

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 533

By: Standridge

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5
6 AS INTRODUCED

7 An Act relating to crime and punishment; amending 21
8 O.S. 2011, Section 1173, as last amended by Section
9 1, Chapter 153, O.S.L. 2018 (21 O.S. Supp. 2020,
10 Section 1173), which relates to penalties for
11 stalking; modifying penalties; modifying definition;
12 updating statutory language; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1173, as
16 last amended by Section 1, Chapter 153, O.S.L. 2018 (21 O.S. Supp.
17 2020, Section 1173), is amended to read as follows:

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

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

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

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

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

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

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

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

23 shall, upon conviction, be guilty of a felony punishable by
24 imprisonment in the custody of the Department of Corrections for a

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

4 C. Any person who:

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

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

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

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

22 E. Evidence that the defendant continued to engage in a course
23 of conduct involving repeated unconsented contact, as defined in
24 subsection F of this section, with the victim after having been

1 requested by the victim to discontinue the same or any other form of
2 unconsented contact, and to refrain from any further unconsented
3 contact with the victim, shall give rise to a rebuttable presumption
4 that the continuation of the course of conduct caused the victim to
5 feel terrorized, frightened, intimidated, threatened, harassed, or
6 molested.

7 F. For purposes of determining the crime of stalking, the
8 following definitions shall apply:

9 1. "Harasses" means a pattern or course of conduct directed
10 toward another individual that includes, but is not limited to,
11 repeated or continuing unconsented contact, that would cause a
12 reasonable person to suffer emotional distress, and that actually
13 causes emotional distress to the victim. Harassment shall include
14 harassing or obscene phone calls as prohibited by Section 1172 of
15 this title and conduct prohibited by Section 850 of this title.
16 Harassment does not include constitutionally protected activity or
17 conduct that serves a legitimate purpose. Harassment shall include,
18 but not be limited to, the threat of violence, taunting,
19 encroachment on personal space and involuntary confinement;

20 2. "Course of conduct" means a pattern of conduct composed of a
21 series of two or more separate acts over a period of time, however
22 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
10 of 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;

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; and

6 6. "Following" shall include the tracking of the movement or
7 location of an individual through the use of a Global Positioning
8 System (GPS) device or other monitoring device by a person, or
9 person who acts on behalf of another, without the consent of the
10 individual whose movement or location is being tracked; provided,
11 this shall not apply to the lawful use of a GPS device or other
12 monitoring device or to the use by a new or used motor vehicle
13 dealer or other motor vehicle creditor of a GPS device or other
14 monitoring device, including a device containing technology used to
15 remotely disable the ignition of a motor vehicle, in connection with
16 lawful action after default of the terms of a motor vehicle credit
17 sale, loan or lease, and with the express written consent of the
18 owner or lessee of the motor vehicle.

19 SECTION 2. This act shall become effective November 1, 2021.
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