
OLR Bill Analysis

sSB 989 (File 612, as amended by Senate "A")*

AN ACT CONCERNING ONLINE HARASSMENT.

SUMMARY

This bill expands various crimes related to harassment to include conduct initiated through electronic methods.

The bill does so by expanding what constitutes 2nd degree stalking to include certain conduct:

1. concerning, but not directed at, a specific person;
2. that causes fear of harm to an animal; and
3. involving the disclosure of personally identifiable information through electronic communications in a manner that causes fear or serious distress.

The bill allows those harmed by a disclosure to bring a civil action to recover damages and other relief.

It also:

1. expands 2nd degree harassment to include electronic methods of communication and eliminates the intent to annoy someone as a prohibited action and adds intent to terrorize or intimidate as a basis;
2. limits 1st degree stalking of someone under age 16 to situations in which the actor is age 22 or older; and
3. expands 1st degree stalking to include situations in which the actor intentionally directs the conduct at the other person based on bias (e.g., race, sex, or disability).

The bill specifies that the crime of trafficking in personal identifying information includes selling, giving, or otherwise transferring personal identifying information, as defined by the bill for purposes of 2nd degree stalking (see below). Existing law already defines “personal identifying information” broadly to include information that may be used, alone or in conjunction with other information, to identify a specific individual (§ 3).

*Senate Amendment “A” (1) eliminates (a) the underlying bill’s provisions on “serious inconvenience” and fear of damaging property as elements for 2nd degree stalking and (b) current law’s provision prohibiting indecent or obscene language for 2nd degree harassment and (2) makes minor and technical changes.

EFFECTIVE DATE: October 1, 2021

§§ 2 & 4 — 2ND DEGREE STALKING

The bill expands what constitutes 2nd degree stalking, by including (1) certain instances when an actor uses electronic communications to disclose a person’s personally identifiable information, causing distress or fear, and (2) specified additional instances where the stalking would cause a reasonable person to fear for an animal’s safety.

The bill specifies that 2nd degree stalking may be deemed to have been committed either in the place the communication began or was received.

By law, 2nd degree stalking is a class A misdemeanor (punishable by up to one year in prison, up to a \$2,000 fine, or both).

Conduct Concerning but not Directed at a Specific Person

Under current law, someone commits 2nd degree stalking when he or she:

1. knowingly engages in conduct directed at a specific person that would cause a reasonable person to (a) fear for his or her, or a third person’s, physical safety or (b) suffer emotional distress or

2. has already been asked to stop and intentionally, and for no legitimate purpose, engages in conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened.

The bill broadens these categories of conduct to include instances where the actor engages in conduct concerning a specific person. It also specifies that the intent must be to harass, terrorize, or alarm.

Fear of Harm to Animal

The bill also expands the conduct that constitutes 2nd degree stalking to include instances when the actor knowingly engages in a course of conduct that is directed at or concerning a specific person and would cause a reasonable person to fear injury to or the death of an animal the specific person owns, possesses, or controls.

Electronic Communications to Workplace

Under current law for 2nd degree stalking, when a person's employment, business, or career is threatened, the actor's threatening conduct may consist of the actor telephoning, appearing at, or initiating communication or contact at the other person's place of employment or business. The bill specifies that these communication methods include electronic video-teleconferencing or digital media. As under existing law, in order for it to be 2nd degree stalking, the actor must not have been previously and clearly told to stop this conduct.

Electronic Disclosures Made for No Legitimate Purpose

The bill also makes it 2nd degree stalking when the actor, for no legitimate purpose and with intent to harass, terrorize, or alarm, by means of electronic communication, including electronic or social media, discloses a specific person's personally identifiable information without the person's consent, knowing that under the circumstances the disclosure would cause a reasonable person to (1) fear for his or her or a third person's physical safety or (2) suffer emotional distress.

Definitions. Under the bill, "personally identifying information" means:

1. any information that can be used to distinguish or trace an individual's identity, such as a name, prior legal name, alias, mother's maiden name, Social Security number, date or place of birth, address, telephone number, or biometric data;
2. any information that is linked or linkable to a person, such as medical, financial, education, consumer, or employment information, data, or records; or
3. any other sensitive private information that is linked or linkable to a specific identifiable person, such as gender identity, sexual orientation, or any sexually intimate visual depiction.

Private Right of Action. Under the bill, a person harmed by 2nd degree harassment through the intentional electronic disclosure of personally identifiable information (see above) may bring a civil action in Superior Court for the judicial district where the person resides or the Hartford judicial district. The action may be brought against (1) the person or persons who committed the violation or (2) any person who knowingly benefitted, financially or by receiving anything of value, from participating in the activity that the person knew or should have known involved 2nd degree harassment through an electronic disclosure. The plaintiff may recover damages and other appropriate relief, including reasonable attorney's fees. The court, on a party's motion, may issue a temporary or permanent injunction to prevent the disclosure or continued disclosure of a party's personally identifying information.

The bill requires an individual who is found liable to be jointly and severally liable with other individuals, if any, who are found liable for damages from the same violation.

The bill sets the statute of limitations for this action at three years from the date of the violative act.

§ 5 — 2ND DEGREE HARASSMENT

The bill:

1. expands 2nd degree harassment to involve electronic methods of communication;
2. eliminates the use of indecent or obscene language when addressing another person on the telephone as a form of 2nd degree harassment; and
3. eliminates the intent to annoy someone as a prohibited action and adds intent to terrorize or intimidate as a basis.

As under existing law, the offense may be deemed to have been committed either in the place the communication began or was received, and the court may order anyone convicted to be examined by one or more psychiatrists.

By law, 2nd degree harassment is a class C misdemeanor (punishable by up to three months imprisonment, up to a \$500 fine, or both).

Harassment on Electronic Meeting Spaces

The bill expands 2nd degree harassment to include instances when a person communicates or shares a photograph, video, or words or engages in any other communications to a digital, electronic, online, or other meeting space, in a way that is likely to cause terror, intimidation, or alarm.

Other Harassing Communications

Under current law, it is 2nd degree harassment when an individual:

1. with the intent to harass, annoy, or alarm another person, communicates by telegraph or mail, by transmitting a fax through a telephone network, computer network, or by other written communication, in a manner likely to cause annoyance or alarm; and
2. makes, in a manner likely to cause annoyance or alarm, a telephone call with intent to harass, annoy, or alarm another person, whether or not there is a conversation.

The bill eliminates the intent to annoy someone as a basis for a 2nd degree harassment charge and adds the intent to terrorize or intimidate someone as a basis for it. It also expands covered communications to include e-mail or text messages or other electronically sent messages, whether by digital media account, messaging program or application, or computer or computer service or network, rather than just by telephone as under current law.

§ 1 — 1ST DEGREE STALKING

Under current law, a person is guilty of 1st degree stalking when he or she commits 2nd degree stalking (see above) and (1) previously was convicted of 2nd degree stalking, (2) violates a court order at the time of the offense, or (3) the victim is under age 16. The bill limits the latter provision to situations in which the stalker is age 22 or older. It also expands the crime to include 2nd degree stalking combined with intentionally directing conduct at the other person because of his or her actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

By law, 1st degree stalking is a class D felony (punishable by up to five years imprisonment, up to a \$5,000 fine, or both).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/08/2021)