

AN ACT concerning criminal law.

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

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

(720 ILCS 135/1-2)

Sec. 1-2. Harassment through electronic communications.

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

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

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

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

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

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

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

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

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

(b) As used in this Act:

(1) "Electronic communication" means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or

photo-optical system.

(2) "Family or household member" includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Act, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

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

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

Sec. 2. Sentence.

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

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

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

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

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

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

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

(6) The person violates paragraph (4.1) of Section 1-1

or paragraph (3.1) of subsection (a) of Section 1-2; or

(7) The person was at least 18 years of age at the time of the commission of the offense and the victim was under 18 years of age at the time of the commission of the offense.

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