

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 656 Session of 2015

INTRODUCED BY WATSON, BAKER, PICKETT, BOBACK, MARSICO, MAJOR, BISHOP, STEPHENS, SANTARSIERO, SCHLOSSBERG, DRISCOLL, TALLMAN, DEASY, MATZIE, GABLER, MILLARD, KORTZ, MURT, COHEN, MALONEY, DONATUCCI, READSHAW, O'NEILL, M. K. KELLER, PETRI, D. COSTA, GROVE, McCARTER, V. BROWN AND ROZZI, FEBRUARY 26, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 26, 2015

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in forgery and fraudulent practices, defining the  
4 offense of online impersonation and prescribing a penalty;  
5 and, in particular rights and immunities, providing for  
6 damages in actions for online impersonation.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Title 18 of the Pennsylvania Consolidated  
10 Statutes is amended by adding a section to read:

11 § 4121. Online impersonation.

12 (a) Offense defined.--A person commits the offense of online  
13 impersonation if the person:

14 (1) uses the name, persona or identifying information of  
15 another person or of a fictitious person to do any of the  
16 following:

17 (i) create a web page;

18 (ii) post one or more messages on a commercial

1 social networking site;  
2 (iii) send an e-mail, instant message, text message  
3 or similar communication;  
4 (iv) open an e-mail account; or  
5 (v) open an account or profile on a commercial  
6 social networking site; and  
7 (2) engages in activity prohibited under any of the  
8 following:  
9 (i) section 2706 (relating to terroristic threats);  
10 (ii) section 2709 (relating to harassment);  
11 (iii) section 2709.1 (relating to stalking);  
12 (iv) section 4952 (relating to intimidation of  
13 witnesses or victims); or  
14 (v) section 4953 (relating to retaliation against  
15 witness, victim or party).  
16 (b) Grading.--A violation of subsection (a) shall be  
17 classified as a misdemeanor of the second degree or one degree  
18 higher in the classification specified in section 106 (relating  
19 to classes of offenses) than the classification of the  
20 underlying offense set forth in subsection (a)(2), whichever is  
21 greater. Each violation constitutes a separate offense.  
22 (c) Construction.--Nothing in this section shall be  
23 construed to apply to works of public interest, including  
24 commentary, satire and parody.  
25 (d) Territorial applicability.--A person may be convicted  
26 under the provisions of this section if the victim or the  
27 offender is located within this Commonwealth.  
28 (e) Concurrent jurisdiction to prosecute.--In addition to  
29 the authority conferred upon the Attorney General by the act of  
30 October 15, 1980 (P.L.950, No.164), known as the Commonwealth

1 Attorneys Act, the Attorney General shall have the authority to  
2 investigate and to institute criminal proceedings for any  
3 violation of this section or any series of violations involving  
4 more than one county of this Commonwealth or another state. No  
5 person charged with a violation of this section by the Attorney  
6 General shall have standing to challenge the authority of the  
7 Attorney General to investigate or prosecute the case, and if a  
8 challenge is made, the challenge shall be dismissed, and no  
9 relief shall be made available in the courts of this  
10 Commonwealth to the person making the challenge.

11 (f) Definitions.--As used in this section, the following  
12 words and phrases shall have the meanings given to them in this  
13 subsection unless the context clearly indicates otherwise:

14 "Commercial social networking site." A business,  
15 organization or other similar entity that operates an Internet  
16 website and permits persons to become registered users for the  
17 purpose of establishing personal relationships with other users  
18 through direct or real-time communication with other users or  
19 the creation of web pages or profiles available to the public or  
20 to other users. The term does not include an electronic mail  
21 program or a message board program.

22 "Document." Any writing, including, but not limited to, a  
23 birth certificate, Social Security card, driver's license,  
24 nondriver government-issued identification card, baptismal  
25 certificate, access device card, employee identification card,  
26 school identification card or other identifying information  
27 recorded by any other method, including, but not limited to,  
28 information stored on a computer, computer disc, computer  
29 printout, computer system, or part thereof, or by any other  
30 mechanical or electronic means.

1 "Identifying information." Any document, photographic,  
2 pictorial or computer image of another person or any fact used  
3 to establish identity, including, but not limited to, a name, e-  
4 mail address, birth date, Social Security number, driver's  
5 license number, nondriver governmental identification number,  
6 telephone number, checking account number, savings account  
7 number, student identification number, employee or payroll  
8 number or electronic signature. The term includes a document,  
9 photographic, pictorial or computer image of a fictitious person  
10 or any fact used to establish identity as provided in this  
11 definition in the case of a fictitious person.

12 Section 2. Title 42 is amended by adding a section to read:  
13 § 8316.2. Damages in actions for online impersonation.

14 (a) Cause of action established.--A person may bring a civil  
15 cause of action based upon online impersonation as defined in 18  
16 Pa.C.S. § 4121 (relating to online impersonation) in order to  
17 recover damages for any loss or injury sustained as a result of  
18 the violation.

19 (b) Parties authorized to bring action.--An action may be  
20 brought by:

21 (1) A natural person.

22 (2) A parent or guardian of a natural person, if the  
23 natural person is incompetent or is an individual under 18  
24 years of age.

25 (3) A corporation, partnership, limited liability  
26 company, business trust, other association, estate, trust or  
27 foundation.

28 (c) Damages.--A court of competent jurisdiction may award  
29 damages as follows:

30 (1) Actual damages arising from the incident or \$500,

1 whichever is greater. Damages include loss of money,  
2 reputation or property, whether real or personal. The court  
3 may, in its discretion, award up to three times the actual  
4 damages sustained, but not less than \$500.

5 (2) Reasonable attorney fees and court costs.

6 (3) Additional relief the court deems necessary and  
7 proper.

8 (d) Other remedies preserved.--Nothing in this section shall  
9 be construed to limit the ability of a person to receive  
10 restitution pursuant to 18 Pa.C.S. § 1106 (relating to  
11 restitution for injuries to person or property).

12 (e) Nonapplicability.--The provisions of this section shall  
13 not be applicable to:

14 (1) A law enforcement officer acting in the course and  
15 legitimate scope of the law enforcement officer's duties.

16 (2) A person who acts within the course and legitimate  
17 scope of the person's employment in order to obtain evidence  
18 of unlawful activity.

19 Section 3. This act shall take effect in 60 days.