
A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST PUBLIC ORDER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 711, Hawaii Revised Statutes, is
2 amended by adding two new sections to be appropriately
3 designated and to read as follows:

4 "§711-A Aggravated online harassment. (1) A person
5 commits the offense of aggravated online harassment if that
6 person commits the offense of online harassment as provided in
7 section 711-B and has been convicted of online harassment under
8 section 711-B within five years preceding the instant offense.

9 (2) Aggravated online harassment is a class C felony.

10 §711-B Online harassment. (1) A person commits the
11 offense of online harassment if that person uses the name or
12 persona of another person to create a web page on or to post one
13 or more messages on a commercial social networking site:

14 (a) Without obtaining the other person's consent; and

15 (b) With the intent to harm, defraud, intimidate, or
16 threaten any person.

17 (2) Online harassment is a misdemeanor.



1 (3) It shall be a defense to prosecution under this
2 section that the actor is any of the following entities or that
3 the actor's conduct consists solely of action taken as an
4 employee of any of the following entities:

- 5 (a) A commercial social networking site;
6 (b) An internet service provider;
7 (c) A telecommunications provider;
8 (d) A cable operator, as defined by section 440G-3; or
9 (e) An interactive computer service, as defined by Title
10 47 United States Code section 230.

11 (4) For the purposes of this section, "commercial social
12 networking site" means any business, organization, or other
13 similar entity operating a website that permits persons to
14 become registered users for the purpose of establishing personal
15 relationships with other users through direct or real-time
16 communication with other users or the creation of web pages or
17 profiles available to the public or to other users. The term
18 does not include an electronic mail program or a message board
19 program."

20 SECTION 2. Section 711-1106.6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 " [†]§711-1106.6 [‡] Harassment by impersonation. (1) A
2 person commits the offense of harassment by impersonation if
3 that person poses as another person, without the express
4 authorization of [~~that~~] the other person, and makes or causes to
5 be made, either directly or indirectly, a transmission of any
6 personal information of the other person to another by any oral
7 statement, any written statement, or any statement conveyed by
8 any electronic means, with the intent to harass, annoy, or alarm
9 any person.

10 (2) Harassment by impersonation is a misdemeanor[-];
11 provided that, if the offense is committed with the intent to
12 solicit a response by emergency services personnel, then the
13 offense is a class C felony.

14 (3) For the purposes of this section:

15 "Personal information" means information associated with an
16 actual person that is a name, an address, a domain address, a
17 telephone number, or an electronic mail address.

18 "Pose" means to falsely represent oneself, directly or
19 indirectly, as another person or persons."

20 SECTION 3. This Act does not affect rights and duties that
21 matured, penalties that were incurred, and proceedings that were
22 begun before its effective date.



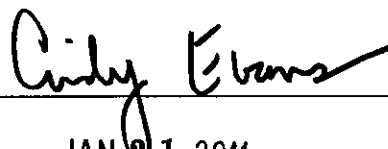
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1 SECTION 4. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 5. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 6. This Act shall take effect upon its approval.
8

INTRODUCED BY:



JAN 21 2011



Report Title:

Computers; Online Harassment; Aggravated Online Harassment; Harassment by Impersonation

Description:

Makes the use of another person's name or persona to create a web page on or to post one or more messages on a commercial social networking site, without the permission of the other person, and with the intent to harm, defraud, intimidate, or threaten any person, a misdemeanor. Makes the repeated commission of this offense a class C felony. Provides that harassment by impersonation, if committed with the intent to solicit a response by emergency services personnel, is a class C felony.

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