

1-1 By: McCall, Castro, Orr (Senate Sponsor - Watson) H.B. No. 2003
1-2 (In the Senate - Received from the House May 14, 2009;
1-3 May 15, 2009, read first time and referred to Committee on Criminal
1-4 Justice; May 22, 2009, reported favorably by the following vote:
1-5 Yeas 6, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the offense of online harassment.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Chapter 33, Penal Code, is amended by adding
1-11 Section 33.07 to read as follows:

1-12 Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an
1-13 offense if the person uses the name or persona of another person to
1-14 create a web page on or to post one or more messages on a commercial
1-15 social networking site:

1-16 (1) without obtaining the other person's consent; and
1-17 (2) with the intent to harm, defraud, intimidate, or
1-18 threaten any person.

1-19 (b) A person commits an offense if the person sends an
1-20 electronic mail, instant message, text message, or similar
1-21 communication that references a name, domain address, phone number,
1-22 or other item of identifying information belonging to any person:

1-23 (1) without obtaining the other person's consent;

1-24 (2) with the intent to cause a recipient of the
1-25 communication to reasonably believe that the other person
1-26 authorized or transmitted the communication; and

1-27 (3) with the intent to harm or defraud any person.

1-28 (c) An offense under Subsection (a) is a felony of the third
1-29 degree. An offense under Subsection (b) is a Class A misdemeanor,
1-30 except that the offense is a felony of the third degree if the actor
1-31 commits the offense with the intent to solicit a response by
1-32 emergency personnel.

1-33 (d) If conduct that constitutes an offense under this
1-34 section also constitutes an offense under any other law, the actor
1-35 may be prosecuted under this section, the other law, or both.

1-36 (e) It is a defense to prosecution under this section that
1-37 the actor's conduct consisted solely of action taken as an employee
1-38 of:

1-39 (1) a commercial social networking site;

1-40 (2) an Internet service provider;

1-41 (3) an interactive computer service, as defined by 47
1-42 U.S.C. Section 230;

1-43 (4) a telecommunications provider, as defined by
1-44 Section 51.002, Utilities Code; or

1-45 (5) a video service provider or cable service
1-46 provider, as defined by Section 66.002, Utilities Code.

1-47 (f) In this section:

1-48 (1) "Commercial social networking site" means any
1-49 business, organization, or other similar entity operating a website
1-50 that permits persons to become registered users for the purpose of
1-51 establishing personal relationships with other users through
1-52 direct or real-time communication with other users or the creation
1-53 of web pages or profiles available to the public or to other users.
1-54 The term does not include an electronic mail program or a message
1-55 board program.

1-56 (2) "Identifying information" has the meaning
1-57 assigned by Section 32.51.

1-58 SECTION 2. This Act takes effect September 1, 2009.

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