

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2875

By: Dank

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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; modifying penalties; and providing an
10 effective date.

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
24 more than one (1) year or by a fine of not ~~more~~ less than One

1 Thousand Dollars (\$1,000.00) nor more than Two Thousand Five Hundred
2 Dollars (\$2,500.00), 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 person is on probation or parole, a condition of which
12 prohibits the behavior described in subsection A of this section
13 against the same party or under the conditions of a community or
14 alternative punishment; or

15 3. Said person, within ten (10) years preceding the violation
16 of subsection A of this section, completed the execution of sentence
17 for a conviction of a crime involving the use or threat of violence
18 against the same party, or against any member of the immediate
19 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~~ less than Two Thousand Five Hundred Dollars (\$2,500.00), or
24 by 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 for a term not exceeding five (5) years, or by a fine
6 of not ~~more~~ less than Two Thousand Five Hundred Dollars (\$2,500.00),
7 or by both such fine and imprisonment.

8 D. Any person who commits an act of stalking within ten (10)
9 years of the completion of execution of sentence for a prior
10 conviction under subsection B or C of this section, shall, upon
11 conviction thereof, be guilty of a felony punishable by a fine of
12 not less than ~~Two Thousand Five Hundred Dollars (\$2,500.00)~~ Five
13 Thousand Dollars (\$5,000.00) nor more than Ten Thousand Dollars
14 (\$10,000.00), or by imprisonment in the ~~State Penitentiary~~ custody
15 of the Department of Corrections for a term not exceeding ten (10)
16 years, or by both such fine and imprisonment.

17 E. Evidence that the defendant continued to engage in a course
18 of conduct involving repeated unconsented contact, as defined in
19 subsection F of this section, with the victim after having been
20 requested by the victim to discontinue the same or any other form of
21 unconsented contact, and to refrain from any further unconsented
22 contact with the victim, shall give rise to a rebuttable presumption
23 that the continuation of the course of conduct caused the victim to
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1 | feel terrorized, frightened, intimidated, threatened, harassed, or
2 | molested.

3 | F. For purposes of this section:

4 | 1. "Harasses" means a pattern or course of conduct directed
5 | toward another individual that includes, but is not limited to,
6 | repeated or continuing unconsented contact, that would cause a
7 | reasonable person to suffer emotional distress, and that actually
8 | causes emotional distress to the victim. Harassment shall include
9 | harassing or obscene phone calls as prohibited by Section 1172 of
10 | this title and conduct prohibited by Section 850 of this title.
11 | Harassment does not include constitutionally protected activity or
12 | conduct that serves a legitimate purpose;

13 | 2. "Course of conduct" means a pattern of conduct composed of a
14 | series of two (2) or more separate acts over a period of time,
15 | however short, evidencing a continuity of purpose. Constitutionally
16 | protected activity is not included within the meaning of "course of
17 | conduct";

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

21 | 4. "Unconsented contact" means any contact with another
22 | individual that is initiated or continued without the consent of the
23 | individual, or in disregard of that individual's expressed desire
24 | that the contact be avoided or discontinued. Constitutionally

1 protected activity is not included within the meaning of unconsented
2 contact. Unconsented contact includes but is not limited to any of
3 the following:

- 4 a. following or appearing within the sight of that
5 individual,
- 6 b. approaching or confronting that individual in a public
7 place or on private property,
- 8 c. appearing at the workplace or residence of that
9 individual,
- 10 d. entering onto or remaining on property owned, leased,
11 or occupied by that individual,
- 12 e. contacting that individual by telephone,
- 13 f. sending mail or electronic communications to that
14 individual, and
- 15 g. placing an object on, or delivering an object to,
16 property owned, leased, or occupied by that
17 individual; and

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

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SECTION 2. This act shall become effective November 1, 2010.

52-2-8375 GRS 01/06/10