

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3523

By: Goodwin

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 850, which relates to penalties for malicious intimidation or harassment; expanding scope of crime to include certain individuals; modifying elements of crime; providing separate penalties for certain prohibited acts; defining term; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 850, is amended to read as follows:

Section 850. A. No person shall maliciously and with the specific intent to intimidate or harass another person because of that person's race, color, religion, ancestry, national origin ~~or~~, disability or sexual orientation:

1. Assault or batter another person;

2. Assault or batter another person causing great bodily injury, as such term is defined in subsection G of this section;

3. Damage, destroy, vandalize or deface any real or personal property of another person; or

1       ~~3.~~ 4. Threaten, by word or act, to do any act prohibited by  
2 paragraph 1 ~~or~~, 2 or 3 of this subsection if there is reasonable  
3 cause to 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 race, color, religion, ancestry,  
8 national origin ~~or~~, disability or sexual orientation, make or  
9 transmit, cause or allow to be transmitted, any telephonic,  
10 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 race, color, religion, ancestry,  
15 national origin ~~or~~, disability or sexual orientation, broadcast,  
16 publish, or distribute, cause or allow to be broadcast, published or  
17 distributed, any message or material.

18       D. 1. Any person convicted of violating ~~any provision of~~  
19 ~~subsections~~ paragraph 1 of subsection A, B or C of this section  
20 shall be guilty of a misdemeanor ~~on a first offense and a felony~~  
21 punishable by ~~not more than ten (10) years incarceration~~  
22 imprisonment in the ~~custody of the Department of Corrections for a~~  
23 ~~second or subsequent offense. The~~ county jail for not less than six  
24 (6) months, or by a fine ~~for a felony violation of this section~~

1 ~~shall of not exceed Ten Thousand Dollars (\$10,000.00) less than One~~  
2 ~~Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.~~  
3 Upon conviction of a second or subsequent offense, the person shall  
4 be punished by imprisonment in the county jail for not less than one  
5 (1) year, or by a fine of not less than One Thousand Dollars  
6 (\$1,000.00), or by both such fine and imprisonment. Furthermore,  
7 said person shall be civilly liable for any damages resulting from  
8 any violation of this section.

9 ~~E. Upon conviction, any~~

10 2. Any person convicted of a violation of paragraph 2 of  
11 subsection A of this section shall be guilty of a felony punishable  
12 by imprisonment in the custody of the Department of Corrections for  
13 not less than two (2) years nor more than ten (10) years and by a  
14 fine of not less than Two Thousand Dollars (\$2,000.00) and not  
15 exceeding Ten Thousand Dollars (\$10,000.00). Upon conviction of a  
16 second or subsequent violation of paragraph 2 of subsection A of  
17 this section, the person shall be punished by imprisonment in the  
18 custody of the Department of Corrections for not less than four (4)  
19 years nor more than ten (10) years and by a fine of not less than  
20 Four Thousand Dollars (\$4,000.00) and not exceeding Ten Thousand  
21 Dollars (\$10,000.00), or by both such fine and imprisonment.  
22 Furthermore, said person shall be civilly liable for any damages  
23 resulting from any violation of this section.

1       3. Any person convicted of violating paragraph 3 of subsection  
2 A of this section shall be guilty of:

- 3           a. a misdemeanor ~~in violation of this section shall be~~  
4           punishable by the ~~imposition of a fine not exceeding~~  
5           One Thousand Dollars (\$1,000.00), or by imprisonment  
6           in the county jail for a period of not more than one  
7           (1) year, or by a fine of not less than One Thousand  
8           Dollars (\$1,000.00), or by both such fine and  
9           imprisonment if the damage, destruction, vandalism or  
10          defacement causes a loss which has an aggregate value  
11          of less than One Thousand Dollars (\$1,000.00), or  
12          b. a felony punishable by imprisonment in the custody of  
13          the Department of Corrections for a period of not less  
14          than one (1) year, or by fine of not less than Two  
15          Thousand Dollars (\$2,000.00), or by both such fine and  
16          imprisonment if the damage, destruction, vandalism or  
17          defacement causes a loss which has an aggregate value  
18          of One Thousand Dollars (\$1,000.00) or more.

19 Furthermore, said person shall be civilly liable for any damages  
20 resulting from any violation of this section.

21       4. Any person convicted of a violation of paragraph 4 of  
22 subsection A of this section or the provisions of subsection B or C  
23 of this section shall be guilty of a misdemeanor punishable by  
24 imprisonment in the county jail for a period of not more than one

1 (1) year, or by a fine of not less than One Thousand Dollars  
2 (\$1,000.00), or by both such fine and imprisonment.

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

19 ~~G.~~ F. No person, partnership, company or corporation that  
20 installs telephonic, computerized, or electronic message equipment  
21 shall be required to monitor the use of such equipment for possible  
22 violations of this section, nor shall such person, partnership,  
23 company or corporation be held criminally or civilly liable for the  
24 use by another person of the equipment in violation of this section,

1 unless the person, partnership, company or corporation that  
2 installed the equipment had prior actual knowledge that the  
3 equipment was to be used in violation of this section.

4 G. As used in this section, "great bodily injury" means bone  
5 fracture, protracted and obvious disfigurement, protracted loss or  
6 impairment of the function of a body part, organ or mental faculty,  
7 or substantial risk of death.

8 SECTION 2. This act shall become effective November 1, 2020.

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