

CYBERCRIME AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill amends provisions relating to cybercrime.

Highlighted Provisions:

This bill:

- ▶ amends provisions relating to electronic communication harrassment.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-201, as last amended by Laws of Utah 2017, Chapter 462

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-9-201** is amended to read:

76-9-201. Electronic communication harassment -- Definitions -- Penalties.

(1) As used in this section:

(a) "Adult" means a person 18 years of age or older.

(b) "Electronic communication" means any communication by electronic, electro-mechanical, or electro-optical communication device for the transmission and reception of audio, image, or text but does not include broadcast transmissions or similar communications that are not targeted at any specific individual.

30 (c) "Electronic communication device" includes a telephone, a facsimile machine,
31 electronic mail, a pager, a computer, or any other device or medium that can be used to
32 communicate electronically.

33 (d) "Minor" means a person who is younger than 18 years of age.

34 (e) "Personal identifying information" means the same as that term is defined in
35 Section 76-6-1102.

36 (2) A person is guilty of electronic communication harassment and subject to
37 prosecution in the jurisdiction where the communication originated or was received if with
38 intent to intimidate, abuse, threaten, [~~harass, frighten,~~] or disrupt the electronic
39 communications of another, the person:

40 (a) (i) makes repeated contact by means of electronic communications, regardless of
41 whether a conversation ensues; or

42 (ii) after the recipient has requested or informed the person not to contact the recipient,
43 and the person repeatedly or continuously:

44 (A) contacts the electronic communication device of the recipient; or

45 (B) causes an electronic communication device of the recipient to ring or to receive
46 other notification of attempted contact by means of electronic communication;

47 (b) makes contact by means of electronic communication and insults, taunts, or
48 challenges the recipient of the communication or any person at the receiving location in a
49 manner likely to provoke a violent or disorderly response;

50 (c) makes contact by means of electronic communication and threatens to inflict injury,
51 physical harm, or damage to any person or the property of any person;

52 (d) causes disruption, jamming, or overload of an electronic communication system
53 through excessive message traffic or other means utilizing an electronic communication device;

54 or

55 (e) electronically publishes, posts, or otherwise discloses personal identifying
56 information of another person, in a public online site or forum, without that person's
57 permission.

58 (3) (a) (i) Electronic communication harassment committed against an adult is a class
59 B misdemeanor, except under Subsection (3)(a)(ii).

60 (ii) A second or subsequent offense under Subsection (3)(a)(i) is a:

61 (A) class A misdemeanor if all prior violations of this section were committed against
62 adults; and

63 (B) a third degree felony if any prior violation of this section was committed against a
64 minor.

65 (b) (i) Electronic communication harassment committed against a minor is a class A
66 misdemeanor, except under Subsection (3)(b)(ii).

67 (ii) A second or subsequent offense under Subsection (3)(b)(i) is a third degree felony,
68 regardless of whether any prior violation of this section was committed against a minor or an
69 adult.

70 (4) (a) Except under Subsection (4)(b), criminal prosecution under this section does not
71 affect an individual's right to bring a civil action for damages suffered as a result of the
72 commission of any of the offenses under this section.

73 (b) This section does not create any civil cause of action based on electronic
74 communications made for legitimate business purposes.