

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 229 Session of 2015

INTRODUCED BY MARSICO, BAKER, BISHOP, GREINER, SANTARSIERO, STEPHENS, SCHLOSSBERG, REGAN, HARHART, A. HARRIS, D. COSTA, MILLARD, SAYLOR, O'NEILL, WATSON, SCHWEYER, MURT, DeLUCA, VEREB, M. K. KELLER, PICKETT, CALTAGIRONE, ROZZI, HELM, PETRI, DUNBAR, KORTZ, NESBIT, HARKINS, HICKERNELL, EVERETT, GRELL, DAVIS, BIZZARRO, JOZWIAK, MOUL, O'BRIEN AND FARRY, JANUARY 27, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 10, 2015

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, in assault, further providing for the
3 offense of harassment.

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

6 Section 1. Section 2709(e)(2) of Title 18 of the <--
7 Pennsylvania Consolidated Statutes is amended, subsection (b.1)
8 is amended by adding a paragraph, subsection (f) is amended by
9 adding definitions and the section is amended by adding a
10 subsection to read:

11 SECTION 1. SECTION 2709(C)(2) AND (F) OF TITLE 18 OF THE <--
12 PENNSYLVANIA CONSOLIDATED STATUTES ARE AMENDED, SUBSECTION (B.1)
13 IS AMENDED BY ADDING A PARAGRAPH AND THE SECTION IS AMENDED BY
14 ADDING A SUBSECTION TO READ:

15 § 2709. Harassment.

1 * * *

2 (a.1) Cyber harassment of a child.--

3 (1) A person commits the crime of cyber harassment of a
4 child if, with intent to harass, annoy or alarm, the person
5 engages in a continuing course of conduct by repeatedly <--
6 communicating OF MAKING any of the following by electronic <--
7 means directly to a child or by publication through an
8 electronic social media service:

9 (i) seriously disparaging statement or opinion about
10 the child's physical characteristics, sexuality, sexual
11 activity or mental or physical health or condition; or

12 (ii) threat to inflict harm.

13 (2) (i) If a juvenile is charged with a violation of
14 paragraph (1), the judicial authority with jurisdiction
15 over the violation shall give first consideration to
16 referring the juvenile charged with the violation to a
17 diversionary program under Pa.R.J.C.P. No. 312 (relating
18 to Informal Adjustment) or No. 370 (relating to Consent
19 Decree). As part of the diversionary program, the
20 judicial authority may order the juvenile to participate
21 in an educational program which includes the legal and
22 nonlegal consequences of cyber harassment.

23 (ii) If the person successfully completes the
24 diversionary program, the juvenile's records of the
25 charge of violating paragraph (1) shall be expunged as
26 provided for under section 9123 (relating to juvenile
27 records).

28 (b.1) Venue.--

29 * * *

30 (3) In addition to paragraphs (1) and (2), an offense

1 under subsection (a.1) may be deemed to have been committed
2 at the place where the child who is the subject of the
3 communication resides.

4 (c) Grading.--

5 * * *

6 (2) An offense under subsection (a)(4), (5), (6) or (7)
7 or (a.1) shall constitute a misdemeanor of the third degree.

8 * * *

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

12 * * *

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13 "COMMUNICATES." CONVEYS A MESSAGE WITHOUT INTENT OF
14 LEGITIMATE COMMUNICATION OR ADDRESS BY ORAL, NONVERBAL, WRITTEN
15 OR ELECTRONIC MEANS, INCLUDING TELEPHONE, ELECTRONIC MAIL,
16 INTERNET, FACSIMILE, TELEX, WIRELESS COMMUNICATION OR SIMILAR
17 TRANSMISSION.

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18 "COURSE OF CONDUCT." A PATTERN OF ACTIONS COMPOSED OF MORE
19 THAN ONE ACT OVER A PERIOD OF TIME, HOWEVER SHORT, EVIDENCING A
20 CONTINUITY OF CONDUCT. THE TERM INCLUDES LEWD, LASCIVIOUS,
21 THREATENING OR OBSCENE WORDS, LANGUAGE, DRAWINGS, CARICATURES OR
22 ACTIONS, EITHER IN PERSON OR ANONYMOUSLY. ACTS INDICATING A
23 COURSE OF CONDUCT WHICH OCCUR IN MORE THAN ONE JURISDICTION MAY
24 BE USED BY ANY OTHER JURISDICTION IN WHICH AN ACT OCCURRED AS
25 EVIDENCE OF A CONTINUING PATTERN OF CONDUCT OR A COURSE OF
26 CONDUCT.

27 "Emotional distress." A temporary or permanent state of
28 mental anguish.

29 * * *

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30 ~~"Repeatedly communicates." To convey more than one message~~

1 ~~over a period of time.~~

2 "FAMILY OR HOUSEHOLD MEMBER." SPOUSES OR PERSONS WHO HAVE <--
3 BEEN SPOUSES, PERSONS LIVING AS SPOUSES OR WHO LIVED AS SPOUSES,
4 PARENTS AND CHILDREN, OTHER PERSONS RELATED BY CONSANGUINITY OR
5 AFFINITY, CURRENT OR FORMER SEXUAL OR INTIMATE PARTNERS OR
6 PERSONS WHO SHARE BIOLOGICAL PARENTHOOD.

7 "Seriously disparaging statement or opinion." A statement or
8 opinion which is intended to and under the circumstances is
9 reasonably likely to cause ~~serious~~ SUBSTANTIAL emotional <--
10 distress to a child of the victim's age AND WHICH PRODUCES SOME <--
11 PHYSICAL MANIFESTATION OF THE DISTRESS.

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