

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the offense of online harassment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 33, Penal Code, is amended by adding Section 33.07 to read as follows:

Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an offense if the person 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:

(1) without obtaining the other person's consent; and

(2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person 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:

(1) without obtaining the other person's consent;

(2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and

(3) with the intent to harm or defraud any person.

(c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor

1 commits the offense with the intent to solicit a response by
2 emergency personnel.

3 (d) If conduct that constitutes an offense under this
4 section also constitutes an offense under any other law, the actor
5 may be prosecuted under this section, the other law, or both.

6 (e) It is a defense to prosecution under this section that
7 the actor's conduct consisted solely of action taken as an employee
8 of:

9 (1) a commercial social networking site;

10 (2) an Internet service provider;

11 (3) an interactive computer service, as defined by 47
12 U.S.C. Section 230;

13 (4) a telecommunications provider, as defined by
14 Section 51.002, Utilities Code; or

15 (5) a video service provider or cable service
16 provider, as defined by Section 66.002, Utilities Code.

17 (f) In this section:

18 (1) "Commercial social networking site" means any
19 business, organization, or other similar entity operating a website
20 that permits persons to become registered users for the purpose of
21 establishing personal relationships with other users through
22 direct or real-time communication with other users or the creation
23 of web pages or profiles available to the public or to other users.
24 The term does not include an electronic mail program or a message
25 board program.

26 (2) "Identifying information" has the meaning
27 assigned by Section 32.51.

1 SECTION 2. This Act takes effect September 1, 2009.