

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 813

Short Title: Prohibit Cyberstalking.

(Public)

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Sponsors: Representatives Hensley; Gardner and Goodwin.

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Referred to: Judiciary II.

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April 1, 1999

A BILL TO BE ENTITLED

AN ACT TO MAKE CYBERSTALKING A CRIMINAL OFFENSE.

The General Assembly of North Carolina enacts:

Section 1. Article 35 of Chapter 14 is amended by adding a new section to read:

**"§ 14-277.5. Cyberstalking.**

(a) The following definitions apply in this section:

(1) Electronic communication. – Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) Electronic mail. – The transmission of information or a communication by the use of the Internet, a computer, facsimile machine, pager, cellular telephone, video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(3) Harass. – A knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person and that serves no legitimate purpose.

- 1           (4) Virus. – A program or set of instructions that can infect other software  
2           or hardware by modifying them to include a copy of itself.
- 3       (b) It is unlawful for a person to use electronic mail or electronic communication:
- 4           (1) With the intent to harass, threaten, annoy, terrify, defame, or embarrass  
5           any person; or
- 6           (2) To introduce into electronic mail or electronic communication any  
7           program or instruction including a virus, Trojan horse, boot sector,  
8           macro, logic bomb, worm, or hoax, the purpose of which is to replicate  
9           itself, destroy, damage, or infect a unit or system designed to transmit or  
10           receive electronic mail or electronic communication.
- 11       (c) An offense under subdivision (b) of this section is punishable as follows:
- 12           (1) An offense under subdivision (b)(1) of this section is a Class 1  
13           misdemeanor except that:
- 14               a. An offense under subdivision (b)(1) is a Class A1 misdemeanor  
15               if the offense is a second or subsequent offense under subdivision  
16               (b)(1).
- 17               b. An offense under this subdivision (b)(1) is a Class A1  
18               misdemeanor if there is in effect at the time of the offense a  
19               temporary restraining order, injunction, or other court order  
20               prohibiting the defendant from contact with the victim.
- 21           (2) An offense under subdivision (b)(2) of this section is a Class H felony.
- 22       (d) Any offense committed by the use of electronic mail or electronic  
23       communication may be deemed to have been committed where the electronic mail or  
24       electronic communications were originally sent, originally received, or first viewed by  
25       any person.
- 26       (e) This section does not apply to any peaceable, nonviolent, or nonthreatening  
27       activity intended to express political views or to provide lawful information to others.  
28       This section shall not be construed to impair any constitutionally protected activity,  
29       including, but not limited to, speech, protest, or assembly.
- 30       (f) It is not an offense under this section for a provider of electronic mail or  
31       electronic communication, its officers, employees and agents, landlords, custodians, or  
32       other persons to provide information, facilities, or technical assistance to persons  
33       authorized by federal or State law to intercept or provide electronic mail or electronic  
34       communications or to conduct electronic mail or electronic communication surveillance,  
35       if the provider, its officers, employees or agents, landlord, custodian, or other specified  
36       person has been provided with a court order signed by the authorizing judge directing the  
37       provision of information, facilities, or technical assistance."

38           Section 2. This act becomes effective December 1, 1999, and applies to  
39       offenses committed on or after that date.