

SB2426



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2426

Introduced 2/15/2008, 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. Creates the Cyberbullying Law. Provides that the offense of harassment through electronic communications also includes the use of electronic communication for making a harassing statement for the purpose of alarming, tormenting, or terrorizing a specific person on at least 2 separate occasions; or creating and maintaining an Internet website or webpage, which is accessible to one or more third parties for a period of at least 24 hours, and which contains harassing statements made for the purpose of alarming, tormenting, or terrorizing a specific person. Establishes penalties. Effective immediately.

LRB095 19685 RLC 46036 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law, which may be referred to as
2 the Cyberbullying Law.

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

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

7 (720 ILCS 135/1-2)

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

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

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

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

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

22 (3.1) Transmitting an electronic communication or
23 knowingly inducing a person to transmit an electronic

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

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

10 (5) Knowingly permitting any electronic communications
11 device to be used for any of the purposes mentioned in this
12 subsection (a); ~~or~~

13 (6) Making a harassing statement for the purpose of
14 alarming, tormenting, or terrorizing a specific person on
15 at least 2 separate occasions; or

16 (7) Creating and maintaining an Internet website or
17 webpage, which is accessible to one or more third parties
18 for a period of at least 24 hours, and which contains
19 harassing statements made for the purpose of alarming,
20 tormenting, or terrorizing a specific person.

21 (b) As used in this Act:

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

1 transmissions by a computer through the Internet to another
2 computer.

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

15 (3) "Harass" means to engage in a knowing and willful
16 course of conduct directed at a specific person that
17 alarms, torments, or terrorizes that person.

18 (4) "Third party" means any person other than the
19 person violating paragraph (6) or (7) of subsection (a) and
20 the specific person who is the focus of the violator's
21 activities, irrespective of his or her age.

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 subsections ~~subsection~~ (b) and

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

10 (c) A person who violates paragraph (6) or (7) of
11 subsection (a) of Section 1-2 is guilty of a Class A
12 misdemeanor, unless the offense is committed by an individual
13 21 years of age or older against a person under 18 years of
14 age, in which case a violation of paragraph (6) or (7) of
15 subsection (a) of Section 1-2 is a Class 4 felony. A second or
16 subsequent conviction for a violation of paragraph (6) or (7)
17 of subsection (a) of Section 1-2 is a Class 4 felony, unless
18 the offense is committed by an individual 21 years of age or
19 older against a person under 18 years of age, in which case a
20 violation of paragraph (6) or (7) of subsection (a) of Section
21 1-2 is a Class 3 felony.

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.