

6132

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sens. KLEIN, CARLUCCI, SAVINO, VALESKY -- 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 the electronic stalking of a minor, criminal impersonation by means of electronic communications and aggravated harassment by means of electronic communication

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

1 Section 1. Section 120.40 of the penal law is amended by adding a new
2 subdivision 6 to read as follows:
3 6. "ELECTRONIC COMMUNICATION" SHALL MEAN ANY TRANSFER OF SIGNS,
4 SIGNALS, WRITINGS, IMAGES, SOUNDS, DATA OR INTELLIGENCE OF ANY NATURE
5 TRANSMITTED IN WHOLE OR IN PART BY A WIRE, RADIO, ELECTROMAGNETIC,
6 PHOTO-ELECTRONIC OR PHOTO-OPTIONAL SYSTEM. ELECTRONIC COMMUNICATION
7 SHALL INCLUDE, BUT NOT BE LIMITED TO, THE TRANSFER OF SUCH COMMUNI-
8 CATIONS THROUGH THE INTERNET.
9 S 2. Subdivision 4 of section 120.50 of the penal law, as added by
10 chapter 635 of the laws of 1999, is amended and a new subdivision 5 is
11 added to read as follows:
12 4. Commits the crime of stalking in the fourth degree and has previ-
13 ously been convicted within the preceding ten years of stalking in the
14 fourth degree[.]; OR
15 5. INTENTIONALLY, AND FOR NO LEGITIMATE PURPOSE, ENGAGES IN A COURSE
16 OF CONDUCT USING ELECTRONIC COMMUNICATION DIRECTED AT A CHILD UNDER THE
17 AGE OF TWENTY-ONE YEARS, AND KNOWS OR REASONABLY SHOULD KNOW THAT SUCH
18 CONDUCT:
19 (A) CAUSES REASONABLE FEAR OF MATERIAL HARM TO THE PHYSICAL HEALTH,
20 SAFETY OR PROPERTY OF SUCH CHILD; OR
21 (B) CAUSES MATERIAL HARM TO THE PHYSICAL HEALTH, EMOTIONAL HEALTH,
22 SAFETY OR PROPERTY OF SUCH CHILD.
23 FOR THE PURPOSES OF THIS PARAGRAPH, A SINGLE ELECTRONIC COMMUNICATION
24 TRANSMITTED TO MULTIPLE RECIPIENTS, MAY BE DEEMED TO BE A COURSE OF

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

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1 CONDUCT DIRECTED AT A CHILD UNDER THE AGE OF TWENTY-ONE YEARS EVEN
2 THOUGH SUCH COMMUNICATION WAS NOT RECEIVED BY SUCH A CHILD.

3 S 3. Paragraph (b) of subdivision 3 and subdivision 4 of section
4 190.25 of the penal law, paragraph (b) of subdivision 3 as amended by
5 chapter 27 of the laws of 1980 and subdivision 4 as added by chapter 304
6 of the laws of 2008, are amended and a new subdivision 5 is added to
7 read as follows:

8 (b) so acts with intent to induce another to submit to such pretended
9 official authority, to solicit funds or to otherwise cause another to
10 act in reliance upon that pretense[.]; OR

11 4. Impersonates another by communication by internet website or elec-
12 tronic means with intent to obtain a benefit or injure or defraud anoth-
13 er, or by such communication pretends to be a public servant in order to
14 induce another to submit to such authority or act in reliance on such
15 pretense[.]; OR

16 5. IMPERSONATES ANOTHER PERSON BY ELECTRONIC COMMUNICATION, AND THERE-
17 BY COMMITS A MISDEMEANOR. FOR THE PURPOSES OF THIS SUBDIVISION, "ELEC-
18 TRONIC COMMUNICATION" SHALL MEAN ANY TRANSFER OF SIGNS, SIGNALS, WRIT-
19 INGS, IMAGES, SOUNDS, DATA OR INTELLIGENCE OF ANY NATURE TRANSMITTED IN
20 WHOLE OR IN PART BY A WIRE, RADIO, ELECTROMAGNETIC, PHOTO-ELECTRONIC OR
21 PHOTO-OPTIONAL SYSTEM. ELECTRONIC COMMUNICATION SHALL INCLUDE, BUT NOT
22 BE LIMITED TO, THE TRANSFER OF SUCH COMMUNICATIONS THROUGH THE INTERNET.

23 S 4. Subdivision 3 of section 190.26 of the penal law, as added by
24 chapter 2 of the laws of 1998, is amended and a new subdivision 4 is
25 added to read as follows:

26 3. Pretending to be a duly licensed physician or other person author-
27 ized to issue a prescription for any drug or any instrument or device
28 used in the taking or administering of drugs for which a prescription is
29 required by law, communicates to a pharmacist an oral prescription which
30 is required to be reduced to writing pursuant to section thirty-three
31 hundred thirty-two of the public health law[.]; OR

32 4. IMPERSONATES ANOTHER PERSON BY ELECTRONIC COMMUNICATION, AND THERE-
33 BY COMMITS A FELONY. FOR THE PURPOSES OF THIS SUBDIVISION, "ELECTRONIC
34 COMMUNICATION" SHALL MEAN ANY TRANSFER OF SIGNS, SIGNALS, WRITINGS,
35 IMAGES, SOUNDS, DATA OR INTELLIGENCE OF ANY NATURE TRANSMITTED IN WHOLE
36 OR IN PART BY A WIRE, RADIO, ELECTROMAGNETIC, PHOTO-ELECTRONIC OR
37 PHOTO-OPTIONAL SYSTEM. ELECTRONIC COMMUNICATION SHALL INCLUDE, BUT NOT
38 BE LIMITED TO, THE TRANSFER OF SUCH COMMUNICATIONS THROUGH THE INTERNET.

39 S 5. Section 240.00 of the penal law is amended by adding a new subdivi-
40 sion 7 to read as follows:

41 7. "ELECTRONIC COMMUNICATION" MEANS ANY TRANSFER OF SIGNS, SIGNALS,
42 WRITINGS, IMAGES, SOUNDS, DATA OR INTELLIGENCE OF ANY NATURE TRANSMITTED
43 IN WHOLE OR IN PART BY A WIRE, RADIO, ELECTROMAGNETIC, PHOTO-ELECTRONIC
44 OR PHOTO-OPTIONAL SYSTEM. ELECTRONIC COMMUNICATION SHALL INCLUDE, BUT
45 NOT BE LIMITED TO, THE TRANSFER OF SUCH COMMUNICATIONS THROUGH THE
46 INTERNET.

47 S 6. Subdivision 1 of section 240.30 of the penal law, as amended by
48 chapter 510 of the laws of 2008, is amended to read as follows:

49 1. Either (a) communicates with a person, anonymously or otherwise, by
50 telephone, BY ELECTRONIC COMMUNICATION, by telegraph, or by mail, or by
51 transmitting or delivering any other form of written communication, in a
52 manner likely to cause annoyance or alarm; or

53 (b) causes a communication to be initiated by mechanical or electronic
54 means or otherwise with a person, anonymously or otherwise, by tele-
55 phone, BY ELECTRONIC COMMUNICATION, by telegraph, or by mail, or by

1 transmitting or delivering any other form of written communication, in a
2 manner likely to cause annoyance or alarm; or
3 S 7. This act shall take effect on the first of November next succeed-
4 ing the date on which it shall have become a law.