



Rep. Robert F. Flider

**Filed: 5/8/2008**

09500HB4198ham003

LRB095 15147 RLC 50686 a

1 AMENDMENT TO HOUSE BILL 4198

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4198, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

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

7 (720 ILCS 135/1-2)

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

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

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

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

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

6           (3.1) Transmitting an electronic communication or  
7 knowingly inducing a person to transmit an electronic  
8 communication for the purpose of harassing another person  
9 who is under 13 years of age, regardless of whether the  
10 person under 13 years of age consents to the harassment, if  
11 the defendant is at least 16 years of age at the time of  
12 the commission of the offense;

13           (3.5) Electronically communicating directly with  
14 another person with the intent to commit a violation of  
15 Article 11 or Article 12 of the Criminal Code of 1961 with  
16 that person, and when the person initiating the  
17 communication is 18 years of age or older and the party  
18 communicated with is, or is believed to be, under 18 years  
19 of age;

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

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

1       (a-5) Telecommunications carriers, commercial mobile  
2 service providers, and providers of information services,  
3 including, but not limited to, Internet service providers and  
4 hosting service providers, are not liable under this Section,  
5 except for willful and wanton misconduct, by virtue of the  
6 transmission, storage, or caching of electronic communications  
7 or messages of others or by virtue of the provision of other  
8 related telecommunications, commercial mobile services, or  
9 information services used by others in violation of this  
10 Section.

11       (b) As used in this Act:

12           (1) "Electronic communication" means any transfer of  
13 signs, signals, writings, images, sounds, data or  
14 intelligence of any nature transmitted in whole or in part  
15 by a wire, radio, electromagnetic, photoelectric or  
16 photo-optical system.

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

1 contexts shall be deemed to constitute a dating  
2 relationship.

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

4 (720 ILCS 135/2) (from Ch. 134, par. 16.5)

5 Sec. 2. Sentence.

6 (a) Except as provided in subsection (b), a person who  
7 violates any of the provisions of Section 1, 1-1, or 1-2 of  
8 this Act is guilty of a Class B misdemeanor. Except as provided  
9 in subsection (b), a second or subsequent violation of Section  
10 1, 1-1, or 1-2 of this Act is a Class A misdemeanor, for which  
11 the court shall impose a minimum of 14 days in jail or, if  
12 public or community service is established in the county in  
13 which the offender was convicted, 240 hours of public or  
14 community service.

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

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

23 (2) The person has previously violated the harassment  
24 by telephone provisions of Section 1-1 of this Act or the  
25 harassment through electronic communications provisions of

1 Section 1-2 of this Act or committed any similar offense in  
2 any state with the same victim or a member of the victim's  
3 family or household;

4 (3) At the time of the offense, the offender was under  
5 conditions of bail, probation, mandatory supervised  
6 release or was the subject of an order of protection, in  
7 this or any other state, prohibiting contact with the  
8 victim or any member of the victim's family or household;

9 (4) In the course of the offense, the offender  
10 threatened to kill the victim or any member of the victim's  
11 family or household;

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

15 (6) The person violates paragraph (4.1) of Section 1-1  
16 or paragraph (3.1) or (3.5) of subsection (a) of Section  
17 1-2.

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