

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Harassing and Obscene Communications Act is  
5 amended by changing Sections 1-2 and 2 as follows:

6 (720 ILCS 135/1-2)

7 Sec. 1-2. Harassment through electronic communications.

8 (a) Harassment through electronic communications is the  
9 use of electronic communication for any of the following  
10 purposes:

11 (1) Making any comment, request, suggestion or  
12 proposal which is obscene with an intent to offend;

13 (2) Interrupting, with the intent to harass, the  
14 telephone service or the electronic communication service  
15 of any person;

16 (3) Transmitting to any person, with the intent to  
17 harass and regardless of whether the communication is read  
18 in its entirety or at all, any file, document, or other  
19 communication which prevents that person from using his or  
20 her telephone service or electronic communications device;

21 (3.1) Transmitting an electronic communication or  
22 knowingly inducing a person to transmit an electronic  
23 communication for the purpose of harassing another person

1 who is under 13 years of age, regardless of whether the  
2 person under 13 years of age consents to the harassment, if  
3 the defendant is at least 16 years of age at the time of  
4 the commission of the offense;

5 (3.5) Electronically communicating directly with  
6 another person with the intent to knowingly intimidate or  
7 cause emotional distress to another person or with the  
8 intent that physical harm would result from the  
9 communication and when the person initiating the  
10 communication is 18 years of age or older and the party  
11 communicated with is under 18 years of age;

12 (4) Threatening injury to the person or to the property  
13 of the person to whom an electronic communication is  
14 directed or to any of his or her family or household  
15 members; or

16 (5) Knowingly permitting any electronic communications  
17 device to be used for any of the purposes mentioned in this  
18 subsection (a).

19 (a-5) Telecommunications carriers, commercial mobile  
20 service providers, and providers of information services,  
21 including, but not limited to, Internet service providers  
22 and hosting service providers, are not liable under this  
23 Section, except for willful and wanton misconduct, by  
24 virtue of the transmission, storage, or caching of  
25 electronic communications or messages of others or by  
26 virtue of the provision of other related

1 telecommunications, commercial mobile services, or  
2 information services used by others in violation of this  
3 Section.

4 (b) As used in this Act:

5 (1) "Electronic communication" means any transfer of  
6 signs, signals, writings, images, sounds, data or  
7 intelligence of any nature transmitted in whole or in part  
8 by a wire, radio, electromagnetic, photoelectric or  
9 photo-optical system.

10 (2) "Family or household member" includes spouses,  
11 former spouses, parents, children, stepchildren and other  
12 persons related by blood or by present or prior marriage,  
13 persons who share or formerly shared a common dwelling,  
14 persons who have or allegedly share a blood relationship  
15 through a child, persons who have or have had a dating or  
16 engagement relationship, and persons with disabilities and  
17 their personal assistants. For purposes of this Act,  
18 neither a casual acquaintanceship nor ordinary  
19 fraternization between 2 individuals in business or social  
20 contexts shall be deemed to constitute a dating  
21 relationship.

22 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)

23 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

24 Sec. 2. Sentence.

25 (a) Except as provided in subsection (b), a person who

1 violates any of the provisions of Section 1, 1-1, or 1-2 of  
2 this Act is guilty of a Class B misdemeanor. Except as provided  
3 in subsection (b), a second or subsequent violation of Section  
4 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which  
5 the court shall impose a minimum of 14 days in jail or, if  
6 public or community service is established in the county in  
7 which the offender was convicted, 240 hours of public or  
8 community service.

9 (b) In any of the following circumstances, a person who  
10 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of  
11 a Class 4 felony:

12 (1) The person has 3 or more prior violations in the  
13 last 10 years of harassment by telephone under Section 1-1  
14 of this Act, harassment through electronic communications  
15 under Section 1-2 of this Act, or any similar offense of  
16 any state;

17 (2) The person has previously violated the harassment  
18 by telephone provisions of Section 1-1 of this Act or the  
19 harassment through electronic communications provisions of  
20 Section 1-2 of this Act or committed any similar offense in  
21 any state with the same victim or a member of the victim's  
22 family or household;

23 (3) At the time of the offense, the offender was under  
24 conditions of bail, probation, mandatory supervised  
25 release or was the subject of an order of protection, in  
26 this or any other state, prohibiting contact with the

1 victim or any member of the victim's family or household;

2 (4) In the course of the offense, the offender  
3 threatened to kill the victim or any member of the victim's  
4 family or household;

5 (5) The person has been convicted in the last 10 years  
6 of a forcible felony as defined in Section 2-8 of the  
7 Criminal Code of 1961; or

8 (6) The person violates paragraph (4.1) of Section 1-1  
9 or paragraph (3.1) or (3.5) of subsection (a) of Section  
10 1-2.

11 (Source: P.A. 90-578, eff. 6-1-98; 91-878, eff. 1-1-01.)