



**PA 21-56—sSB 989**  
*Judiciary Committee*

## **AN ACT CONCERNING ONLINE HARASSMENT**

**SUMMARY:** This act expands various crimes related to harassment to include, among other things, conduct initiated through electronic methods. It does so by expanding what constitutes 2<sup>nd</sup> 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 act allows those harmed by such disclosure to bring a civil action to recover damages and other relief.

It also:

1. expands 2<sup>nd</sup> degree harassment to include electronic methods of communication, eliminates the intent to annoy someone as a prohibited action, and adds intent to terrorize or intimidate as a basis;
2. limits 1<sup>st</sup> degree stalking of someone under age 16 to situations where the actor is age 22 or older; and
3. expands 1<sup>st</sup> 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 act specifies that the crime of trafficking in personally identifying information includes selling, giving, or otherwise transferring personally identifying information, as defined by the act for purposes of 2<sup>nd</sup> degree stalking (see below). Existing law already defines “personally identifying information” broadly to include information that may be used, alone or in conjunction with other information, to identify a specific individual (§ 3).

EFFECTIVE DATE: October 1, 2021

### §§ 2 & 4 — 2<sup>ND</sup> DEGREE STALKING

The act expands what constitutes 2<sup>nd</sup> 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) specific additional instances where the stalking would cause a reasonable person to fear for an animal’s safety.

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

By law, 2<sup>nd</sup> degree stalking is a class A misdemeanor (see Table on Penalties).

*Conduct Concerning but Not Directed at a Specific Person*

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Under prior law, someone committed 2<sup>nd</sup> degree stalking when he or she:

1. knowingly engaged 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. had already been asked to stop and intentionally, and for no legitimate purpose, engaged 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 act 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 act also expands the conduct that constitutes 2<sup>nd</sup> 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 a Workplace*

Under prior law for 2<sup>nd</sup> degree stalking, when a person's employment, business, or career was threatened, the actor's threatening conduct consisted of the actor telephoning, appearing at, or initiating communication or contact at the other person's place of employment or business. The act specifies that these communication methods include electronic video-teleconferencing or digital media. As under existing law, for 2<sup>nd</sup> degree stalking to have been committed, the actor must have been previously and clearly told to stop this conduct.

### *Electronic Disclosures Made for No Legitimate Purpose*

The act also includes in 2<sup>nd</sup> degree stalking the conduct of disclosing a specific person's personally identifiable information without the person's consent, for no legitimate purpose and with intent to harass, terrorize, or alarm, by means of electronic communication, including electronic or social media. The actor must know under the circumstances that 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 act, "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,

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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 act, a person harmed by 2<sup>nd</sup> 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 2<sup>nd</sup> 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 act 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. It sets the statute of limitations for this action at three years from the date of the violative act.

### § 5 — 2<sup>ND</sup> DEGREE HARASSMENT

The act:

1. expands 2<sup>nd</sup> 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 2<sup>nd</sup> 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, 2<sup>nd</sup> degree harassment is a class C misdemeanor.

#### *Harassment on Electronic Meeting Spaces*

The act expands 2<sup>nd</sup> 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 prior law, it was 2<sup>nd</sup> degree harassment when an individual:

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1. with the intent to harass, annoy, or alarm another person, communicated 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 or
2. made, 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 was a conversation.

The act eliminates the intent to annoy someone as a basis for a 2<sup>nd</sup> 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 prior law.

### § 1 — 1<sup>ST</sup> DEGREE STALKING

Under prior law, a person was guilty of 1<sup>st</sup> degree stalking when he or she committed 2<sup>nd</sup> degree stalking (see above) and (1) previously was convicted of 2<sup>nd</sup> degree stalking, (2) violated a court order at the time of the offense, or (3) the victim was under age 16. The act limits the latter provision to situations in which the stalker is age 22 or older. It also expands the crime to include 2<sup>nd</sup> 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, 1<sup>st</sup> degree stalking is a class D felony.