

HOUSE BILL 300

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 39,  
Chapter 17, Part 3, relative to the offense of  
harassment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-308(a)(4), is amended by deleting the language "Communicates with another person" and by substituting instead the language "Communicates with or about another person or transmits or displays an image."

SECTION 2. Tennessee Code Annotated, Section 39-17-308, is amended by adding the following as new appropriately designated subsection:

( ) As used in this section:

(1) "Image" includes, but is not limited to, a visual depiction, video clip or photograph of another person;

(2) "Log files" mean computer-generated lists that contain various types of information regarding the activities of a computer, including, but not limited to, time of access to certain records, processes running on a computer or the usage of certain computer resources; and

(3) "Social network" means any online community of people who share interests and activities, or who are interested in exploring the interests and activities of others, and which provides ways for users to interact.

SECTION 3. Tennessee Code Annotated, Section 39-17-308(c), is amended by deleting the subsection in its entirety and by substituting instead the following:

(c) Except as provided in subdivision (d), a violation of subsection (a) is a Class A misdemeanor. A violation of subsection (b) is a Class E felony.

SECTION 4. Tennessee Code Annotated, Section 39-17-308, is further amended by adding the following as new subsections (d) and (e):

(d)

(1) A violation by a minor of subdivision (a)(4) is a delinquent act and shall be punishable only by a fine of one hundred dollars (\$100), or twenty (20) hours of community service, without compensation, for charitable or governmental agencies, or both, as determined by the court.

(2) The offense described in subdivision (a)(4) shall not apply to a telecommunications, broadband or other similar service provider acting solely as an intermediary for transmission of electronic communication or images.

(3)

(A) The service providers described in subdivision (d)(2) shall not be required to maintain any record not otherwise kept in the ordinary course of business; provided, however, that if any Internet service provider operates a web site that offers a social network service and the Internet service provider has server computers located in this state, any log files and images or communications that have been sent, posted or displayed on the social network service's web site and maintained by the Internet service provider shall be open for inspection only to state, county and municipal law enforcement officers or district attorneys responsible for enforcing subdivision (a)(4). Notwithstanding any other law to the contrary, the images or communications shall only be open to inspection by the Internet service provider if the district attorney reasonably believes:

(i) The information sought is not protected from disclosure by any applicable privilege;

(ii) The evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(iii) There is no other feasible alternative to obtain the information;

(B) No officer or district attorney having knowledge by virtue of the officer or attorney's office of the log files, images, or communications shall divulge the knowledge, except in connection with an ongoing investigation or prosecution.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it.