

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1329 Session of
2008

INTRODUCED BY ORIE, APRIL 8, 2008

REFERRED TO JUDICIARY, APRIL 8, 2008

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, providing for cyberbullying.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

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

7 § 2709.2. Cyberbullying.

8 (a) Offense defined.--An adult or minor person commits the
9 crime of cyberbullying when the adult or minor person either:

10 (1) engages in a course of conduct under section 2709
11 (relating to harassment) or 2709.1 (relating to stalking); or

12 (2) engages in written, verbal, pictorial or graphic
13 electronic acts, or computer-based acts, which constitute a
14 course of conduct to intentionally harass, intimidate,
15 humiliate, ridicule, defame, threaten a student or school
16 employee or incite violence by a student against another
17 student or school employee so as to cause or create a clear

1 and present danger of:

2 (i) physical harm to a school employee or student or
3 damage to the property of a school employee or student;

4 (ii) substantial interference with the education of
5 a student or with the educational role of a school
6 employee;

7 (iii) a hostile educational environment for one or
8 more students or school employees due to the severity,
9 persistence or pervasiveness of the act; or

10 (iv) substantial disruption of the orderly operation
11 of the school or educational environment.

12 (b) Venue.--

13 (1) An offense committed under this section may be
14 deemed to have been committed at either the place at which
15 the cyberbullying conduct was transmitted or at the place
16 where the cyberbullying conduct was received.

17 (2) Acts indicating a course of cyberbullying conduct
18 which occur in more than one jurisdiction may be used by any
19 other jurisdiction in which an act occurred as evidence of a
20 continuing pattern of conduct or a course of conduct.

21 (c) Grading.--

22 (1) Except as otherwise provided in paragraph (2), a
23 first offense under this section shall constitute a
24 misdemeanor of the first degree.

25 (2) A second or subsequent offense under this section or
26 a first offense under subsection (a) if the person has been
27 previously convicted of a crime of violence involving the
28 same victim or school, including, but not limited to, a
29 violation of section 2701 (relating to simple assault), 2702
30 (relating to aggravated assault), 2705 (relating to

1 recklessly endangering another person), 2901 (relating to
2 kidnapping), 3121 (relating to rape) or 3123 (relating to
3 involuntary deviate sexual intercourse), an order issued
4 under section 4954 (relating to protective orders) or an
5 order issued under 23 Pa.C.S. § 6108 (relating to relief),
6 shall constitute a felony of the third degree.

7 (d) False reports.--A person who knowingly gives false
8 information to any law enforcement officer with the intent to
9 implicate another under this section commits an offense under
10 section 4906 (relating to false reports to law enforcement
11 authorities).

12 (e) Applicability.--This section shall not apply to conduct
13 by a party to a labor dispute as defined in the act of June 2,
14 1937 (P.L.1198, No.308), known as the Labor Anti-Injunction Act,
15 or to any constitutionally protected activity.

16 (f) Definitions.--As used in this section, the following
17 words and phrases shall have the meanings given to them in this
18 subsection:

19 "Course of conduct." A pattern of actions composed of more
20 than one act over a period of time, however short, evidencing a
21 continuity of conduct. The term includes lewd, lascivious,
22 threatening or obscene words, language, drawings, caricatures or
23 actions, either in person or anonymously. Acts indicating a
24 course of conduct which occur in more than one jurisdiction may
25 be used by any other jurisdiction in which an act occurred as
26 evidence of a continuing pattern of conduct or a course of
27 conduct.

28 "Cyberbullying conduct." A written, verbal, pictorial,
29 graphic or electronic act to harass, intimidate, humiliate,
30 ridicule, defame, threaten or incite violence against a student

or school employee. The conduct includes, but is not limited to,
the transmission of false statements or attributions,
unauthorized postings containing the name, telephone numbers or
home address of a student or school employee, transposing an
image of a student or school employee into an objectionable
picture, unauthorized use of portions of school yearbooks,
catalogs or promotional materials published for special events
and creation of fabricated photographs or Internet websites.

"Electronic act." A communication or image transmitted by
means of an electronic device, including, without limitation, a
telephone, wireless phone or other wireless communications
device, computer or pager.

"Harass" or "harassment." A pattern of unwelcome conduct
relating to the constitutionally or statutorily protected status
of another person that causes, or reasonably should be expected
to cause, substantial interference with the performance of the
person in the school environment.

"School." A public, private, charter or cyber school.

"Substantial disruption." One or more of the following acts
which occur as a result of cyberbullying:

(i) necessary cessation of instruction or
educational activities;

(ii) inability of students or educational staff to
focus on learning or function as an educational unit
because of a hostile environment;

(iii) severe or repetitive disciplinary measures
needed in the classroom or during educational activities;

or

(iv) exhibition of other behaviors by students or
educational staff that substantially interfere with the

1 learning environment.

2 "Transmission." Conveyance of a message without intent of
3 legitimate communication or address by oral, nonverbal, written
4 or electronic means, including telephone, electronic mail, the
5 Internet, facsimile, telex, wireless communication or similar
6 device.

7 Section 2. This act shall take effect in 60 days.