

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 265

By: Rice

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5
6 AS INTRODUCED

7 An Act relating to crimes; amending 21 O.S. 2001,
8 Section 850, which relates to malicious intimidation
9 or harassment; clarifying protected class of persons;
10 specifying time period for prosecution; modifying
11 penalties; providing intent for proper application;
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2001, Section 850, is
15 amended to read as follows:

16 Section 850. A. No person shall maliciously and with the
17 specific intent to intimidate or harass another person because of
18 that person's perceived or actual race, color, religion, ancestry,
19 national origin, gender, sexual orientation, gender identity or
20 disability:

- 21 1. Assault or batter another person;
- 22 2. Damage, destroy, vandalize or deface any real or personal
23 property of another person; or
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1 3. Threaten, by word or act, to do any act prohibited by
2 paragraph 1 or 2 of this subsection if there is reasonable cause to
3 believe that such act will occur.

4 B. No person shall maliciously and with specific intent to
5 incite or produce, and which is likely to incite or produce,
6 imminent violence, which violence would be directed against another
7 person because of that person's actual or perceived race, color,
8 religion, ancestry, national origin, gender, sexual orientation,
9 gender identity or disability, make or transmit, cause or allow to
10 be transmitted, any telephonic, computerized, or electronic message.

11 C. No person shall maliciously and with specific intent to
12 incite or produce, and which is likely to incite or produce,
13 imminent violence, which violence would be directed against another
14 person because of that person's actual or perceived race, color,
15 religion, ancestry, national origin, gender, sexual orientation,
16 gender identity or disability, broadcast, publish, or distribute,
17 cause or allow to be broadcast, published or distributed, any
18 message or material.

19 D. Prosecutions for criminal violations of this section shall
20 be commenced within sixty (60) days after the commission of each
21 offense.

22 E. Any person convicted of violating any provision of
23 subsections A, B or C of this section shall be guilty of a
24 ~~misdemeanor on a first offense and a felony punishable by not more~~

1 ~~than ten (10) years incarceration~~ imprisonment in the custody of the
2 Department of Corrections for a ~~second or subsequent offense~~. The
3 ~~fine for a felony violation of this section shall not exceed Ten~~
4 ~~Thousand Dollars (\$10,000.00)~~ not less than one (1) year nor more
5 than five (5) years, or by a fine of not to exceed Five Thousand
6 Dollars (\$5,000.00), or by both fine and imprisonment. Any person
7 convicted of a second violation of any provision of subsection A, B
8 or C of this section shall be punished by imprisonment in the
9 custody of the Department of Corrections for not less than five (5)
10 years nor more than ten (10) years, or by a fine not to exceed Ten
11 Thousand Dollars (\$10,000.00), or by both fine and imprisonment.
12 Any person convicted of a third or subsequent violation of any
13 provision of subsection A, B or C of this section shall be punished
14 by imprisonment in the custody of the Department of Corrections for
15 not less than twenty (20) years nor more than life in imprisonment,
16 or by a fine not to exceed Twenty Thousand Dollars (\$20,000.00), or
17 by both fine and imprisonment. Furthermore, said person shall be
18 civilly liable for any damages resulting from any violation of this
19 section.

20 E. ~~Upon conviction, any person guilty of a misdemeanor in~~
21 ~~violation of this section shall be punishable by the imposition of a~~
22 ~~fine not exceeding One Thousand Dollars (\$1,000.00), or by~~
23 ~~imprisonment in the county jail for a period of not more than one~~
24 ~~(1) year, or by both such fine and imprisonment.~~

1 F. The Oklahoma State Bureau of Investigation shall develop a
2 standard system for state and local law enforcement agencies to
3 report incidents of crime which are apparently directed against
4 members of racial, ethnic, religious groups or other groups
5 specified by this section. The Oklahoma State Bureau of
6 Investigation shall promulgate rules, regulations and procedures
7 necessary to develop, implement and maintain a standard system for
8 the collection and reporting of hate crime data. All state, county,
9 city and town law enforcement agencies shall submit a monthly report
10 to the Oklahoma State Bureau of Investigation on forms prescribed by
11 the Bureau. The report shall contain the number and nature of the
12 offenses committed within their respective jurisdictions, the
13 disposition of such matters and any other information the Bureau may
14 require, respecting information relating to the cause and prevention
15 of crime, recidivism, the rehabilitation of criminals and the proper
16 administration of criminal justice.

17 G. No person, partnership, company or corporation that installs
18 telephonic, computerized, or electronic message equipment shall be
19 required to monitor the use of such equipment for possible
20 violations of this section, nor shall such person, partnership,
21 company or corporation be held criminally or civilly liable for the
22 use by another person of the equipment in violation of this section,
23 unless the person, partnership, company or corporation that
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1 installed the equipment had prior actual knowledge that the
2 equipment was to be used in violation of this section.

3 H. Nothing in this section shall be construed to prohibit any
4 constitutionally protected speech, expressive conduct or activities
5 including the exercise of religion protected by the First Amendment
6 and peaceful picketing or demonstration. In addition, nothing in
7 this section shall be construed to allow prosecution based solely
8 upon an individual's expression of racial, religious, political or
9 other beliefs or solely upon an individual's membership in a group
10 advocating or espousing such beliefs.

11 SECTION 2. This act shall become effective November 1, 2011.

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