



Judiciary II - Criminal Law Committee

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LRB096 20511 RLC 40055 a

1 AMENDMENT TO SENATE BILL 3359

2 AMENDMENT NO. _____. Amend Senate Bill 3359 on page 1, by
3 replacing lines 4 and 5 with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing Section 12-7.5 and by adding Section 12-10.3 as
6 follows:

7 (720 ILCS 5/12-7.5)

8 Sec. 12-7.5. Cyberstalking.

9 (a) A person commits cyberstalking when he or she engages
10 in a course of conduct using electronic communication directed
11 at a specific person, and he or she knows or should know that
12 would cause a reasonable person to:

13 (1) fear for his or her safety or the safety of a third
14 person; or

15 (2) suffer other emotional distress.

16 (a-3) A person commits cyberstalking when he or she,

1 knowingly and without lawful justification, on at least 2
2 separate occasions, harasses another person through the use of
3 electronic communication and:

4 (1) at any time transmits a threat of immediate or
5 future bodily harm, sexual assault, confinement, or
6 restraint and the threat is directed towards that person or
7 a family member of that person; or

8 (2) places that person or a family member of that
9 person in reasonable apprehension of immediate or future
10 bodily harm, sexual assault, confinement, or restraint; or

11 (3) at any time knowingly solicits the commission of an
12 act by any person which would be a violation of this Code
13 directed towards that person or a family member of that
14 person.

15 (a-5) A person commits cyberstalking when he or she,
16 knowingly and without lawful justification, creates and
17 maintains an Internet website or webpage which is accessible to
18 one or more third parties for a period of at least 24 hours,
19 and which contains statements harassing another person and:

20 (1) which communicates a threat of immediate or future
21 bodily harm, sexual assault, confinement, or restraint,
22 where the threat is directed towards that person or a
23 family member of that person, or

24 (2) which places that person or a family member of that
25 person in reasonable apprehension of immediate or future
26 bodily harm, sexual assault, confinement, or restraint, or

1 (3) which knowingly solicits the commission of an act
2 by any person which would be a violation of this Code
3 directed towards that person or a family member of that
4 person.

5 (b) Sentence. Cyberstalking is a Class 4 felony. A second
6 or subsequent conviction for cyberstalking is a Class 3 felony.

7 (c) For purposes of this Section:

8 (1) "Course of conduct" means 2 or more acts, including
9 but not limited to acts in which a defendant directly,
10 indirectly, or through third parties, by any action,
11 method, device, or means follows, monitors, observes,
12 surveils, threatens, or communicates to or about, a person,
13 engages in other non-consensual contact, or interferes
14 with or damages a person's property or pet. The
15 incarceration in a penal institution of a person who
16 commits the course of conduct is not a bar to prosecution
17 under this Section.

18 (2) "Electronic communication" means any transfer of
19 signs, signals, writings, sounds, data, or intelligence of
20 any nature transmitted in whole or in part by a wire,
21 radio, electromagnetic, photoelectric, or photo-optical
22 system. "Electronic communication" includes transmissions
23 through an electronic device including, but not limited to,
24 a telephone, cellular phone, computer, or pager, which
25 communication includes, but is not limited to, e-mail,
26 instant message, text message, or voice mail ~~by a computer~~

1 ~~through the Internet to another computer.~~

2 (3) "Emotional distress" means significant mental
3 suffering, anxiety or alarm.

4 (4) "Harass" means to engage in a knowing and willful
5 course of conduct directed at a specific person that
6 alarms, torments, or terrorizes that person.

7 (5) "Non-consensual contact" means any contact with
8 the victim that is initiated or continued without the
9 victim's consent, including but not limited to being in the
10 physical presence of the victim; appearing within the sight
11 of the victim; approaching or confronting the victim in a
12 public place or on private property; appearing at the
13 workplace or residence of the victim; entering onto or
14 remaining on property owned, leased, or occupied by the
15 victim; or placing an object on, or delivering an object
16 to, property owned, leased, or occupied by the victim.

17 (6) "Reasonable person" means a person in the victim's
18 circumstances, with the victim's knowledge of the
19 defendant and the defendant's prior acts.

20 (7) "Third party" means any person other than the
21 person violating these provisions and the person or persons
22 towards whom the violator's actions are directed.

23 (d) Telecommunications carriers, commercial mobile service
24 providers, and providers of information services, including,
25 but not limited to, Internet service providers and hosting
26 service providers, are not liable under this Section, except

1 for willful and wanton misconduct, by virtue of the
2 transmission, storage, or caching of electronic communications
3 or messages of others or by virtue of the provision of other
4 related telecommunications, commercial mobile services, or
5 information services used by others in violation of this
6 Section.

7 (Source: P.A. 95-849, eff. 1-1-09; 96-328, eff. 8-11-09;
8 96-686, eff. 1-1-10; revised 10-20-09.); and

9 on page 1, by inserting immediately below line 21 the
10 following:

11 "Section 10. The Harassing and Obscene Communications Act
12 is amended by changing Section 1-2 as follows:

13 (720 ILCS 135/1-2)

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

15 (a) Harassment through electronic communications is the
16 use of electronic communication for any of the following
17 purposes:

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

20 (1.5) Transmitting an electronic communication which
21 is obscene with an intent to offend that is motivated by
22 the actual or perceived race, color, creed, religion,
23 ancestry, gender, sexual orientation, physical or mental

1 disability, or national origin of another individual or
2 group of individuals, or other distinguishing personal
3 characteristics;

4 (2) Interrupting, with the intent to harass, the
5 telephone service or the electronic communication service
6 of any person;

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

12 (3.1) Transmitting an electronic communication or
13 knowingly inducing a person to transmit an electronic
14 communication for the purpose of harassing another person
15 who is under 13 years of age, regardless of whether the
16 person under 13 years of age consents to the harassment, if
17 the defendant is at least 16 years of age at the time of
18 the commission of the offense;

19 (4) Threatening injury to the person or to the property
20 of the person to whom an electronic communication is
21 directed or to any of his or her family or household
22 members; or

23 (5) Knowingly permitting any electronic communications
24 device to be used for any of the purposes mentioned in this
25 subsection (a).

26 (b) As used in this Act:

1 (1) "Electronic communication" means any transfer of
2 signs, signals, writings, images, sounds, data or
3 intelligence of any nature transmitted in whole or in part
4 by a wire, radio, electromagnetic, photoelectric or
5 photo-optical system. "Electronic communication" includes
6 transmissions through an electronic device including, but
7 not limited to, a telephone, cellular phone, computer, or
8 pager, which communication includes, but is not limited to,
9 e-mail, instant message, text message, or voice mail by a
10 computer through the Internet to another computer.

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

23 (c) Telecommunications carriers, commercial mobile service
24 providers, and providers of information services, including,
25 but not limited to, Internet service providers and hosting
26 service providers, are not liable under this Section, except

1 for willful and wanton misconduct, by virtue of the
2 transmission, storage, or caching of electronic communications
3 or messages of others or by virtue of the provision of other
4 related telecommunications, commercial mobile services, or
5 information services used by others in violation of this
6 Section.

7 (Source: P.A. 95-849, eff. 1-1-09; 95-984, eff. 6-1-09; 96-328,
8 eff. 8-11-09.)".