S T A T E O F N E W Y O R K

2200

2013-2014 Regular Sessions

I N S E N A T E

January 14, 2013

Introduced by Sen. ADAMS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to establishing crimes for the use of electronic communications

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The penal law is amended by adding three new sections 156.40, 156.41, and 156.42 to read as follows:

S 156.40 CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE THIRD DEGREE.

A PERSON IS GUILTY OF CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE THIRD DEGREE WHEN HE OR SHE INTENTIONALLY USES OR ATTEMPTS TO USE ELECTRONIC COMMUNICATION TO:

1. COMMIT, FURTHER FACILITATE OR PROMOTE CONDUCT CONSTITUTING A CRIME;

2. CONCEAL THE COMMISSION OF ANY CRIME; OR

3. CONCEAL OR PROTECT THE IDENTITY OF A PERSON WHO HAS COMMITTED ANY CRIME.

CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE THIRD DEGREE IS A CLASS A MISDEMEANOR.

S 150.41 CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE SECOND DEGREE.

A PERSON IS GUILTY OF CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE SECOND DEGREE WHEN HE OR SHE COMMITS THE CRIME OF CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE THIRD DEGREE AND HE OR SHE:

1. DOES SO WITH AN INTENT TO COMMIT OR ATTEMPT TO COMMIT OR FURTHER THE COMMISSION OF A FELONY;

2. DOES SO WITH THE INTENT TO CONCEAL THE COMMISSION OF ANY FELONY;

3. DOES SO WITH THE INTENT TO PROTECT THE IDENTITY OF A PERSON WHO HAS COMMITTED ANY FELONY;

4. HAS BEEN PREVIOUSLY CONVICTED OF ANY CRIME UNDER THIS ARTICLE.

CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE SECOND DEGREE IS A CLASS E FELONY.

S 156.42 CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE FIRST DEGREE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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A PERSON IS GUILTY OF CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE FIRST DEGREE WHEN HE OR SHE, WITH INTENT TO LURE, ENTICE, PERSUADE, CONVINCE, HARASS, ANNOY, THREATEN OR ALARM ANOTHER PERSON, BY MEANS OF THE USE OF ELECTRONIC COMMUNICATION CAUSE A COMMUNICATION TO BE INITIATED PURPORTING TO SOLICIT THE COMMISSION OR ATTEMPTED COMMISSION OF A VIOLENT FELONY, AS DEFINED IN SECTION 70.02 OF THIS CHAPTER.

CRIMINAL USE OF ELECTRONIC COMMUNICATION IN THE FIRST DEGREE IS A CLASS D FELONY.

S 2. Section 156.00 of the penal law is amended by adding a new subdivision 10 to read as follows:

10. "ELECTRONIC COMMUNICATION" SHALL MEAN ANY TRANSFER OF SIGNS, SIGNALS, WRITING, IMAGES, SOUNDS, DATA, OR INTELLIGENCE OF ANY NATURE TRANSMITTED IN WHOLE OR IN PART BY THE INTERNET AND PERSONAL DIGITAL ASSISTANCE, SUCH AS A BLACKBERRY OR OTHER DEVICE.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.