

BILL ANALYSIS

C.S.H.B. 2003
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The increase of technological communication and social networking has increased online harassment and fraud. Online harassment occurs when a perpetrator assumes the identify of another and sends false, harassing, or threatening electronic messages to the victim or a third party who is unaware of the perpetrator's true identity. Online harassment has resulted in suicide, threats of physical and mental abuse, and more, but current Texas law does not provide a means of prosecuting some of the most egregious of these acts.

C.S.H.B. 2003 creates the offense of online harassment to deter and punish such offenders.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2003 amends the Penal Code to create the third degree felony offense of online harassment for a person who uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site without obtaining the other person's consent with the intent to harm, defraud, intimidate, or threaten any person. The bill creates the Class A misdemeanor offense of online harassment for person who sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person without obtaining the other person's consent, with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication, and with the intent to harm or defraud any person. The bill increases the penalty for this offense to a third degree felony if the actor commits the offense with the intent to solicit a response by emergency personnel. The bill specifies that if conduct that constitutes an online harassment offense also constitutes an offense under any other law, the actor may be prosecuted under the bill's provisions, the other law, or both.

C.S.H.B. 2003 creates the defense to prosecution for an online harassment offense that the actor's conduct consisted solely of action taken as an employee of a commercial social networking site, an Internet service provider, an interactive computer service, a telecommunications provider, or a video service provider or cable service provider.

C.S.H.B. 2003 defines "commercial social networking site" and "identifying information."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2003 differs from the original by making it a third degree felony, rather than a Class A misdemeanor as in the original, for a person who uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site without obtaining the other person's consent with the intent to harm, defraud, intimidate, or threaten, rather than to harass, embarrass, intimidate, or threaten any person.

C.S.H.B. 2003 differs from the original by adding a condition to the Class A misdemeanor offense of sending an electronic mail, instant message, text message, or similar communication that references an item of identifying information belonging to any person, that the offense is committed with the intent to harm or defraud any person. The substitute differs from the original by increasing the penalty for that Class A misdemeanor offense to a third degree felony if the actor commits the offense with the intent to solicit a response by emergency personnel, whereas the original increases the penalty for any online harassment offenses to a third degree felony if the offense is committed with the intent to harm or defraud another.

C.S.H.B. 2003 adds a provision not in the original creating the defense to prosecution for an online harassment offense.