
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2019 Session of
2018

INTRODUCED BY M. QUINN, MEHAFFIE, MILLARD, BOBACK, BERNSTINE,
DAVIS, V. BROWN, STEPHENS, PHILLIPS-HILL, SCHLOSSBERG,
READSHAW, NEILSON, D. COSTA, SCHWEYER, DRISCOLL, TAYLOR, ROE,
HILL-EVANS, ROZZI, WARREN, WATSON, DeLUCA AND BRADFORD,
JANUARY 22, 2018

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 22, 2018

AN ACT

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

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

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

8 § 2709.2. Cyber abuse of child.

9 (a) Offense defined.--A person commits the offense of cyber
10 abuse of a child if the person intentionally or knowingly
11 communicates to a child any lewd, lascivious, threatening or
12 obscene words, language, drawings or caricatures under
13 circumstances which place the child in reasonable fear of bodily
14 injury or cause substantial emotional distress to the child.

15 (b) Juvenile offenders.--The following apply:

16 (1) If a juvenile is charged with an offense under this
17 section, the judicial authority with jurisdiction shall give

1 first consideration to referring the juvenile to a
2 diversionary program under Pa.R.J.C.P. No. 312 (relating to
3 Informal Adjustment) or No. 370 (relating to Consent Decree).
4 As part of the diversionary program, the judicial authority
5 may order the juvenile to participate in an educational
6 program which includes the legal and nonlegal consequences of
7 cyber abuse.

8 (2) If a juvenile successfully completes a diversionary
9 program under paragraph (1), the juvenile's charges for an
10 offense under this section shall be expunged as provided for
11 under section 9123 (relating to juvenile records).

12 (c) Venue.--The following apply:

13 (1) An offense committed under this section may be
14 deemed to have been committed at the place where the
15 communication was made or at the place where the
16 communication was received.

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

21 (3) In addition to paragraphs (1) and (2), an offense
22 committed under this section may be deemed to have been
23 committed at the place where the child who is the subject of
24 the communication resides.

25 (d) Grading.--

26 (1) Except as provided in paragraph (2), (3) or (4), an
27 offense committed under this section shall be graded as a
28 misdemeanor of the third degree.

29 (2) An offense committed under this section by a person
30 who engages in a course of conduct shall be graded as a

1 misdemeanor of the second degree.

2 (3) An offense under this section shall be graded as a
3 misdemeanor of the first degree if the complainant is under
4 18 years of age and the person is 13 or more years older than
5 the complainant.

6 (4) An offense committed under this section shall be
7 enhanced one degree if the person who committed the offense
8 has previously violated an order issued under section 4954
9 (relating to protective orders), 23 Pa.C.S. § 6108 (relating
10 to relief) or 42 Pa.C.S. Ch. 62A (relating to protection of
11 victims of sexual violence or intimidation) involving the
12 same victim, family or household member.

13 (e) False reports.--A person who knowingly gives false
14 information to any law enforcement officer with the intent to
15 implicate another under this section commits an offense under
16 section 4906 (relating to false reports to law enforcement
17 authorities).

18 (f) Application of section.--This section shall not apply to
19 constitutionally protected activity.

20 (g) Definitions.--As used in this section, the following
21 words and phrases shall have the meanings given to them in this
22 subsection unless the context clearly indicates otherwise:

23 "Communicates." Conveys a message without intent of
24 legitimate communication or address by oral, nonverbal, written
25 or electronic means, including telephone, e-mail, Internet,
26 facsimile, telex, wireless communication or similar
27 transmission.

28 "Course of conduct." A pattern of actions composed of more
29 than one act over a period of time which demonstrates a
30 continuity of conduct involving lewd, lascivious, threatening or

1 obscene words, language, drawings, caricatures or actions. The
2 term includes actions conducted in-person or anonymously.

3 "Emotional distress." As defined in section 2709(f)
4 (relating to harassment).

5 "Family or household member." As defined in 23 Pa.C.S. §
6 6102(a) (relating to definitions).

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