

2014 -- S 2634

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LC004276
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO CRIMINAL OFFENSES - COMPUTER CRIME

Introduced By: Senators Lombardi, DiPalma, Satchell, Jabour, and Cote

Date Introduced: March 04, 2014

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-52-4.2 of the General Laws in Chapter 11-52 entitled "Computer
2 Crime" is hereby repealed.

3 ~~**11-52-4.2. Cyberstalking and cyberharassment prohibited.** — (a) Whoever transmits~~
4 ~~any communication by computer or other electronic device to any person or causes any person to~~
5 ~~be contacted for the sole purpose of harassing that person or his or her family is guilty of a~~
6 ~~misdemeanor, and shall be punished by a fine of not more than five hundred dollars (\$500), by~~
7 ~~imprisonment for not more than one year, or both. For the purpose of this section, "harassing"~~
8 ~~means any knowing and willful course of conduct directed at a specific person which seriously~~
9 ~~alarms, annoys, or bothers the person, and which serves no legitimate purpose. The course of~~
10 ~~conduct must be of a kind that would cause a reasonable person to suffer substantial emotional~~
11 ~~distress, or be in fear of bodily injury. "Course of conduct" means a pattern of conduct composed~~
12 ~~of a series of acts over a period of time, evidencing a continuity of purpose. Constitutionally~~
13 ~~protected activity is not included within the meaning of "course of conduct."~~

14 ~~(b) A second or subsequent conviction under subsection (a) of this section shall be~~
15 ~~deemed a felony punishable by imprisonment for not more than two (2) years, by a fine of not~~
16 ~~more than six thousand dollars (\$6,000), or both.~~

17 SECTION 2. Chapter 11-52 of the General Laws entitled "Computer Crime" is hereby
18 amended by adding thereto the following section:

19 ~~**11-52-4.4. Cyberstalking and cyberharassment prohibited.** — (a) Definitions as used in~~

1 this section:

2 (1) "Conduct" means either: (i) A single act which causes a person to be repeatedly
3 contacted by others in a manner which seriously alarms, annoys, or bothers the person; or (ii)
4 Two (2) or more acts over a period of time, evidencing a continuity of purpose, which seriously
5 alarms, annoys, or bothers the person.

6 (2) "Immediate family" means a spouse, parent, child, or sibling. The term also includes
7 any other individual who regularly resides in the household or who within the prior six (6)
8 months regularly resided in the household.

9 (3) "Harass" means to engage in intentional conduct that serves no legitimate purpose
10 that would cause a reasonable person to suffer substantial emotional distress, or be in fear of
11 bodily injury. The term does not include constitutionally projected activity.

12 (4) "Computer" has the meaning given to that term in § 11-52-1.

13 (5) "Telecommunication device" means an analog or digital electronic device that
14 processes data, telephony, video, or sound transmission as part of any system involved in the
15 sending and/or receiving at a distance of voice, sound, data, and/or video transmissions.

16 (b) Whoever, by computer or telecommunications device, harasses another person or
17 causes any person to be contacted for the purpose of harassing that person or his or her immediate
18 family is guilty of a misdemeanor and subject to imprisonment for not more than one year, a fine
19 of not more than five hundred dollars (\$500), or both.

20 (c) A second or subsequent conviction under subsection (b) of this section shall be
21 deemed a felony and subject to imprisonment for not more than two (2) years, a fine of not more
22 than six thousand dollars (\$6,000), or both.

23 (d) If a person accused under this section claims to have been engaged in constitutionally
24 protected activity, the court shall determine the validity of the claim as a matter of law and, if
25 found valid, shall exclude evidence of the activity.

26 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES - COMPUTER CRIME

1 This act would repeal the current § 11-52-4.2 (“Cyberstalking and Cyberharassment
2 Prohibited”) and create § 11-52-4.4 (“Cyberstalking and Harassment Prohibited”) to prohibit an
3 intentional act or acts that serve no legitimate purpose and that could cause a reasonable person to
4 suffer substantial emotional distress or be in fear of bodily injury, for the purpose harassing a
5 person or that person’s immediate family.

6 This act would take effect upon passage.

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