

SECOND REGULAR SESSION

HOUSE BILL NO. 1505

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (14) (Sponsor), FUNDERBURK, FAITH, ONDER, DAVIS, SCHNEIDER, PRATT, TILLEY, BIVINS, MEADOWS, RUESTMAN, NANCE, SANDER, SCHIEFFER, ROORDA AND DARROUGH (Co-sponsors).

Pre-filed December 21, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3957L.01I

AN ACT

To repeal sections 565.090 and 565.225, RSMo, and to enact in lieu thereof three new sections relating to crimes of harassment, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 565.090 and 565.225, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 565.090, 565.091, and 565.225, to read as follows:

565.090. 1. A person commits the crime of harassment if for the purpose of frightening or disturbing another person, he

(1) Communicates in writing or by telephone a threat to commit any felony; or

(2) Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibility; or

(3) Makes a telephone call anonymously; or

(4) Makes repeated telephone calls.

2. Harassment is a class A misdemeanor **unless committed by an adult against a child, in which case, it is a class D felony.**

3. **As used in this section, the following terms shall mean:**

(1) "Adult", any person twenty-one years of age or older;

(2) "Child", any person under seventeen years of age.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

565.091. 1. A person commits the crime of cyber harassment if, for the purpose of frightening or disturbing another person, he or she transmits or causes the transmission of an electronic communication, or knowingly permits an electronic communication to be transmitted to another person from an electronic communications device under his or her control:

- (1) Using coarse language offensive to a person of average sensibility;**
- (2) Anonymously or repeatedly whether or not conversation occurs; or**
- (3) Threatens to commit any felony.**

2. No person shall make or cause to be made an electronic communication, or permit an electronic communication to be made from an electronic communications device under the person's control, with the intent to frighten or disturb any other person in any manner described in this section either by the direct action of the person initiating the communication or through the actions of a third party, which third party actions are instigated, initiated, prompted, or brought about by the person's communication.

3. Any offense committed under this section may be deemed to have been committed either at the place from which the communication was made or at the place where the communication was received.

4. As used in this section, the following terms shall mean:

- (1) "Adult", any person twenty-one years of age or older;**
- (2) "Child", any person under seventeen years of age.**

(3) "Electronic communications", the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method. Such electronic communications shall include, but not be limited to electronic mail, Internet-based communications, pager service, and electronic text messaging;

(4) "Electronic communications device", any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.

5. Cyber harassment is a class A misdemeanor unless committed by an adult against a child, in which case, it is a class D felony.

565.225. 1. As used in this section, the following terms shall mean:

- (1) "Adult", any person twenty-one years of age or older;**
- (2) "Child", any person under seventeen years of age;**

4 (3) "Course of conduct", a pattern of conduct composed of a series of acts, which may
5 include electronic or other communications, over a period of time, however short, evidencing
6 a continuity of purpose. Constitutionally protected activity is not included within the meaning
7 of "course of conduct". Such constitutionally protected activity includes picketing or other
8 organized protests;

9 [(2)] (4) "Credible threat", a threat made with the intent to cause the person who is the
10 target of the threat to reasonably fear for his or her safety. The threat must be against the life of,
11 or a threat to cause physical injury to, a person and may include a threat communicated to the
12 targeted person in writing, including electronic communications, by telephone, or by the posting
13 of a site or message that is accessible via computer;

14 [(3)] (5) **"Electronic communications", the origination, emission, dissemination,**
15 **transmission, or reception of data, images, signals, sounds, or other intelligence or**
16 **equivalence of intelligence of any nature over any communications system by any method,**
17 **including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog**
18 **method. Such electronic communications shall include, but not be limited to electronic**
19 **mail, Internet-based communications, pager service, and electronic text messaging;**

20 (6) "Harasses", to engage in a course of conduct [directed at a specific person] that serves
21 no legitimate purpose, that would cause a reasonable person to suffer substantial emotional
22 distress, and that actually causes substantial emotional distress to [that] a person.

23 2. Any person who purposely and repeatedly harasses or follows with the intent of
24 harassing another person commits the crime of stalking.

25 3. Any person who purposely and repeatedly harasses or follows with the intent of
26 harassing or harasses another person, and makes a credible threat with the intent to place that
27 person in reasonable fear of death or serious physical injury, commits the crime of aggravated
28 stalking.

29 4. The crime of stalking shall be a class A misdemeanor for the first offense **unless such**
30 **crime is committed by an adult against a child, in which case, it is a class D felony.** A
31 second or subsequent offense within five years of a previous finding or plea of guilt against any
32 victim shall be a class D felony **unless such crime is a second or subsequent offense by an**
33 **adult against a child, in which case, it is a class C felony.**

34 5. The crime of aggravated stalking shall be a class D felony for the first offense. A
35 second or subsequent offense within five years of a previous finding or plea of guilt against any
36 victim shall be a class C felony.

37 6. Any law enforcement officer may arrest, without a warrant, any person he or she has
38 probable cause to believe has violated the provisions of this section.

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