

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.
 - (c) "Electronic communication device" includes telephone, facsimile, electronic mail, or pager.
 - (d) "Minor" means a person who is younger than 18 years of age.
- (2) A person is guilty of electronic communication harassment and subject to prosecution in the jurisdiction where the communication originated or was received if with intent to annoy, alarm, intimidate, offend, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:
 - (a)
 - (i) makes repeated contact by means of electronic communications, whether or not a conversation ensues; or
 - (ii) after the recipient has requested or informed the person not to contact the recipient, and the person repeatedly or continuously:
 - (A) contacts the electronic communication device of the recipient; or
 - (B) causes an electronic communication device of the recipient to ring or to receive other notification of attempted contact by means of electronic communication;
 - (b) makes contact by means of electronic communication and insults, taunts, or challenges the recipient of the communication or any person at the receiving location in a manner likely to provoke a violent or disorderly response;
 - (c) makes contact by means of electronic communication and threatens to inflict injury, physical harm, or damage to any person or the property of any person; or
 - (d) causes disruption, jamming, or overload of an electronic communication system through excessive message traffic or other means utilizing an electronic communication device.
- (3)
 - (a)
 - (i) Electronic communication harassment committed against an adult is a class B misdemeanor, except under Subsection (3)(a)(ii).
 - (ii) A second or subsequent offense under Subsection (3)(a)(i) is a:
 - (A) class A misdemeanor if all prior violations of this section were committed against adults; and
 - (B) a third degree felony if any prior violation of this section was committed against a minor.
 - (b)
 - (i) Electronic communication harassment committed against a minor is a class A misdemeanor, except under Subsection (3)(b)(ii).
 - (ii) A second or subsequent offense under Subsection (3)(b)(i) is a third degree felony, regardless of whether any prior violation of this section was committed against a minor or an adult.
- (4)
 - (a) Except under Subsection (4)(b), criminal prosecution under this section does not affect an individual's right to bring a civil action for damages suffered as a result of the commission of any of the offenses under this section.
 - (b) This section does not create any civil cause of action based on electronic communications made for legitimate business purposes.

Amended by Chapter 326, 2009 General Session