

STATE OF KANSAS



TOPEKA

HOUSE OF  
REPRESENTATIVES

MARIO GOICO  
REPRESENTATIVE, 100TH DISTRICT  
SEDGWICK COUNTY  
1254 N. PINE GROVE CT.  
WICHITA, KS 67212  
316-721-3682

STATE CAPITOL—268-W  
TOPEKA, KS 66612  
785-296-7663

TOLL FREE (DURING SESSION) 1-800-432-3924

FAX: 785-368-6385

E-MAIL: mario.goico@house.ks.gov

COMMITTEE ASSIGNMENTS  
CHAIRMAN: VETERANS, MILITARY AND  
HOMELAND SECURITY  
VICE-CHAIRMAN: ELECTIONS  
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SECURITY

Honorable Chairman Lance Kinzer,  
and members of the House Standing Committee on Judiciary

House Bill No. 2406 is a bill that I introduced in the Tax Committee last year. As you know military families have been subject to very offensive intimidation for many years during funeral services. This bill tries to address this problem.

The court has ruled that it recognizes the protester' right to free speech. However, the court also recognizes that the right of families are important. Protesters should not have the ability to intimidate and/or threaten the well-being of the family members of the deceased.

Stalking is 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.

As you know intimidation or cowing is intentional behavior which would cause a person of ordinary sensibilities fear of injury or harm. It's not necessary for it to be violent or to cause terror or that the victim was actually frightened. Intimidation may be employed consciously or unconsciously, and a percentage of people who employ it consciously may do so as the result of selfishly rationalized notions of its propriety, utility or self-empowerment. Intimidation related to prejudice and discrimination may include conduct which annoys, threatens, intimidates, alarms, or puts a person in fear of their safety. Because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, and in this case because of their military service.

Intimidation may be manifested in such manner as physical contacts, glowering countenance, emotional manipulation or verbal abuse. It results in making someone feel lower than you, purposeful embarrassment and/or actual physical assault. Behavior may also include, but is not limited to, epithets, derogatory comments or slurs and lewd propositions, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters or cartoons. There is no legal definition as to what behavior constitutes "Intimidation", so it is up to the courts to decide on a case by case basis.

However, if somebody threatens violence against somebody, then this may be a criminal offense.

Threatening is intentionally putting another person in fear of imminent bodily injury. This involves a perception of injury, or of physical or mental damage. This could result in a loss to a person. This could also involve the intent to terrorize. Criminal threatening can be the result of verbal threats of violence, physical conduct (such as hand gestures or raised fists), actual physical contact, or even simply the placing of a sign, an object or graffiti on the property of another person with the purpose of coercing or terrorizing.

Threatening the safety of the targeted person or a member of such person's immediate family; following, approaching or confronting the targeted person or a member of such person's immediate family; 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 (like a funeral home), or the residence, place of employment or school of a member of such person's immediate family.

This bill applies to a member of the Armed Forces, Reserves or National Guard on active duty and their immediate family (father, mother, stepparent, child, stepchild, sibling, spouse or grandparent). It would prohibit the injury, intimidation, interference or harassment of any member of the military and their immediate family. Any violation could result in the filing of a civil action in a district court.

This act would make military members and their families a protected class. Several states have passed similar legislation. It would also protect our returning veterans from possible civil employment consequences as result of their active duty. This would include discrimination against a military member because of their military status (membership or service) with respect to employment; employment position or status. Also for the denial, disqualification or discharge from employment because of the member's performance of emergency military duty. It also addresses the refusal of entrance to public accommodations because the member is wearing a military uniform or because of the membership or service in the military.

Civil action in the district court of the county in which the violation is alleged to have occurred or in which the alleged violator resides or transacts business could be the result of any actions as described above. If the court finds that a violation has occurred, the court may award to the plaintiff actual damages, or \$500, whichever is greater, for each violation. The court may also grant as relief any permanent or temporary injunction or restraining order, including an order enjoining the defendant from engaging in such violation or ordering such affirmative action as may be appropriate. The prevailing party shall be awarded court costs and reasonable attorney fees.

Respectfully,

  
Representative Mario Goico