Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

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)

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.

APPROVED BY THE GOVERNOR MAY 14, 2012.

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

Passed the House March 6, 2012

by the following vote: 58 Ayes,

1 Nays, 1 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 28, 2012

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2549

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House April 30, 20 12

by the following vote: 52 Ayes,

6 Nays, 2 Not Voting

Speaker of the House

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate April 30, 20 12

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

1 day of May, 20 12

at 11:50 o'clock A M.

Secretary to the Governor

Approved this 14th day of

May

at 11:25 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 15th day of May, 20 12

at 8:32 o'clock a M.

Secretary of State

H.B. 2549