

Conference Engrossed

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

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)

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

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

13-2916. Use of an electronic communication to terrify, intimidate, threaten or harass; applicability; classification; definition

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

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

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

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

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

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

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

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

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

13-2923. Stalking; classification; definitions

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

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

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

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

C. For the purposes of this section:

1. "Course of conduct":

(a) Means **ANY OF THE FOLLOWING:**

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

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

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

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