

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1261
PROPOSED SENATE COMMITTEE SUBSTITUTE H1261-PCS70482-RV-59

Short Title: Protect Our Kids/Cyber-Bullying Misdemeanor.

(Public)

Sponsors:

Referred to:

April 9, 2009

1 A BILL TO BE ENTITLED
2 AN ACT PROTECTING CHILDREN OF THIS STATE BY MAKING CYBER-BULLYING
3 A CRIMINAL OFFENSE PUNISHABLE AS A MISDEMEANOR.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 60 of Chapter 14 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 14-458.1. Cyber-bullying; penalty.**

8 (a) Except as otherwise made unlawful by this Article, it shall be unlawful for any
9 person to use a computer or computer network to do any of the following:

10 (1) With the intent to intimidate or torment a minor:

11 a. Build a fake profile or Web site;

12 b. Pose as a minor in:

13 1. An Internet chat room;

14 2. An electronic mail message; or

15 3. An instant message;

16 c. Follow a minor online or into an Internet chat room; or

17 d. Post or encourage others to post on the Internet private, personal, or
18 sexual information pertaining to a minor.

19 (2) With the intent to intimidate or torment a minor or the minor's parent or
20 guardian:

21 a. Post a real or doctored image of a minor on the Internet;

22 b. Access, alter, or erase any computer network, computer data,
23 computer program, or computer software, including breaking into a
24 password protected account or stealing or otherwise accessing
25 passwords; or

26 c. Use a computer system for repeated, continuing, or sustained
27 electronic communications, including electronic mail or other
28 transmissions, to a minor.

29 (3) Plant any statement, whether true or false, tending to provoke or that actually
30 provokes any third party to stalk or harass a minor.

31 (4) Copy and disseminate, or cause to be made, an unauthorized copy of any
32 data pertaining to a minor for the purpose of intimidating or tormenting that
33 minor (in any form, including, but not limited to, any printed or electronic



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1 form of computer data, computer programs, or computer software residing
2 in, communicated by, or produced by a computer or computer network).

3 (5) Sign up a minor for a pornographic Internet site.

4 (6) Without authorization of the minor or the minor's parent or guardian, sign up
5 a minor for electronic mailing lists or to receive junk electronic messages
6 and instant messages, resulting in intimidation or torment of the minor.

7 (b) Any person who violates this section shall be guilty of cyber-bullying, which
8 offense shall be punishable as a Class 1 misdemeanor if the defendant is 18 years of age or
9 older at the time the offense is committed. If the defendant is under the age of 18 at the time the
10 offense is committed, the offense shall be punishable as a Class 2 misdemeanor.

11 (c) Whenever any person pleads guilty to or is guilty of an offense under this section,
12 and the offense was committed before the person attained the age of 18 years, the court may,
13 without entering a judgment of guilt and with the consent of the defendant, defer further
14 proceedings and place the defendant on probation upon such reasonable terms and conditions
15 as the court may require. Upon fulfillment of the terms and conditions of the probation
16 provided for in this subsection, the court shall discharge the defendant and dismiss the
17 proceedings against the defendant. Discharge and dismissal under this subsection shall be
18 without court adjudication of guilt and shall not be deemed a conviction for purposes of this
19 section or for purposes of disqualifications or disabilities imposed by law upon conviction of a
20 crime. Upon discharge and dismissal pursuant to this subsection, the person may apply for an
21 order to expunge the complete record of the proceedings resulting in the dismissal and
22 discharge, pursuant to the procedures and requirements set forth in G.S. 15A-146."

23 **SECTION 2.** G.S. 14-453 is amended by adding two new subdivisions to read:

24 "(7b) 'Internet chat room' means a computer service allowing two or more users to
25 communicate with each other in real time.

26 (7c) 'Profile' means a configuration of user data required by a computer so that
27 the user may access programs or services and have the desired functionality
28 on that computer."

29 **SECTION 3.** This act becomes effective December 1, 2009, and applies to
30 offenses committed on or after that date.