

2001 DRAFTING REQUEST

Bill

Received: 12/11/2000

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Marlin Schneider (608) 266-0215

By/Representing: Judy Frydenlund

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies: MGD
MJL

Submit via email: NO

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

Penalty for using a computerized communication system with the intent to harass

Instructions:

See Attached -- include in the "privacy package"

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 07/10/2001	jdycr 07/10/2001	pgreensl 07/12/2001	_____	lrb_docadmin 07/12/2001	lrb_docadmin 07/16/2001	

FE Sent For:

None needed

<END>

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1?	rryan	1, 7/10 jld	7/12 pg	7/12 pg/KJK			

FE Sent For:

<END>

Ryan, Robin

From: Lief, Madelon
Sent: December 11, 2000 11:10 AM
To: Dsida, Michael; Ryan, Robin
Subject: FW: Bill Draft

-----Original Message-----

From: Frydenlund, Judy
Sent: Friday, December 08, 2000 8:56 AM
To: Miller, Steve
Subject: Bill Draft

Please be patient. I have one more privacy package bill--but not the last bill draft request by far (at least at this point in time). It would prohibit the use of the Internet for purposes of harassment. The use of the Internet with the "intent" of harassment, disparagement of a person's character, etc. would be a Class "E" felony under Wisconsin law. If you have any questions--call Marlin. I know diddly about any of this. 6-0215

Ryan, Robin

From: Ryan, Robin
Sent: February 21, 2001 10:47 AM
To: Frydenlund, Judy
Subject: bill request

I am an attorney at the LRB. I am writing regarding your request dated December 11, 2000, for a bill to prohibit the use of the internet for purposes of harassment, and to make using the internet with the intent to harass or disparage a person's character a Class E felony.

When I called Rep. Schneider's office several weeks ago to speak with you about this request Rep. Schneider answered and indicated that you are the appropriate person to take questions.

Several sections of the current statutes address harassment and defamation:

1. Section 947.013, stats. prohibits harassment. Harassment over the internet can currently be prosecuted under this section. The penalties for harassment under this section range from a forfeiture to a Class D felony depending on the circumstances of the offense.
2. Section 947.0125, stats., prohibits using computerized communication to send messages with the intent to frighten, intimidate, abuse, annoy, or offend another another person. The current statute clearly covers e-mail messages. The applicability of the prohibition to web-page communications is less clear. The maximum penalty for violating this prohibition is a Class B misdemeanor.
3. Section 942.01, stats., prohibits defamation. A person who communicates defamatory material over the internet can be prosecuted under the current criminal defamation statute. The penalty for defamation is a Class A misdemeanor. In addition, a person who is defamed may bring a civil suit for damages.

Please look at these sections and let me know whether you want me to simply increase the penalty for violating s. 947.0125, stats., and whether you want that section updated to more directly proscribe posting messages on a web-page versus sending an email.

Please also look at 942.01. I could create a higher penalty for defamatory activity that involves use of email or web-page communication, versus defamatory activity that involves oral communication and communication via print media. Is that your intent? If so, is there a reason why defaming someone in an email sent to 10 other people should be more severely punished than publishing defamatory material in a newspaper that circulates to thousands of people.

Please email me or call me at 1-6927 with responses or any questions. Thanks

Judy called 2/27 to say they are working on it,

Ryan, Robin

From: Frydenlund, Judy
Sent: May 18, 2001 2:44 PM
To: Ryan, Robin
Subject: RE: Bill Request on using the internet to

Sorry about that Robin. What the Representative wants to do is raise the punishments in 947.0125 as we discussed. However, it has to be written so that it is based on individual cases. Some of 947.0125 is relatively harmless and Marlin does not want someone to face a felony for that. Does this make any sense?

-----Original Message-----

From: Ryan, Robin
Sent: Friday, May 18, 2001 1:44 PM
To: Frydenlund, Judy
Subject: Bill Request on using the internet to harass

I still have a bill request from last December on using the internet with intent to harass. Please let me if your office is still working on this, or whether it is on hold. Thanks

05/18/2001

6/1/01

LRB -1429

Judith Frydenlund

instigated by specific case of harassment: person posted another's personal info on website w/ msg. saying call for a good time - or something similar

bill should prohibit this behavior and penalty should be E felony posting person's personal info. w/ "malicious intent to harass"



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1429/1

RLR:.....

JLD

2001 BILL

gen

1 AN ACT ~~...~~; relating to: prohibiting certain computer postings that invite
2 harassment or obscene, lewd, or profane communication, and providing a
3 penalty.

Analysis by ^{the following} the Legislative Reference Bureau

Current law prohibits ~~certain~~ conduct or communication that is intended to harass, intimidate, frighten, threaten, or abuse:

Harassment. Whoever engages in certain conduct intended to harass or intimidate another is subject to a Class B forfeiture ~~of a~~ forfeiture not to exceed \$1,000. If the actor engages in harassing or intimidating conduct while subject to a restraining order and the conduct is accompanied by a credible threat that places the victim in fear of death or great bodily harm, then the actor is guilty of a Class A misdemeanor ~~punishable~~ punishable by a fine not to exceed \$10,000, confinement in jail for up to nine months, or both.

which is

Unlawful use of a telephone or of computerized communication systems. A person who makes a telephone call or sends a message over a computer system with intent to frighten, intimidate, threaten, abuse, or harass the recipient of the call or message and who threatens to injure the recipient is guilty of a Class B misdemeanor, ~~which is~~ punishable by a fine not to exceed \$1,000, confinement in jail for up to 90 days, or both. A person is also guilty of a Class B misdemeanor, if he or she makes a telephone call or sends a message over a computer system with intent to frighten, intimidate, threaten, or abuse the recipient of the call or message, if the call or message uses any obscene, lewd, or profane language or suggests any lascivious act,

BILL

or if the call or message is made with intent to prevent disclosure of the actor's identity.

This bill makes it a Class E[✓] felony to post or display on a computerized communication system any message that invites others to harass a person or that invites others to send messages or make telephone calls to the person using obscene, lewd, or profane language or suggesting a lascivious act, if the following two conditions apply: 1) the actor provides information in the message on how to contact the person; and 2) the actor intends that the person be harassed or that obscene, lewd, or profane messages or calls be sent or made to the person. A class E felony is punishable by a fine not to exceed \$10,000; a term of confinement in prison followed by a term of extended supervision that together may not exceed five years; or both.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 947.0125 (4)[✓] of the statutes is created to read:

2 947.0125 (4) Whoever posts or displays a message on a computerized
3 communication system under any of the following circumstances, if the message
4 includes information on how to contact the individual who is the subject of the
5 message, is guilty of a Class E felony:

6 (a) The message invites another to harass the individual and the person who
7 posts or displays the message intends that another harass the individual.

8 (b) The message invites another to send mail or a message to the individual or
9 make a telephone call to the individual and use obscene, lewd, or profane language,
10 or suggest any lewd or lascivious act in the mail, message, or telephone call, and the
11 person who posts or displays the message intends that another send mail or a
12 message to the individual or make a telephone call to the individual using ^{obscene,} lewd, or
13 profane language or suggesting any lewd or lascivious act.

14

(END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

July 12, 2001

MEMORANDUM

To: Representative Schneider 

From: Robin L. Ryan, Legislative Attorney

Re: LRB-1429/1 Penalty for using a computerized communication system with the intent to harass

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 261-6927 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.