or injunction; or

11 2. ~~Said~~ The person is on probation or parole, a condition of
12 which prohibits the behavior described in subsection A of this
13 section against the same party or under the conditions of a
14 community or alternative punishment; or

15 3. ~~Said~~ The person, within ten (10) years preceding the
16 violation of subsection A of this section, completed the execution
17 of sentence for a conviction of a crime involving the use or threat
18 of violence against the same party, or against any member of the
19 immediate family of such party,
20 upon conviction, shall be guilty of a felony punishable by
21 imprisonment in the ~~State Penitentiary~~ custody of the Department of
22 Corrections for a term not exceeding five (5) years or by a fine of
23 not more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
24 both such fine and imprisonment.

1 C. Any person who commits a second act of stalking within ten
2 (10) years of the completion of sentence for a prior conviction
3 under subsection A of this section, upon conviction thereof, shall
4 be guilty of a felony punishable by imprisonment in the ~~State~~
5 Penitentiary custody of the Department of Corrections for a term not
6 exceeding five (5) years, or by a fine of not more than Two Thousand
7 Five Hundred Dollars (\$2,500.00), or by both such fine and
8 imprisonment.

9 D. Any person who commits an act of stalking within ten (10)
10 years of the completion of execution of sentence for a prior
11 conviction under subsection B or C of this section, shall, upon
12 conviction thereof, be guilty of a felony punishable by a fine of
13 not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor more
14 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the
15 ~~State Penitentiary~~ custody of the Department of Corrections for a
16 term not exceeding ten (10) years, or by both such fine and
17 imprisonment.

18 E. Any person who commits an act of aggravated stalking shall,
19 upon conviction thereof, be guilty of a felony punishable by a fine
20 of not less than Two Thousand Five Hundred Dollars (\$2,500.00) nor
21 more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in
22 the custody of the Department of Corrections for a term not
23 exceeding twenty (20) years, or by both such fine and imprisonment.
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1 F. Evidence that the defendant continued to engage in a course
2 of conduct involving repeated unconsented contact, as defined in
3 subsection F of this section, with the victim after having been
4 requested by the victim to discontinue the same or any other form of
5 unconsented contact, and to refrain from any further unconsented
6 contact with the victim, shall give rise to a rebuttable presumption
7 that the continuation of the course of conduct caused the victim to
8 feel terrorized, frightened, intimidated, threatened, harassed, or
9 molested.

10 ~~F.~~ G. For purposes of this section:

11 1. "Harasses" means a pattern or course of conduct directed
12 toward another individual that includes, but is not limited to,
13 repeated or continuing unconsented contact, that would cause a
14 reasonable person to suffer emotional distress, and that actually
15 causes emotional distress to the victim. Harassment shall include
16 harassing or obscene ~~phone calls~~ telecommunications or other
17 electronic communications as prohibited by Section 1172 of this
18 title and conduct prohibited by Section 850 of this title.
19 Harassment does not include constitutionally protected activity or
20 conduct that serves a legitimate purpose;

21 2. "Course of conduct" means a pattern of conduct composed of a
22 series of two (2) or more separate acts over a period of time,
23 however short, evidencing a continuity of purpose. Constitutionally
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1 protected activity is not included within the meaning of "course of
2 conduct";

3 3. "Emotional distress" means significant mental suffering or
4 distress that may, but does not necessarily, require, medical or
5 other professional treatment or counseling;

6 4. "Unconsented contact" means any contact with another
7 individual that is initiated or continued without the consent of the
8 individual, or in disregard of that individual's expressed desire
9 that the contact be avoided or discontinued. Constitutionally
10 protected activity is not included within the meaning of unconsented
11 contact. Unconsented contact includes but is not limited to any of
12 the following:

- 13 a. following or appearing within the sight of that
14 individual,
- 15 b. approaching or confronting that individual in a public
16 place or on private property,
- 17 c. appearing at the workplace or residence of that
18 individual,
- 19 d. entering onto or remaining on property owned, leased,
20 or occupied by that individual,
- 21 e. contacting that individual by telephone,
- 22 f. sending mail or electronic communications to that
23 individual, and

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1 g. placing an object on, or delivering an object to,
2 property owned, leased, or occupied by that
3 individual; and

4 5. "Member of the immediate family", for the purposes of this
5 section, means any spouse, parent, child, person related within the
6 third degree of consanguinity or affinity or any other person who
7 regularly resides in the household or who regularly resided in the
8 household within the prior six (6) months.

9 SECTION 2. It being immediately necessary for the preservation
10 of the public peace, health and safety, an emergency is hereby
11 declared to exist, by reason whereof this act shall take effect and
12 be in full force from and after its passage and approval.

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