

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 HOUSE BILL 1516

 By: Peterson of the House

5 and

6 David of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to crimes and punishments; amending
11 21 O.S. 2011, Section 1173, which relates to the
12 crime of stalking; updating language; defining
13 certain term; and providing an effective date.

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

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

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

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

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

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

5 B. Any person who violates the provisions of subsection A of
6 this section when:

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

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

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

1 not more than Two Thousand Five Hundred Dollars (\$2,500.00), or by
2 both such fine and imprisonment.

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

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

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

1 contact with the victim, shall give rise to a rebuttable presumption
2 that the continuation of the course of conduct caused the victim to
3 feel terrorized, frightened, intimidated, threatened, harassed, or
4 molested.

5 F. For purposes of this section:

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

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

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

23 4. "Unconsented contact" means any contact with another
24 individual that is initiated or continued without the consent of the

1 individual, or in disregard of that individual's expressed desire
2 that the contact be avoided or discontinued. Constitutionally
3 protected activity is not included within the meaning of unconsented
4 contact. Unconsented contact includes but is not limited to any of
5 the following:

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

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

1 6. "Following" shall include the tracking of the movement or
2 location of an individual through the use of a Global Positioning
3 System (GPS) device or other monitoring device by a person, or
4 person who acts on behalf of another, without the consent of the
5 individual whose movement or location is being tracked; provided,
6 this shall not apply to the lawful use of a GPS device or other
7 monitoring device by a law enforcement agency or the parent or
8 guardian of a minor child who uses such device for the purpose of
9 tracking such minor child.

10 SECTION 2. This act shall become effective November 1, 2015.

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12 COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS,
13 dated 02/18/2015 - DO PASS, As Coauthored.