

Representative Eric K. Hutchings proposes the following substitute bill:

**CYBERCRIME AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Eric K. Hutchings

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to cybercrime.

**Highlighted Provisions:**

This bill:

- ▶ amends provisions relating to electronic communication harrassment.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**76-9-201**, as last amended by Laws of Utah 2017, Chapter 462

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **76-9-201** is amended to read:

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

(1) As used in this section:

(a) "Adult" means ~~[a person]~~ an individual 18 years of age or older.



26 (b) "Electronic communication" means any communication by electronic,  
27 electro-mechanical, or electro-optical communication device for the transmission and reception  
28 of audio, image, or text but does not include broadcast transmissions or similar  
29 communications that are not targeted at any specific individual.

30 (c) "Electronic communication device" includes a telephone, a facsimile machine,  
31 electronic mail, a pager, a computer, or any other device or medium that can be used to  
32 communicate electronically.

33 (d) "Minor" means ~~[a person]~~ an individual who is younger than 18 years of age.

34 (e) "Personal identifying information" means the same as that term is defined in  
35 Section [76-6-1102](#).

36 (2) ~~[A person]~~ An individual is guilty of electronic communication harassment and  
37 subject to prosecution in the jurisdiction where the communication originated or was received  
38 if with intent to intimidate, abuse, threaten, harass, frighten, or disrupt the electronic  
39 communications of another, the ~~[person]~~ individual:

40 (a) (i) makes repeated contact by means of electronic communications, regardless of  
41 whether a conversation ensues; or

42 (ii) after the recipient has requested or informed the ~~[person]~~ individual not to contact  
43 the recipient, and the ~~[person]~~ individual repeatedly or continuously:

44 (A) contacts the electronic communication device of the recipient; or

45 (B) causes an electronic communication device of the recipient to ring or to receive  
46 other notification of attempted contact by means of electronic communication;

47 (b) makes contact by means of electronic communication and insults, taunts, or  
48 challenges the recipient of the communication or any ~~[person]~~ individual at the receiving  
49 location in a manner likely to provoke a violent or disorderly response;

50 (c) makes contact by means of electronic communication and threatens to inflict injury,  
51 physical harm, or damage to any ~~[person]~~ individual or the property of any ~~[person]~~ individual;

52 or

53 (d) causes disruption, jamming, or overload of an electronic communication system  
54 through excessive message traffic or other means utilizing an electronic communication  
55 device~~;~~ or.

56 ~~[(e) electronically publishes, posts, or otherwise discloses personal identifying~~

57 information of another person, in a public online site or forum, without that person's  
58 permission.]

59 (3) An individual who electronically publishes, posts, or otherwise discloses personal  
60 identifying information of another individual in a public online site or forum with the intent to  
61 abuse, threaten, or disrupt the individual's electronic communication and without that  
62 individual's permission is guilty of electronic communication harassment.

63 [~~(3)~~] (4) (a) (i) Electronic communication harassment committed against an adult is a  
64 class B misdemeanor, except under Subsection [~~(3)~~] (4)(a)(ii).

65 (ii) A second or subsequent offense under Subsection [~~(3)~~] (4)(a)(i) is a:

66 (A) class A misdemeanor if all prior violations of this section were committed against  
67 adults; and

68 (B) a third degree felony if any prior violation of this section was committed against a  
69 minor.

70 (b) (i) Electronic communication harassment committed against a minor is a class A  
71 misdemeanor, except under Subsection [~~(3)~~] (4)(b)(ii).

72 (ii) A second or subsequent offense under Subsection [~~(3)~~] (4)(b)(i) is a third degree  
73 felony, regardless of whether any prior violation of this section was committed against a minor  
74 or an adult.

75 [~~(4)~~] (5) (a) Except under Subsection [~~(4)~~] (5)(b), criminal prosecution under this  
76 section does not affect an individual's right to bring a civil action for damages suffered as a  
77 result of the commission of any of the offenses under this section.

78 (b) This section does not create any civil cause of action based on electronic  
79 communications made for legitimate business purposes.