

2007 DRAFTING REQUEST

Bill

Received: 08/28/2006

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Donald Friske (608) 266-7694

By/Representing: Tim Gary

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Friske@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Criminalize computer postings that invite harassment

Instructions:

Redraft 2005 AB 188 as amended

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>
/?	rryan 11/15/2006	kfollett 12/07/2006		_____			Crime
/1			pgreensl 12/07/2006	_____	cduerst 12/07/2006	sbasford 01/23/2007	

FE Sent For:

<END>

↪ Not Needed

2007 DRAFTING REQUEST

Bill

Received: **08/28/2006**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Donald Friske (608) 266-7694**

By/Representing: **Tim Gary**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Friske@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Criminalize computer postings that invite harassment

Instructions:

Redraft 2005 AB 188 as amended

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>
/?	rryan 11/15/2006	kfollett 12/07/2006		_____			Crime
/1			pgreensl 12/07/2006	_____	cduerst 12/07/2006		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Bill

Received: 08/28/2006

Received By: rryan

Wanted: As time permits

Identical to LRB:

For: Donald Friske (608) 266-7694

By/Representing: Tim Gary

This file may be shown to any legislator: NO

Drafter: rryan

May Contact:

Addl. Drafters:

Subject: Criminal Law - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Friske@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Criminalize computer postings that invite harassment

Instructions:

Redraft 2005 AB 188 as amended

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>
/?	rryan	11/16/06 12/17/06	12/17/06 12/17/06	12/17/06 12/17/06			

FE Sent For:

<END>

LRB 0036

Questions for Rep. Friske

- ① Want to require that person who sends msg. to victim have criminal intent or just that someone actually sends a msg as a result of actor's invitation?
- ② Why are intents dif. for straight harassment and obscene language provisions?
- ③ Maybe clean up definition of "message"

Metg. w/ Rep. Friske, Tim Gary, Ann Sappentfield 11/14/06

- ① Require that someone contact victim as a result of the actor's invitation
- ② make intents the same
- ③ clean up if need to - note the change



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-00367

RLR... *gf*

In 11/15/06

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RMNR
D-Not

Gen

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

INSERT →

Analysis by the Legislative Reference Bureau

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).

History: 1995 a. 353.

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

7 947.0125 (4) (a) Whoever sends, posts, or displays a message on a computerized
8 communication system is guilty of a Class A misdemeanor if all of the following
9 apply:

10 1. The actor's message invites a ✓ person to send mail or a message to another
11 individual, make a telephone call to the individual, or otherwise contact the
12 individual.

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

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

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

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

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

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

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

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

17 4. As a result of the actor's message, a person sends mail or a message to the
 18 individual, makes a telephone call to the individual, or otherwise contacts the
 19 individual and uses obscene, lewd, or profane language or suggests a lewd or
 20 lascivious act in the mail, message, telephone call, or contact and the mail, message,
 21 telephone call, or contact harasses, frightens, intimidates, threatens, or abuses the
 22 individual.

23 (END)

B-Note

2005 ASSEMBLY BILL 188

March 10, 2005 - Introduced by Representatives FRISKE, SCHNEIDER, PETROWSKI, GRONEMUS, OTT, KERKMAN, ZEPNICK, GUNDERSON, MOLEPSKE, OWENS, TOWNSEND, HUNDERTMARK, MUSSER, VAN ROY, HINES, ALBERS, KRAWCZYK and HAHN, cosponsored by Senators ROESSLER, OLSEN, DARLING and LAZICH. Referred to Committee on Criminal Justice and Homeland Security.

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

Analysis
INSERT

✓

ASSEMBLY BILL 188

intimidate, threaten, or abuse the recipient of the call or message and either: 1) the 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. ~~END INSERT~~

~~This bill makes it a Class A misdemeanor to send, post, or display on a computerized communication system any message that provides information on how to contact a person and that either: 1) invites others to communicate with that person, if the actor intends that the person be harassed by that communication and that the communication serve no legitimate purpose; or 2) 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 actor intends that those messages or calls be sent or made to the person and if the actor intends that the messages or calls frighten, intimidate, threaten, abuse, or harass the person.~~

~~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.~~

~~For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.~~

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 sends, 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 A misdemeanor:

6 (a) The message invites another to communicate with the individual and the
7 actor intends that the individual be harassed by that communication and that the
8 communication serve no legitimate purpose.

9 (b) The message invites another to send mail or a message to the individual or
10 make a telephone call to the individual and use obscene, lewd, or profane language
11 or suggest any lewd or lascivious act in the mail, message, or telephone call, the actor
12 intends that another send mail or a message to the individual or make a telephone

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0036/1dn

RLR...

gf

Date

Representative Friske:

In addition to making the changes to 2005 Assembly Bill 188 that we discussed, I also changed the bill to make the harassment provision and the obscene, lewd, or profane language provision consistent with respect to the forms of communication to which they apply. In the 2005 bill, the only types of invited obscene, lewd, or profane communications covered were mail, computer messages, and telephone calls. However, the straight harassment provision covered any type of invited communication, including for example, a message physically left at the victim's house or person-to-person contact. In this bill both the harassment and obscene, lewd, or profane language provisions apply to any form of communication or contact with the victim.

This bill requires not only that a third person communicate with the victim as a result of the actor's message, but also that the victim be harassed, frightened, intimidated, threatened, or abused by the communication. Do you want want to require that the victim be harassed, frightened, intimidated, threatened, or abused by the communication?

We discussed the possibility of amending the definition of "message" in s. 947.0124(1) so that it makes sense to prohibit posting or displaying a "message." I changed the definition of "message" from "any transfer of signs, signals" etc. to "a communication by means of signs, signals" etc.

Please contact me with any questions or requests for changes.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0036/1dn
RLR:kjf:pg

December 7, 2006

Representative Friske:

In addition to making the changes to 2005 Assembly Bill 188 that we discussed, I also changed the bill to make the harassment provision and the obscene, lewd, or profane language provision consistent with respect to the forms of communication to which they apply. In the 2005 bill, the only types of invited obscene, lewd, or profane communications covered were mail, computer messages, and telephone calls. However, the straight harassment provision covered any type of invited communication, including for example, a message physically left at the victim's house or person-to-person contact. In this bill both the harassment and obscene, lewd, or profane language provisions apply to any form of communication or contact with the victim.

This bill requires not only that a third person communicate with the victim as a result of the actor's message, but also that the victim be harassed, frightened, intimidated, threatened, or abused by the communication. Do you want to require that the victim be harassed, frightened, intimidated, threatened, or abused by the communication?

We discussed the possibility of amending the definition of "message" in s. 947.0125 (1) so that it makes sense to prohibit posting or displaying a "message." I changed the definition of "message" from "any transfer of signs, signals..." to "a communication by means of signs, signals..."

Please contact me with any questions or requests for changes.

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

Basford, Sarah

From: Friske, Donald
Sent: Tuesday, January 23, 2007 10:06 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-0036/1 Topic: Criminalize computer postings that invite harassment

Please Jacket LRB 07-0036/1 for the ASSEMBLY.