



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4198

by Rep. Robert F. Flider

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 relating to the offense of harassment through electronic communications. Provides that it is a Class 4 felony to use an electronic communication to engage in a course of conduct that consists of contact by a person at least 18 years of age at the time of the commission of the offense with a person under 18 years of age at the time of the commission of the offense in which the course of conduct demonstrates a knowing disregard for the health, safety, and welfare of the contacted person.

LRB095 15147 RLC 41112 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 135/1-2)

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

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

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

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

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

21 (3.1) Transmitting an electronic communication or
22 knowingly inducing a person to transmit an electronic
23 communication for the purpose of harassing another person

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

5 (3.5) Engaging in a course of conduct that consists of
6 contact by a person at least 18 years of age at the time of
7 the commission of the offense with a person under 18 years
8 of age at the time of the commission of the offense in
9 which the course of conduct demonstrates a knowing
10 disregard for the health, safety, and welfare of the
11 contacted person;

12 (4) Threatening injury to the person or to the property
13 of the person to whom an electronic communication is
14 directed or to any of his or her family or household
15 members; or

16 (5) Knowingly permitting any electronic communications
17 device to be used for any of the purposes mentioned in this
18 subsection (a).

19 (b) As used in this Act:

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

25 (2) "Family or household member" includes spouses,
26 former spouses, parents, children, stepchildren and other

1 persons related by blood or by present or prior marriage,
2 persons who share or formerly shared a common dwelling,
3 persons who have or allegedly share a blood relationship
4 through a child, persons who have or have had a dating or
5 engagement relationship, and persons with disabilities and
6 their personal assistants. For purposes of this Act,
7 neither a casual acquaintanceship nor ordinary
8 fraternization between 2 individuals in business or social
9 contexts shall be deemed to constitute a dating
10 relationship.

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

12 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

13 Sec. 2. Sentence.

14 (a) Except as provided in subsection (b), a person who
15 violates any of the provisions of Section 1, 1-1, or 1-2 of
16 this Act is guilty of a Class B misdemeanor. Except as provided
17 in subsection (b), a second or subsequent violation of Section
18 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which
19 the court shall impose a minimum of 14 days in jail or, if
20 public or community service is established in the county in
21 which the offender was convicted, 240 hours of public or
22 community service.

23 (b) In any of the following circumstances, a person who
24 violates Section 1, 1-1, or 1-2 of this Act shall be guilty of
25 a Class 4 felony:

1 (1) The person has 3 or more prior violations in the
2 last 10 years of harassment by telephone under Section 1-1
3 of this Act, harassment through electronic communications
4 under Section 1-2 of this Act, or any similar offense of
5 any state;

6 (2) The person has previously violated the harassment
7 by telephone provisions of Section 1-1 of this Act or the
8 harassment through electronic communications provisions of
9 Section 1-2 of this Act or committed any similar offense in
10 any state with the same victim or a member of the victim's
11 family or household;

12 (3) At the time of the offense, the offender was under
13 conditions of bail, probation, mandatory supervised
14 release or was the subject of an order of protection, in
15 this or any other state, prohibiting contact with the
16 victim or any member of the victim's family or household;

17 (4) In the course of the offense, the offender
18 threatened to kill the victim or any member of the victim's
19 family or household;

20 (5) The person has been convicted in the last 10 years
21 of a forcible felony as defined in Section 2-8 of the
22 Criminal Code of 1961; or

23 (6) The person violates paragraph (4.1) of Section 1-1
24 or paragraph (3.1) or (3.5) of subsection (a) of Section
25 1-2.

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