

As Amended by House Committee

Session of 2004

HOUSE BILL No. 2477

By Representative Barbieri-Lightner

12-1

10 AN ACT concerning crimes and punishment; relating to stalking; amend-
11 ing K.S.A. 2003 Supp. 21-3438 and repealing the existing section.

12

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

14 Section 1. K.S.A. 2003 Supp. 21-3438 is hereby amended to read as
15 follows: 21-3438. (a) Stalking is an intentional, malicious and repeated
16 following or harassment of another person and making a credible threat
17 with the intent to place such person in reasonable fear for such person's
18 safety.

19 Stalking is a severity level 10, person felony.

20 (b) Any person who violates subsection (a) when there is an order
21 issued pursuant to the protection from stalking act, K.S.A. 2003 Supp.
22 60-31a01 through 60-31a09, and amendments thereto, a temporary re-
23 straining order or an injunction in effect prohibiting the behavior de-
24 scribed in subsection (a) against the same person, is guilty of a severity
25 level 9, person felony.

26 (c) *Any person who violates subsection (b) when in the possession of*
27 **any firearm or weapon as described in K.S.A. 21-4201, and amend-**
28 **ments thereto, is guilty of a severity level 8, person felony.**

29 ~~(e)~~ (d) Any person who has a second or subsequent conviction oc-
30 ccurring against such person, within seven years of a prior conviction under
31 subsection (a) involving the same victim, is guilty of a severity level 8,
32 person felony.

33 ~~(d)~~ (e) For the purposes of this section: (1) "Course of conduct"
34 means a pattern of conduct composed of a series of acts over a period of
35 time, however short, evidencing a continuity of purpose and which would
36 cause a reasonable person to suffer substantial emotional distress, and
37 must actually cause substantial emotional distress to the person. Consti-
38 tutionally protected activity is not included within the meaning of "course
39 of conduct."

40 (2) "Harassment" means a knowing and intentional course of conduct
41 directed at a specific person that seriously alarms, annoys, torments or
42 terrorizes the person, and that serves no legitimate purpose.

43 (3) "Credible threat" means a verbal or written threat, including that

1 which is communicated via electronic means, or a threat implied by a
2 pattern of conduct or a combination of verbal or written statements and
3 conduct made with the intent and the apparent ability to carry out the
4 threat so as to cause the person who is the target of the threat to reason-
5 ably fear for such person's safety. The present incarceration of a person
6 making the threat shall not be a bar to prosecution under this section.

7 (4) "Electronic means" includes, but is not limited to, telephones,
8 cellular phones, computers, video recorders, fax machines, pagers and
9 computer networks.

10 Sec. 2. K.S.A. 2003 Supp. 21-3438 is hereby repealed.

11 Sec. 3. This act shall take effect and be in force from and after its
12 publication in the statute book.