

**Effective 5/1/2024**

**76-9-201 Electronic communication harassment -- Definitions -- Penalties.**

(1) As used in this section:

- (a)
  - (i) "Adult" means an individual 18 years old or older.
  - (ii) "Adult" does not include an individual who is 18 years old and enrolled in high school.
- (b) "Electronic communication" means a 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 a specific individual.
- (c) "Electronic communication device" includes a telephone, a facsimile machine, electronic mail, a pager, a computer, or another device or medium that can be used to communicate electronically.
- (d)
  - (i) "Minor" means an individual who is younger than 18 years old.
  - (ii) "Minor" includes an individual who is 18 years old and enrolled in high school.
- (e) "Minor victim" means a minor who is a victim of a violation of Subsection (4).
- (f) "Personal identifying information" means the same as that term is defined in Section 76-6-1101.

(2) Except to the extent the person's conduct constitutes an offense under Section 76-9-203, 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 intimidate, abuse, threaten, harass, frighten, or disrupt the electronic communications of another, the person:

- (a)
  - (i) makes repeated contact by means of electronic communications, regardless of whether 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 person is guilty of electronic communication harassment if the person:

- (a) electronically publishes, posts, or otherwise discloses personal identifying information of another individual in a public online site or forum with the intent to abuse, threaten, or disrupt the other individual's electronic communication and without the other individual's permission; or
- (b) sends a communication by electronic mail, instant message, or other similar means, if:
  - (i) the communication references personal identifying information of another individual;
  - (ii) the person sends the communication:
    - (A) without the individual's consent; and

- (B) with the intent to cause a recipient of the communication to reasonably believe that the individual authorized or sent the communication; and
- (iii) with the intent to:
  - (A) cause an individual physical, emotional, or economic injury or damage; or
  - (B) defraud an individual.
- (4) A person is guilty of electronic communication harassment if:
  - (a) the person:
    - (i) is an adult;
    - (ii) electronically publishes, posts, or otherwise discloses in a public online site or forum personal identifying information of a minor who is unrelated by blood, marriage, or adoption to the person; and
    - (iii) knows of, but consciously disregards, a substantial and unjustifiable risk that performing the action described in Subsection (4)(a)(ii) will result in the minor being the victim of an offense described in Title 76, Chapter 5, Offenses Against the Individual; and
  - (b) the minor described in Subsection (4)(a)(ii) is aware of the person's action described in Subsection (4)(a)(ii).
- (5)
  - (a) Except as provided in Subsection (5)(b), a violation of Subsection (2) or (3) is a class B misdemeanor.
  - (b) A second or subsequent violation of Subsection (2) or (3) is a class A misdemeanor.
  - (c) A violation of Subsection (4) is a class A misdemeanor.
- (6)
  - (a) Except as provided under Subsection (6)(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 an offense under this section.
  - (b) This section does not create a civil cause of action based on electronic communications made for legitimate business purposes.
- (7)
  - (a) A minor victim has a civil right of action against an actor who violates Subsection (4).
  - (b) A minor victim who brings a successful civil action under Subsection (7)(a) is entitled to recover from the actor:
    - (i) damages resulting from the violation of Subsection (4);
    - (ii) reasonable attorney fees; and
    - (iii) court costs.

Amended by Chapter 224, 2024 General Session