

2007 ASSEMBLY BILL 51

January 30, 2007 – Introduced by Representatives FRISKE, SCHNEIDER, BIES, PETROWSKI, J. OTT, MURSAU, BALLWEG, A. OTT, NERISON, JESKEWITZ, GUNDERSON, MUSSER, TOWNSEND, HAHN and ALBERS, cosponsored by Senators LASSA, DARLING, ROESSLER and LAZICH. Referred to Committee on Criminal Justice.

1 **AN ACT** *to amend* 947.0125 (1); and *to create* 947.0125 (4) of the statutes;
2 **relating to:** prohibiting certain computer messages or postings that invite
3 harassment or obscene, lewd, or profane communication and providing a
4 penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits the following 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, which is 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, the actor is guilty of a Class A misdemeanor, which is punishable by a fine not to exceed \$10,000, confinement in jail for up to nine months, or both.

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 and either: 1) the

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call or message uses any obscene, lewd, or profane language or suggests any lascivious act; or 2) the call or message is made with intent to prevent disclosure of the actor's identity.

This bill makes it a Class A misdemeanor to send, post, or display a message on a computerized communication that invites another person to harass a third person or contact the third person using obscene, lewd, or profane language or suggesting a lewd or lascivious act. Under the bill, a person is guilty of inviting harassment if all of the following apply: 1) the person (actor) sends, posts, or displays a message on a computerized communication system; 2) the actor's message invites another person or people to contact a specified victim; 3) the actor's message includes information on how to contact the victim; 4) the actor intends that the victim be harassed, frightened, intimidated, threatened, or abused by the contact from the other person or people; 5) the actor intends that the contact from the other person or people serve no legitimate purpose; and 6) as a result of the actor's message, another person or people do contact the victim and the victim is harassed, frightened, intimidated, threatened, or abused by the contact.

Under the bill, a person is guilty of inviting obscene, lewd, or profane contact if all of the following apply: 1) the person (actor) sends, posts, or displays a message on a computerized communication system; 2) the actor's message invites another person or people to contact a specific victim using obscene, lewd, or profane language or suggesting a lewd or lascivious act; 3) the actor's message includes information on how to contact the victim; 4) the actor intends the victim to be harassed, frightened, intimidated, threatened, or abused by the contact from the other person or people; and 5) as a result of the actor's message, another person or people do contact the victim using obscene, lewd, or profane language or suggesting a lewd or lascivious act and the victim is harassed, frightened, intimidated, threatened, or abused by the contact.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

1 **SECTION 1.** 947.0125 (1) of the statutes is amended to read:

2 947.0125 (1) In this section, "message" means ~~any transfer of~~ a communication
3 of information by means of signs, signals, writing, images, sounds, data, or
4 ~~intelligence of any nature, or any transfer of~~ in any other format, including a
5 computer program, as defined in s. 943.70 (1) (c).

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1 **SECTION 2.** 947.0125 (4) of the statutes is created to read:

2 947.0125 (4) (a) Whoever sends, posts, or displays a message on a computerized
3 communication system is guilty of a Class A misdemeanor if all of the following
4 apply:

5 1. The actor's message invites a person to send mail or a message to another
6 individual, make a telephone call to the individual, or otherwise contact the
7 individual.

8 2. The actor's message includes information on how to contact the individual.

9 3. The actor intends that the individual be harassed, frightened, intimidated,
10 threatened, or abused by the invited mail, message, telephone call, or other contact.

11 4. The actor intends that the invited mail, message, telephone call, or other
12 contact serve no legitimate purpose.

13 5. As a result of the actor's message, a person sends mail or a message to the
14 individual, makes a telephone call to the individual, or otherwise contacts the
15 individual and the mail, message, telephone call, or contact harasses, frightens,
16 intimidates, threatens, or abuses the individual.

17 (b) Whoever sends, posts, or displays a message on a computerized
18 communication system is guilty of a Class A misdemeanor if all of the following
19 apply:

20 1. The actor's message invites a person to send mail or a message to another
21 individual, make a telephone call to the individual, or otherwise contact the
22 individual and use obscene, lewd, or profane language or suggest a lewd or lascivious
23 act in the invited mail, message, telephone call, or contact.

24 2. The actor's message includes information on how to contact the individual.

