

Conference Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 359

HOUSE BILL 2549

AN ACT

AMENDING SECTIONS 13-2916 AND 13-2923, ARIZONA REVISED STATUTES; RELATING TO
ELECTRONIC COMMUNICATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-2916, Arizona Revised Statutes, is amended to
3 read:

4 13-2916. Use of an electronic communication to terrify,
5 intimidate, threaten or harass: applicability:
6 classification: definition

7 A. It is unlawful for any person, with intent to terrify, intimidate,
8 threaten, ~~OR~~ harass, ~~annoy or offend~~ A SPECIFIC PERSON OR PERSONS, to ~~use a~~
9 ~~telephone and use~~ DO ANY OF THE FOLLOWING:

10 1. DIRECT any obscene, lewd or profane language or suggest any lewd or
11 lascivious act, ~~or~~ TO THE PERSON IN AN ELECTRONIC COMMUNICATION.

12 2. Threaten to inflict physical harm to ~~the~~ ANY person or property ~~of~~
13 ~~any person. It is also unlawful to~~ IN ANY ELECTRONIC COMMUNICATION.

14 3. Otherwise disturb by repeated anonymous ~~telephone calls,~~ UNWANTED
15 OR UNSOLICITED ELECTRONIC COMMUNICATIONS the peace, quiet or right of privacy
16 of ~~any~~ THE person at the place where the ~~telephone call or calls~~
17 COMMUNICATIONS were received.

18 B. Any offense committed by use of ~~a telephone~~ AN ELECTRONIC
19 COMMUNICATION as set forth in this section is deemed to have been committed
20 at either the place where the ~~telephone call or calls~~ COMMUNICATIONS
21 originated or at the place where the ~~telephone call or calls~~ COMMUNICATIONS
22 were received.

23 C. THIS SECTION DOES NOT APPLY TO CONSTITUTIONALLY PROTECTED SPEECH OR
24 ACTIVITY OR TO ANY OTHER ACTIVITY AUTHORIZED BY LAW.

25 ~~C.~~ D. Any person who violates this section is guilty of a class 1
26 misdemeanor.

27 E. FOR THE PURPOSES OF THIS SECTION, "ELECTRONIC COMMUNICATION" MEANS
28 A WIRE LINE, CABLE, WIRELESS OR CELLULAR TELEPHONE CALL, A TEXT MESSAGE, AN
29 INSTANT MESSAGE OR ELECTRONIC MAIL.

30 Sec. 2. Section 13-2923, Arizona Revised Statutes, is amended to read:

31 13-2923. Stalking: classification: definitions

32 A. A person commits stalking if the person intentionally or knowingly
33 engages in a course of conduct that is directed toward another person and if
34 that conduct either:

35 1. Would cause a reasonable person to fear for the person's safety or
36 the safety of that person's immediate family member and that person in fact
37 fears for ~~their~~ THE PERSON'S safety or the safety of that person's immediate
38 family member.

39 2. Would cause a reasonable person to fear death of that person or
40 that person's immediate family member and that person in fact fears death of
41 that person or that person's immediate family member.

42 B. Stalking under subsection A, paragraph 1 of this section is a class
43 5 felony. Stalking under subsection A, paragraph 2 OF THIS SECTION is a
44 class 3 felony.

1 C. For the purposes of this section:

2 1. "Course of conduct":

3 (a) Means ANY OF THE FOLLOWING:

4 (i) Maintaining visual or physical proximity to a specific person or
5 directing verbal, written or other threats, whether express or implied, to a
6 specific person on two or more occasions over a period of time, however
7 short. ~~, but~~

8 (ii) USING ANY ELECTRONIC, DIGITAL OR GLOBAL POSITIONING SYSTEM DEVICE
9 TO SURVEIL A SPECIFIC PERSON OR A SPECIFIC PERSON'S INTERNET OR WIRELESS
10 ACTIVITY CONTINUOUSLY FOR TWELVE HOURS OR MORE OR ON TWO OR MORE OCCASIONS
11 OVER A PERIOD OF TIME, HOWEVER SHORT, WITHOUT AUTHORIZATION.

12 (b) Does not include constitutionally protected activity OR OTHER
13 ACTIVITY AUTHORIZED BY LAW, THE OTHER PERSON, THE OTHER PERSON'S AUTHORIZED
14 REPRESENTATIVE OR IF THE OTHER PERSON IS A MINOR, THE MINOR'S PARENT OR
15 GUARDIAN.

16 2. "Immediate family member" means a spouse, parent, child or sibling
17 or any other person who regularly resides in a person's household or resided
18 in a person's household within the past six months.

APPROVED BY THE GOVERNOR MAY 14, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 15, 2012.