

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1516

By: Peterson

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2011, Section 1173, which relates to the  
9 crime of stalking; updating language; defining  
10 certain term; and providing an effective date.

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

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

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

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

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

22 upon conviction, shall be guilty of the crime of stalking, which is  
23 a misdemeanor punishable by imprisonment in a county jail for not  
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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~~ custody of the Department of  
22 Corrections for a term not exceeding five (5) years, or by a fine of  
23 not more than Two Thousand Five Hundred Dollars (\$2,500.00), or by  
24 both such fine and imprisonment.

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 custody of the Department of Corrections for a term not  
6 exceeding five (5) years, or by a fine of not more than Two Thousand  
7 Five Hundred Dollars (\$2,500.00), or by both such fine and  
8 imprisonment.

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

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

1 feel terrorized, frightened, intimidated, threatened, harassed, or  
2 molested.

3 F. For purposes of this section:

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

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

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

21 4. "Unconsented contact" means any contact with another  
22 individual that is initiated or continued without the consent of the  
23 individual, or in disregard of that individual's expressed desire  
24 that the contact be avoided or discontinued. Constitutionally

1 protected activity is not included within the meaning of unconsented  
2 contact. Unconsented contact includes but is not limited to any of  
3 the following:

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

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

23 6. "Following" shall include the tracking of the movement or  
24 location of an individual through the use of a Global Positioning

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

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

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