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

8688--A

2011-2012 Regular Sessions

I N A S S E M B L Y

October 27, 2011

Introduced by M. of A. MURRAY, GRAF, MONTESANO, TENNEY, CONTE, DUPREY, JOHNS, CALHOUN, CURRAN, CORWIN, SALADINO, McDONOUGH, HANNA, RABBITT, RA, JORDAN, LOSQUADRO, PALMESANO, FRIEND -- Multi-Sponsored by -- M. of A. CERETTO, CROUCH, LATIMER, THIELE, WEISENBERG -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to enacting the Internet Protection Act to protect a person's right to know who is behind an anonymous internet posting

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

Section 1. The civil rights law is amended by adding a new section 79-o to read as follows:

S 79-O. ANONYMOUS INTERNET POSTER; RIGHT TO KNOW. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING WORDS AND TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "ANONYMOUS POSTER" MEANS ANY INDIVIDUAL WHO POSTS A MESSAGE ON A WEB SITE INCLUDING SOCIAL NETWORKS, BLOGS FORUMS, MESSAGE BOARDS OR ANY OTHER DISCUSSION SITE WHERE PEOPLE CAN HOLD CONVERSATIONS IN THE FORM OF POSTED MESSAGES.

(B) "WEB SITE ADMINISTRATOR" MEANS ANY PERSON OR ENTITY THAT IS RESPONSIBLE FOR MAINTAINING A WEB SITE OR MANAGING THE CONTENT OR DEVELOPMENT OF INFORMATION PROVIDED ON A WEB SITE INCLUDING SOCIAL NETWORKS, BLOGS FORUMS, MESSAGE BOARDS OR ANY OTHER DISCUSSION SITE WHERE PEOPLE CAN HOLD CONVERSATIONS IN THE FORM OF POSTED MESSAGES, ACCESSIBLE VIA A NETWORK SUCH AS THE INTERNET OR A PRIVATE LOCAL AREA NETWORK, AND SUCH WEB SITE IS HOSTED ON A COMPUTER SERVER OR SERVERS LOCATED IN THIS STATE.

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

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(C) "INTERNET" MEANS THE GLOBAL SYSTEM OF INTERCONNECTED COMPUTER NETWORKS THAT USE THE INTERNET PROTOCOL.

(D) "INTERNET PROTOCOL ADDRESS" OR "IP ADDRESS" MEANS A NUMERICAL LABEL ASSIGNED TO EACH COMPUTER OR DEVICE PARTICIPATING IN A COMPUTER NETWORK THAT USES THE INTERNET PROTOCOL FOR COMMUNICATION.

(E) "VICTIM" MEANS THE INDIVIDUAL OR OWNER, OPERATOR OR CHIEF OFFICER OF A BUSINESS, WHO IS THE SUBJECT OR TARGET OF COMMENTS POSTED ON A WEB SITE BY AN ANONYMOUS POSTER.

2. A WEB SITE ADMINISTRATOR UPON VALID REQUEST BY THE VICTIM OR BY ANY INDIVIDUAL ACTING IN BEHALF OF A VICTIM UNDER THE AGE OF EIGHTEEN SHALL REMOVE ANY COMMENTS POSTED ON HIS OR HER WEB SITE BY AN ANONYMOUS POSTER, WITHIN FORTY-EIGHT HOURS, UNLESS SUCH ANONYMOUS POSTER AGREES TO ATTACH HIS OR HER NAME TO THE POST AND CONFIRMS THAT HIS OR HER IP ADDRESS, LEGAL NAME, AND HOME ADDRESS ARE ACCURATE. ALL WEB SITE ADMINISTRATORS SHALL HAVE A CONTACT NUMBER OR E-MAIL ADDRESS POSTED FOR SUCH REMOVAL REQUESTS, CLEARLY VISIBLE IN ANY SECTIONS WHERE COMMENTS ARE POSTED.

3. TO DETERMINE A VALID REQUEST FOR REMOVAL BY A VICTIM A WEB SITE ADMINISTRATOR MUST OBTAIN AND CONFIRM THE REQUESTOR'S IP ADDRESS, LEGAL NAME, AND HOME ADDRESS ARE ACCURATE; CONFIRM THAT THE REQUESTOR IS THE VICTIM OF SUCH COMMENTS; AND MAKE A GOOD FAITH EFFORT TO DETERMINE THAT COMMENTS REGARDING A VICTIM ARE FACTUALLY BASED, ACCUSATORY OR SLANDEROUS STATEMENTS AND NOT OPINIONS. WHEN DETERMINING THE FACTUALITY OF COMMENTS, FACTUALLY BASED STATEMENTS CAN BE TRUE OR FALSE, AS LONG AS SUCH FACTUALLY BASED STATEMENTS ARE NOT OPINION.

4. ANY PERSONAL INFORMATION OBTAINED BY A WEB SITE ADMINISTRATOR PURSUANT TO THIS SECTION SHALL BE CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT TO LAW ENFORCEMENT AUTHORITIES INVOLVED IN AN INVESTIGATION OF SUCH POSTED COMMENTS. A WEB SITE ADMINISTRATOR SHALL EXERCISE REASONABLE CARE IN PREVENTING SUCH UNAUTHORIZED DISCLOSURE. WILLFUL DISCLOSURE OF A RECORD REQUIRED TO BE KEPT CONFIDENTIAL PURSUANT TO THIS SECTION TO A PERSON NOT AUTHORIZED TO RECEIVE OR REVIEW SUCH RECORD IS A CLASS A MISDEMEANOR.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.