

SB0051



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0051

Introduced 1/27/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

720 ILCS 135/1-2
720 ILCS 135/2

from Ch. 134, par. 16.5

Amends the Harassing and Obscene Communications Act. Provides that a person also commits harassment through electronic communications by knowingly and without consent credibly impersonating another actual person through or on an Internet Web site or by other electronic means for purposes of harming, intimidating, threatening, or defrauding another person. Provides that a violation is a Class A misdemeanor for a first offense and a Class 4 felony for a second or subsequent offense.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

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); or.

12 (6) Knowingly and without consent credibly
13 impersonating another actual person through or on an
14 Internet Web site or by other electronic means for purposes
15 of harming, intimidating, threatening, or defrauding
16 another person.

17 (b) As used in this Act:

18 (0.05) "Credibly impersonating" means another person
19 would reasonably believe, or did reasonably believe, that
20 the defendant was or is the person who was impersonated.

21 (1) "Electronic communication" means any transfer of
22 signs, signals, writings, images, sounds, data or
23 intelligence of any nature transmitted in whole or in part
24 by a wire, radio, electromagnetic, photoelectric or
25 photo-optical system. "Electronic communication" includes
26 transmissions by a computer through the Internet to another

1 computer. "Electronic communication" includes opening an
2 e-mail account or an account or profile on a social
3 networking Internet Web site in another person's name.

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

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

26 (Source: P.A. 95-849, eff. 1-1-09; 95-984, eff. 6-1-09; 96-328,

1 eff. 8-11-09.)

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

3 Sec. 2. Sentence.

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

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

19 (1) The person has 3 or more prior violations in the
20 last 10 years of harassment by telephone under Section 1-1
21 of this Act, harassment through electronic communications
22 under Section 1-2 of this Act, or any similar offense of
23 any state;

24 (2) The person has previously violated the harassment
25 by telephone provisions of Section 1-1 of this Act or the

1 harassment through electronic communications provisions of
2 Section 1-2 of this Act or committed any similar offense in
3 any state with the same victim or a member of the victim's
4 family or household;

5 (3) At the time of the offense, the offender was under
6 conditions of bail, probation, mandatory supervised
7 release or was the subject of an order of protection, in
8 this or any other state, prohibiting contact with the
9 victim or any member of the victim's family or household;

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

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

16 (6) The person violates paragraph (4.1) of Section 1-1
17 or paragraph (3.1) of subsection (a) of Section 1-2; ~~or~~

18 (7) The person was at least 18 years of age at the time
19 of the commission of the offense and the victim was under
20 18 years of age at the time of the commission of the
21 offense; or

22 (8) The person has previously violated paragraph (6) of
23 subsection (a) of Section 1-2.

24 (Source: P.A. 95-984, eff. 6-1-09.)