

21-5427. Stalking. (a) Stalking is:

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

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

(3) after being served with, or otherwise provided notice of, any protective order included in K.S.A. 21-3843, prior to its repeal or K.S.A. 2014 Supp. 21-5924, and amendments thereto, that prohibits contact with a targeted person, recklessly engaging in at least one act listed in subsection (f)(1) that violates the provisions of the order and would cause a reasonable person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear.

(b) Stalking as defined in:

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

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

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

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

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

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

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

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

(B) severity level 5, person felony, upon a second or subsequent conviction.

(c) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 2014 Supp. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.

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

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

(f) As used in this section:

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

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

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

(C) appearing in close proximity to, or entering the targeted person's residence, place of employment, school or other place where such person can be found, or the residence, place of employment or school of a member of such person's immediate family;

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

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

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

(G) any act of communication;

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

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

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

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

History: L. 2010, ch. 136, § 62; L. 2011, ch. 30, § 27; July 1.