

[First Reprint]

ASSEMBLY, No. 3757

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED FEBRUARY 9, 2009

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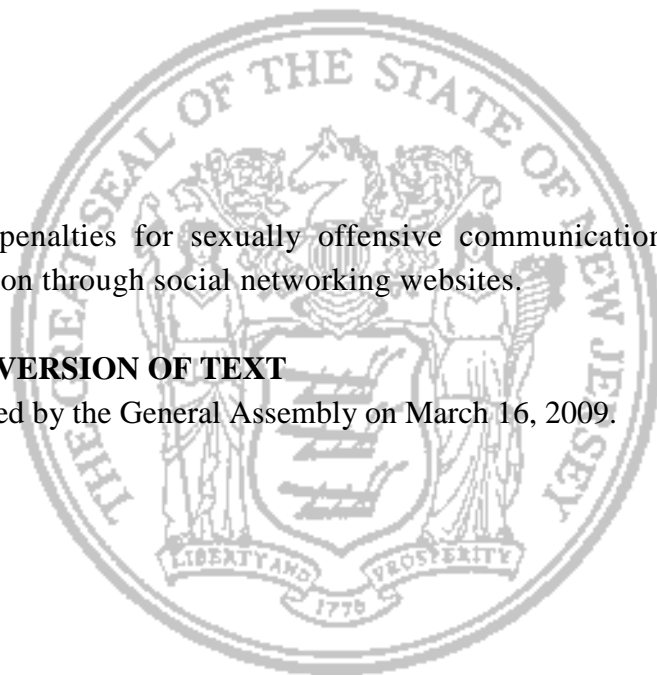
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Assemblywoman Lampitt, Assemblymen Johnson, Milam, Schaer,
Assemblywomen Spencer, Wagner, Rodriguez, Addiego and Assemblyman
Rudder**

SYNOPSIS

Provides penalties for sexually offensive communication or harassing communication through social networking websites.

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 16, 2009.



(Sponsorship Updated As Of: 3/17/2009)

1 AN ACT concerning social networking websites and supplementing
2 Title 56 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “Social
8 Networking Safety Act.”

9

10 2. No person shall transmit a sexually offensive
11 communication through a social networking website to ¹[or about]¹
12 a person located in New Jersey who ¹[is,] the actor knows¹ or
13 ¹[who the actor reasonably believes to be] should know is¹ less
14 than 13 years of age, or ¹is¹ at least 13 but less than 16 years old
15 and at least four years younger than the actor.

16 A person who transmits a sexually offensive communication in
17 violation of this subsection shall be liable to the social networking
18 website operator in a civil action for damages of \$1,000, plus
19 reasonable attorney’s fees, for each violation.

20 A person who transmits a sexually offensive communication in
21 violation of this subsection shall also be liable to the recipient of the
22 communication in a civil action for damages in the amount of
23 \$5,000, plus reasonable attorney’s fees, or actual damages,
24 whichever is greater.

25 Actual damages shall consist of compensatory and punitive
26 damages and costs of suit, including reasonable attorney’s fees.
27 Compensatory damages may include, but are not limited to,
28 damages for pain and suffering, medical expenses, emotional
29 trauma, diminished childhood, diminished enjoyment of life, costs
30 of counseling, and lost wages.

31 ¹Nothing in this section shall be construed to apply to any
32 provider or user of an interactive computer service with respect to
33 information provided by another information content provider.¹

34

35 3. No person shall transmit ¹[an abusive] a harassing¹
36 communication through a social networking website to or about a
37 person located in New Jersey ¹[who is, or who the actor reasonably
38 believes to be less than 18 years of age]¹.

39

40 4. a. Except as provided in subsection b. of this section, it shall
41 be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1
42 et seq.) for a social networking website operator to fail to revoke, in
43 the most expedient time possible without unreasonable delay, the
44 website access of any user or ¹[third party] visitor¹ upon receipt of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted March 16, 2009.

1 information that provides a reasonable basis to conclude that the
2 user or ¹ **["third party"] visitor¹** has violated section 2 or section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill).

