

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1647

By: Crain

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5
6 AS INTRODUCED

7 An Act relating to stalking; amending 21 O.S. 2011,
8 Section 1173, which relates to the offense of
9 stalking and penalties therefor; specifying conduct
10 giving rise to certain rebuttable presumption;
11 modifying definitions; and providing an effective
12 date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1173, is
15 amended to read as follows:

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

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

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

24 upon conviction, shall be guilty of the crime of stalking, which is
a misdemeanor punishable by imprisonment in a county jail for not

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 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 for a term not exceeding five
22 (5) years or by a fine of not more than Two Thousand Five Hundred
23 Dollars (\$2,500.00), or by both such fine and imprisonment.

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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 than Two Thousand Five Hundred Dollars (\$2,500.00), or
7 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) nor more
13 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the
14 State Penitentiary for a term not exceeding ten (10) years, or by
15 both such fine and imprisonment.

16 E. The following shall give rise to a rebuttable presumption
17 that conduct caused the victim to feel terrorized, frightened,
18 intimidated, threatened, harassed, or molested:

19 1. Evidence that the defendant continued to engage in a course
20 of conduct involving repeated unconsented contact, as defined in
21 subsection F of this section, with the victim after having been
22 requested by the victim to discontinue the same or any other form of
23 unconsented contact, and to refrain from any further unconsented
24 contact with the victim, ~~shall give rise to a rebuttable presumption~~

1 ~~that the continuation of the course of conduct caused the victim to~~
2 ~~feel terrorized, frightened, intimidated, threatened, harassed, or~~
3 ~~molested ; or~~

4 2. Evidence that one or more persons acting as the agent for a
5 candidate for elective office engaged in a course of conduct
6 involving repeated unconsented contact, as defined in subsection F
7 of this section, with a person who is an opposing candidate for the
8 same office or a member of the immediate family of such a person,
9 and that such contact occurred other than at a public event.

10 F. 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 as prohibited by Section 1172 of
17 this title and conduct prohibited by Section 850 of this title.
18 Harassment does not include constitutionally protected activity or
19 conduct that serves a legitimate purpose;

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

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

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

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

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

6 SECTION 2. This act shall become effective November 1, 2014.

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