

2016 -- H 7763

=====
LC004481
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO CRIMINAL OFFENSES-COMPUTER CRIME

Introduced By: Representatives Fogarty, Amore, Ackerman, Maldonado, and Gallison

Date Introduced: February 26, 2016

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-52 of the General Laws entitled "Computer Crime" is hereby
2 amended by adding the following section:

3 **11-52-9. Posting message through electronic medium. -- (a) A person shall not post a**
4 **message to any other person, through the use of any medium of communication, including the**
5 **Internet or a computer, computer program, computer system, or computer network, or other**
6 **electronic medium of communication, without the intended recipient's consent, if all of the**
7 **following apply:**

8 **(1) The person knows or has reason to know that posting the message could cause two (2)**
9 **or more separate non-continuous acts of unconsented contact with the recipient;**

10 **(2) Posting the message is intended to cause conduct that would make the intended**
11 **recipient feel terrorized, frightened, intimidated, threatened, harassed, or molested;**

12 **(3) Conduct arising from posting the message would cause a reasonable person to suffer**
13 **emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or**
14 **molested; and**

15 **(4) Conduct arising from posting the message causes the intended recipient to suffer**
16 **emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or**
17 **molested.**

18 **(b) Every person convicted of an offense under this section shall be guilty of a**
19 **misdemeanor for the first offense and shall be subject to imprisonment not exceeding one year, a**

1 fine of one thousand dollars (\$1,000), or both, and an order of restitution as provided herein.
2 Every person convicted of a second or subsequent offense shall be guilty of a felony and shall be
3 subject to imprisonment not exceeding three (3) years, a fine of three thousand dollars (\$3,000),
4 or both, and an order of restitution as provided herein.

5 (c) Every person convicted of an offense under this section shall be subject to an order for
6 restitution, if appropriate, which shall be in addition to any other applicable penalty.

7 (d) Nothing in this section shall be construed to impose liability on an interactive
8 computer service, as defined in 47 U.S.C. §153, or a telecommunications service, as defined in
9 §44-18-7.1, for content provided by another person.

10 (e) A person may be prosecuted in this state for violating or attempting to violate this
11 section only if one of the following applies:

12 (1) The person posts the message while in this state;

13 (2) Conduct arising from posting the message occurs in this state;

14 (3) The intended recipient is present in this state at the time the offense or any element of
15 the offense occurs; or

16 (4) The person posting the message knows that the intended recipient resides in this state.

17 (f) In addition the definitions provided in §11-52-1, the following are definitions as used
18 in this section:

19 (1) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical,
20 biomedical, hydraulic, optical, or organic object that performs input, output, or storage functions
21 by manipulation of electronic, magnetic, or other impulses;

22 (2) "Emotional distress" means significant mental suffering or distress that may, but does
23 not necessarily, require medical or other professional treatment or counseling;

24 (3) "Internet" means that term as defined in section 230 of title II of the Communications
25 Act of 1934, 47 U.S.C. §230;

26 (4) "Post a message" means transferring, sending, posting, publishing, disseminating, or
27 otherwise communicating or attempting to transfer, send, post, publish, disseminate, or otherwise
28 communicate information, whether truthful or untruthful, about the victim;

29 (5) "Unconsented contact" means any contact with another individual that is initiated or
30 continued without that individual's consent or in disregard of that individual's expressed desire
31 that the contact be avoided or discontinued. Unconsented contact includes any of the following:

32 (i) Following or appearing within sight of the victim;

33 (ii) Approaching or confronting the intended recipient in a public place or on private
34 property;

- 1 (iii) Appearing at the intended recipient's workplace or residence;
- 2 (iv) Entering onto or remaining on property owned, leased, or occupied by the intended
- 3 recipient;
- 4 (v) Contacting the intended recipient by telephone;
- 5 (vi) Sending mail, or electronic communications to the intended recipient through the use
- 6 of any medium, including the Internet, a computer, computer program, computer system, or
- 7 computer network; or
- 8 (vii) Placing an object on, or delivering or having delivered an object on, property owned,
- 9 leased, or occupied by the intended recipient;
- 10 (6) "Intended recipient" means the individual who is the target of the conduct elicited by
- 11 the posted message or a member of that individual's immediate family.

12 SECTION 2. Section 11-52-4.3 of the General Laws is Chapter 11-52 entitled "Computer
13 Crime" is hereby amended to read as follows:

14 **11-52-4.3 Violation of restraining order.** -- (a) Whenever there is a restraining order or
15 injunction issued by a court of competent jurisdiction enjoining one person from harassing
16 another person, and the person so enjoined is convicted of the crime as set forth in §§11-52-4.2 or
17 11-52-9 for actions against the person protected by the court order or injunction, he or she shall
18 be guilty of a felony which shall be punishable by imprisonment for not more than two (2) years,
19 or by a fine of not more than six thousand dollars (\$6,000), or both.

20 (b) A second or subsequent conviction under subsection (a) of this section shall be
21 punishable by imprisonment for not more than five (5) years, by a fine of not more than ten
22 thousand dollars (\$10,000), or both.

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

=====
LC004481
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES-COMPUTER CRIME

1 This act would make in unlawful for any person to post a message through the use of any
2 medium of communication, without the intended recipient's consent, if the person knows or has
3 reason to know that posting the message could cause two or more separate non-continuous acts of
4 unconsented contact with the intended recipient, if posting the message is intended to cause
5 conduct that would make the recipient feel terrorized, frightened, intimidated, threatened,
6 harassed, or molested or would cause a reasonable person to suffer emotional distress and to feel
7 terrorized, frightened, intimidated, threatened, harassed or molested and cause the recipient to
8 suffer emotional distress.

9 A first offense would be punished as a misdemeanor and a second or subsequent offense
10 would punishable as felony. Restitution may also be ordered.

11 This act would take effect upon passage.

=====
LC004481
=====