4 b. A social networking website operator shall not be deemed to
5 be in violation of subsection a. of this section if the operator
6 maintains a reporting mechanism available to the user that meets
7 the following requirements:

8 (1) the social networking website displays, in a conspicuous
9 location, a readily identifiable icon or link that enables a user or
10 third party to report to the social networking website operator a
11 sexually offensive ¹ communication¹ or ¹ **["abusive"] harassing¹**
12 communication transmitted through the social networking website;

13 (2) the operator conducts a review, in the most expedient time
14 possible without unreasonable delay, of any report by a user or
15 ¹ **["third party"] visitor¹**, including investigation and referral to law
16 enforcement if appropriate, and provides users and ¹ **["third parties"]**
17 visitors¹ with the opportunity to determine the status of the
18 operator's review or investigation of any such report; and

19 (3) the mechanism provides the means to enable a user to block
20 communications from ¹ **["third parties"] visitors¹** whom users allege
21 have transmitted a sexually offensive ¹ communication¹ or
22 ¹ **["abusive"] harassing¹** communication.

23 c. A social networking website operator that does not maintain
24 a reporting mechanism that meets the requirements set forth in
25 subsection b. of this section shall include on its website, in a clear
26 and conspicuous manner, a statement notifying users that the
27 website does not maintain a reporting mechanism that comports
28 with New Jersey state law provisions to protect users against
29 sexually offensive ¹ communications¹ and ¹ **["abusive"] harassing¹**
30 communications.

31 ¹ d. Nothing in P.L. , c. (C.)(pending before the
32 Legislature as this bill) shall be construed to permit a civil action
33 against an interactive computer service that is inconsistent with the
34 provisions of 47 U.S.C. §230 (c). ¹

35
36 5. A social networking website operator or any employee or
37 agent thereof who reports information to law enforcement
38 concerning an allegation that a user or ¹ **["third party"] visitor¹** has
39 violated section 2 or section 3 of P.L. , c. (C.) (pending
40 before the Legislature as this bill) is immune from civil and
41 criminal liability arising from such report, unless the person acts in
42 bad faith or with malicious purpose.

43
44 6. For the purposes of this act:

45 a. "Operator" means any person, business or organization
46 qualified to do business in this State that operates a social
47 networking website.

1 b. “Social networking website” means a website ¹【which is
2 accessible to third parties and】 located on the Internet¹ on which
3 users ¹【under the age of 18】¹ located in New Jersey may ¹【post】
4 create a searchable profile, page or similar account that is accessible
5 to other users or visitors to the website and share¹ personal
6 information ¹with other users or visitors,¹ and through which
7 ¹【third parties】 other users or visitors¹ may communicate ¹directly¹
8 with such users.

9 c. ¹【“Abusive communication”】 “Harassing communication”¹
10 means any communication which ¹is directed at a specific person,
11 serves no legitimate purpose, and¹ a reasonable person would
12 believe is intended to threaten, intimidate or harass another person.

13 d. “Sexually offensive communication” means any
14 communication which a reasonable person would believe is
15 intended to solicit or request a person to engage in sexual activity,
16 and any communication ¹【which transmits obscene material as
17 defined in N.J.S.2C:34-3】 depicting or describing nudity, sexual
18 conduct or sexual excitement when it: (1) predominantly appeals to
19 a prurient interest in sex; (2) is patently offensive to prevailing
20 standards in the adult community as a whole with respect to what is
21 suitable material or conduct for minors; and (3) taken as a whole, is
22 without serious literary, artistic, political or scientific value for
23 minors¹.

24 e. ¹【“Third party”】 “Visitor”¹ means a person other than the
25 user or the operator, or an employee of the operator ¹who accesses a
26 social networking website¹ .

27 f. “User” means a person located in this State who establishes
28 on a social networking website ¹【an online】 a¹ profile, page or
29 similar account ¹that is accessible to other users or visitors to the
30 website and¹ on which the user may ¹【post】 share¹ personal
31 information ¹【, and which may be viewed by third parties】 with
32 other users and visitors¹.

33 ¹g. “Interactive computer service” means any information
34 service, system, or access software provider that provides or
35 enables computer access by multiple users to a computer server,
36 including specifically a service or system that provides access to the
37 Internet and such systems operated or services offered by libraries
38 or educational institutions.

39 h. “Information content provider” means any person or entity
40 that is responsible, in whole or in part, for the creation or
41 development of information provided through the Internet or any
42 other interactive computer service.

43 i. “Internet” means the international computer network of both
44 federal and non-federal interoperable packet switched data
45 networks.¹

46
47 7. This act shall take effect immediately.