

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4
5 COMMITTEE SUBSTITUTE
6 FOR
7 HOUSE BILL NO. 3260

By: McBride

8
9 COMMITTEE SUBSTITUTE

10 An Act relating to crimes and punishments; amending
11 21 O.S. 2011, Section 1173, as amended by Section 1,
12 Chapter 206, O.S.L. 2015 (21 O.S. Supp. 2017, Section
13 1173), which relates to the crime of stalking;
14 defining certain term; and declaring an emergency.

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

16 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1173, as
17 amended by Section 1, Chapter 206, O.S.L. 2015 (21 O.S. Supp. 2017,
18 Section 1173), is amended to read as follows:

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

21 1. Would cause a reasonable person or a member of the immediate
22 family of that person as defined in subsection F of this section to
23 feel frightened, intimidated, threatened, harassed, or molested; and
24

1 2. Actually causes the person being followed or harassed to
2 feel terrorized, frightened, intimidated, threatened, harassed, or
3 molested,
4 shall, upon conviction, be guilty of the crime of stalking, which is
5 a misdemeanor punishable by imprisonment in a county jail for not
6 more than one (1) year, or by a fine of not more than One Thousand
7 Dollars (\$1,000.00), or by both such fine and imprisonment.

8 B. Any person who violates the provisions of subsection A of
9 this section when:

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

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

20 3. Said person, within ten (10) years preceding the violation
21 of subsection A of this section, completed the execution of sentence
22 for a conviction of a crime involving the use or threat of violence
23 against the same party, or against any member of the immediate
24 family of such party,

1 shall, upon conviction, be guilty of a felony punishable by
2 imprisonment in the custody of the Department of Corrections for a
3 term not exceeding five (5) years, or by a fine of not more than Two
4 Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and
5 imprisonment.

6 C. Any person who:

7 1. Commits a second act of stalking within ten (10) years of
8 the completion of sentence for a prior conviction of stalking; or

9 2. Has a prior conviction of stalking and, after being served
10 with a protective order that prohibits contact with an individual,
11 knowingly makes unconsented contact with the same individual,

12 shall, upon conviction, be guilty of a felony punishable by
13 imprisonment in the custody of the Department of Corrections for a
14 term not exceeding five (5) years, or by a fine of not less than Two
15 Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and
16 imprisonment.

17 D. Any person who commits an act of stalking within ten (10)
18 years of the completion of execution of sentence for a prior
19 conviction under subsection B or C of this section shall, upon
20 conviction, be guilty of a felony punishable by imprisonment in the
21 custody of the Department of Corrections for a term not exceeding
22 ten (10) years, or by a fine of not less than Five Thousand Dollars
23 (\$5,000.00), or by both such fine and imprisonment.

1 E. 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. For purposes of ~~this section~~ determining the crime of
11 stalking, the following definitions shall apply:

12 1. "Harasses" means a pattern or course of conduct directed
13 toward another individual that includes, but is not limited to,
14 repeated or continuing unconsented contact, that would cause a
15 reasonable person to suffer emotional distress, and that actually
16 causes emotional distress to the victim. Harassment shall include
17 harassing or obscene phone calls as prohibited by Section 1172 of
18 this 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 or more separate acts over a period of time, however
23 short, evidencing a continuity of purpose. Constitutionally
24

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
24

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; and

9 6. "Following" shall include the tracking of the movement or
10 location of an individual through the use of a Global Positioning
11 System (GPS) device or other monitoring device by a person, or
12 person who acts on behalf of another, without the consent of the
13 individual whose movement or location is being tracked; provided,
14 this shall not apply to the lawful use of a GPS device or other
15 monitoring device.

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

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21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/14/2018 - DO
22 PASS, As Amended.