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
3. Threaten, by word or act, to do any act prohibited by paragraph 1 or 2 or 3 of this subsection if there is reasonable cause to believe that such act will occur.

B. No person shall maliciously and with specific intent to incite or produce, and which is likely to incite or produce, imminent violence, which violence would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability or sexual orientation, make or transmit, cause or allow to be transmitted, any telephonic, computerized, or electronic message.

C. No person shall maliciously and with specific intent to incite or produce, and which is likely to incite or produce, imminent violence, which violence would be directed against another person because of that person's race, color, religion, ancestry, national origin or disability or sexual orientation, broadcast, publish, or distribute, cause or allow to be broadcast, published or distributed, any message or material.

D. 1. Any person convicted of violating any provision of subsection paragraph 1 of subsection A, B or C of this section shall be guilty of a misdemeanor on a first offense and a felony punishable by not more than ten (10) years incarceration imprisonment in the custody of the Department of Corrections for a second or subsequent offense. The county jail for not less than six (6) months, or by a fine for a felony violation of this section
shall of not exceed Ten Thousand Dollars ($10,000.00) less than One
Thousand Dollars ($1,000.00), or by both such fine and imprisonment.
Upon conviction of a second or subsequent offense, the person shall
be punished by imprisonment in the county jail for not less than one
(1) year, or by a fine of not less than One Thousand Dollars
($1,000.00), or by both such fine and imprisonment. Furthermore,
said person shall be civilly liable for any damages resulting from
any violation of this section.

E. Upon conviction, any

2. Any person convicted of a violation of paragraph 2 of
subsection A of this section shall be guilty of a felony punishable
by imprisonment in the custody of the Department of Corrections for
not less than two (2) years nor more than ten (10) years and by a
fine of not less than Two Thousand Dollars ($2,000.00) and not
exceeding Ten Thousand Dollars ($10,000.00). Upon conviction of a
second or subsequent violation of paragraph 2 of subsection A of
this section, the person shall be punished by imprisonment in the
custody of the Department of Corrections for not less than four (4)
years nor more than ten (10) years and by a fine of not less than
Four Thousand Dollars ($4,000.00) and not exceeding Ten Thousand
Dollars ($10,000.00), or by both such fine and imprisonment.
Furthermore, said person shall be civilly liable for any damages
resulting from any violation of this section.
3. Any person convicted of violating paragraph 3 of subsection A of this section shall be guilty of:

a. a misdemeanor in violation of this section shall be punishable by the imposition of a fine not exceeding One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a period of not more than one (1) year, or by a fine of not less than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment if the damage, destruction, vandalism or defacement causes a loss which has an aggregate value of less than One Thousand Dollars ($1,000.00), or

b. a felony punishable by imprisonment in the custody of the Department of Corrections for a period of not less than one (1) year, or by fine of not less than Two Thousand Dollars ($2,000.00), or by both such fine and imprisonment if the damage, destruction, vandalism or defacement causes a loss which has an aggregate value of One Thousand Dollars ($1,000.00) or more.

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

4. Any person convicted of a violation of paragraph 4 of subsection A of this section or the provisions of subsection B or C of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail for a period of not more than one
(1) year, or by a fine of not less than One Thousand Dollars ($1,000.00), or by both such fine and imprisonment.

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

G. No person, partnership, company or corporation that installs telephonic, computerized, or electronic message equipment shall be required to monitor the use of such equipment for possible violations of this section, nor shall such person, partnership, company or corporation be held criminally or civilly liable for the use by another person of the equipment in violation of this section.
unless the person, partnership, company or corporation that
installed the equipment had prior actual knowledge that the
equipment was to be used in violation of this section.

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

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

57-1-9570    GRS    01/15/20