

8978

I N A S S E M B L Y

January 10, 2012

Introduced by M. of A. SCARBOROUGH -- read once and referred 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 ASSEM-  
BLY, 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  
25 CONDUCT DIRECTED AT A CHILD UNDER THE AGE OF TWENTY-ONE YEARS EVEN  
26 THOUGH SUCH COMMUNICATION WAS NOT RECEIVED BY SUCH A CHILD.

27 S 3. Paragraph (b) of subdivision 3 and subdivision 4 of section  
28 190.25 of the penal law, paragraph (b) of subdivision 3 as amended by  
29 chapter 27 of the laws of 1980 and subdivision 4 as added by chapter 304

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

LBD08402-06-2

1 of the laws of 2008, are amended and a new subdivision 5 is added to  
2 read as follows:

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

6 4. Impersonates another by communication by internet website or elec-  
7 tronic means with intent to obtain a benefit or injure or defraud anothe-  
8 er, or by such communication pretends to be a public servant in order to  
9 induce another to submit to such authority or act in reliance on such  
10 pretense[.]; OR

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

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

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

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

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

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

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

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

48 (b) causes a communication to be initiated by mechanical or electronic  
49 means or otherwise with a person, anonymously or otherwise, by tele-  
50 phone, 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 S 7. This act shall take effect on the first of November next succeed-  
54 ing the date on which it shall have become a law.