

As Amended by Senate Committee

Session of 2021

HOUSE BILL No. 2071

By Representatives Lynn, Arnberger, Croft, Esau, Finch, Hawkins, Helmer, Hoheisel, Landwehr, Long, Owens, Resman, Ryckman, Samsel, Tarwater, Thomas, Toplikar, Waggoner, Wasinger, Williams and Woodard

1-14

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to crimes against persons; increasing criminal penalties for stalking a
3 minor; amending K.S.A. 2020 Supp. 21-5427 and repealing the
4 existing section.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2020 Supp. 21-5427 is hereby amended to read as
8 follows: 21-5427. (a) Stalking is:

9 (1) Recklessly engaging in a course of conduct targeted at a specific
10 person which would cause a reasonable person in the circumstances of the
11 targeted person to fear for such person's safety, or the safety of a member
12 of such person's immediate family and the targeted person is actually
13 placed in such fear;

14 (2) engaging in a course of conduct targeted at a specific person with
15 knowledge that the course of conduct will place the targeted person in fear
16 for such person's safety or the safety of a member of such person's
17 immediate family; ~~or~~

18 (3) after being served with, or otherwise provided notice of, any
19 protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A.
20 2020 Supp. 21-5924, and amendments thereto, that prohibits contact with a
21 targeted person, recklessly engaging in at least one act listed in subsection
22 (f)(1) that violates the provisions of the order and would cause a
23 reasonable person to fear for such person's safety, or the safety of a
24 member of such person's immediate family and the targeted person is
25 actually placed in such fear; *or*

26 (4) *intentionally engaging in a course of conduct targeted at a*
27 *specific child under the age of 14 that would cause a reasonable person in*
28 *the circumstances of the targeted child, or a reasonable person in the*
29 *circumstances of an immediate family member of such child, to fear for*
30 *such child's safety.*

31 (b) Stalking as defined in:

32 (1) Subsection (a)(1) is a:

33 (A) Class A person misdemeanor, except as provided in subsection
34 (b)(1)(B); and

1 (B) severity level 7, person felony upon a second or subsequent
2 conviction;

3 (2) subsection (a)(2) is a:

4 (A) Class A person misdemeanor, except as provided in subsection
5 (b)(2)(B); and

6 (B) severity level 5, person felony upon a second or subsequent
7 conviction; ~~and~~

8 (3) subsection (a)(3) is a:

9 (A) Severity level 9, person felony, except as provided in subsection
10 (b)(3)(B); and

11 (B) severity level 5, person felony, upon a second or subsequent
12 conviction; *and*

13 (4) *subsection (a)(4) is a:*

14 (A) *Severity level 7, person felony, except as provided in subsection*
15 *(b)(4)(B); and*

16 (B) *severity level 4, person felony, upon a second or subsequent*
17 *conviction.*

18 (c) For the purposes of this section, a person served with a protective
19 order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2020
20 Supp. 21-5924, and amendments thereto, or a person who engaged in acts
21 which would constitute stalking, after having been advised by a law
22 enforcement officer, that such person's actions were in violation of this
23 section, shall be presumed to have acted knowingly as to any like future
24 act targeted at the specific person or persons named in the order or as
25 advised by the officer.

26 (d) In a criminal proceeding under this section, a person claiming an
27 exemption, exception or exclusion has the burden of going forward with
28 evidence of the claim.

29 (e) The present incarceration of a person alleged to be violating this
30 section shall not be a bar to prosecution under this section.

31 (f) As used in this section:

32 (1) "Course of conduct" means two or more acts over a period of
33 time, however short, which evidence a continuity of purpose. A course of
34 conduct shall not include constitutionally protected activity nor conduct
35 that was necessary to accomplish a legitimate purpose independent of
36 making contact with the targeted person. A course of conduct shall include,
37 but not be limited to, any of the following acts or a combination thereof:

38 (A) Threatening the safety of the targeted person or a member of such
39 person's immediate family;

40 (B) following, approaching or confronting the targeted person or a
41 member of such person's immediate family;

42 (C) appearing in close proximity to, or entering the targeted person's
43 residence, place of employment, school or other place where such person

1 can be found, or the residence, place of employment or school of a
2 member of such person's immediate family;

3 (D) causing damage to the targeted person's residence or property or
4 that of a member of such person's immediate family;

5 (E) placing an object on the targeted person's property or the property
6 of a member of such person's immediate family, either directly or through
7 a third person;

8 (F) causing injury to the targeted person's pet or a pet belonging to a
9 member of such person's immediate family;

10 (G) any act of communication;

11 (2) "communication" means to impart a message by any method of
12 transmission, including, but not limited to: Telephoning, personally
13 delivering, sending or having delivered, any information or material by
14 written or printed note or letter, package, mail, courier service or electronic
15 transmission, including electronic transmissions generated or
16 communicated via a computer;

17 (3) "computer" means a programmable, electronic device capable of
18 accepting and processing data;

19 (4) "conviction" includes being convicted of a violation of K.S.A. 21-
20 3438, prior to its repeal, this section or a law of another state which
21 prohibits the acts that this section prohibits; and

22 (5) "immediate family" means father, mother, stepparent, child,
23 stepchild, sibling, spouse or grandparent of the targeted person; any person
24 residing in the household of the targeted person; or any person involved in
25 an intimate relationship with the targeted person.

26 Sec. 2. K.S.A. 2020 Supp. 21-5427 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its
28 publication in the ~~statute book~~ *Kansas register*.