

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 (4) Threatening injury to the person or to the property  
6 of the person to whom an electronic communication is  
7 directed or to any of his or her family or household  
8 members; or

9 (5) Knowingly permitting any electronic communications  
10 device to be used for any of the purposes mentioned in this  
11 subsection (a).

12 (a-5) Telecommunications carriers, commercial mobile  
13 service providers, and providers of information services,  
14 including, but not limited to, Internet service providers and  
15 hosting service providers, are not liable under this Section,  
16 except for willful and wanton misconduct, by virtue of the  
17 transmission, storage, or caching of electronic communications  
18 or messages of others or by virtue of the provision of other  
19 related telecommunications, commercial mobile services, or  
20 information services used by others in violation of this  
21 Section.

22 (b) As used in this Act:

23 (1) "Electronic communication" means any transfer of  
24 signs, signals, writings, images, sounds, data or  
25 intelligence of any nature transmitted in whole or in part  
26 by a wire, radio, electromagnetic, photoelectric or

1 photo-optical system.

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

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

15 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

16 Sec. 2. Sentence.

17 (a) Except as provided in subsection (b), a person who  
18 violates any of the provisions of Section 1, 1-1, or 1-2 of  
19 this Act is guilty of a Class B misdemeanor. Except as provided  
20 in subsection (b), a second or subsequent violation of Section  
21 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which  
22 the court shall impose a minimum of 14 days in jail or, if  
23 public or community service is established in the county in  
24 which the offender was convicted, 240 hours of public or  
25 community service.

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

4 (1) The person has 3 or more prior violations in the  
5 last 10 years of harassment by telephone under Section 1-1  
6 of this Act, harassment through electronic communications  
7 under Section 1-2 of this Act, or any similar offense of  
8 any state;

9 (2) The person has previously violated the harassment  
10 by telephone provisions of Section 1-1 of this Act or the  
11 harassment through electronic communications provisions of  
12 Section 1-2 of this Act or committed any similar offense in  
13 any state with the same victim or a member of the victim's  
14 family or household;

15 (3) At the time of the offense, the offender was under  
16 conditions of bail, probation, mandatory supervised  
17 release or was the subject of an order of protection, in  
18 this or any other state, prohibiting contact with the  
19 victim or any member of the victim's family or household;

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

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

26 (6) The person violates paragraph (4.1) of Section 1-1

1 or paragraph (3.1) of subsection (a) of Section 1-2; or  
2 (7) The person was at least 18 years of age at the time  
3 of the commission of the offense and the victim was under  
4 18 years of age at the time of the commission of the  
5 offense.

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