

[First Reprint]

**ASSEMBLY, No. 3757**

**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

INTRODUCED FEBRUARY 9, 2009

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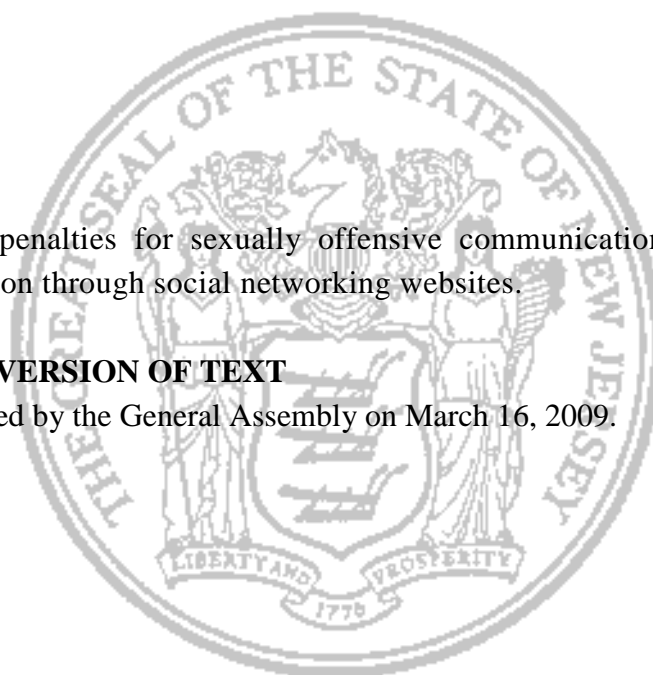
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Assemblywoman Lampitt, Assemblymen Johnson, Milam, Schaer,  
Assemblywomen Spencer, Wagner, Rodriguez, Addiego and Assemblyman  
Rudder**

**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 <sup>1</sup>[or about]<sup>1</sup>  
12 a person located in New Jersey who <sup>1</sup>[is,] the actor knows<sup>1</sup> or  
13 <sup>1</sup>[who the actor reasonably believes to be] should know is<sup>1</sup> less  
14 than 13 years of age, or <sup>1</sup>is<sup>1</sup> 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 <sup>1</sup>Nothing 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.<sup>1</sup>

34

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

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 <sup>1</sup>[third party] visitor<sup>1</sup> 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:

<sup>1</sup>Assembly floor amendments adopted March 16, 2009.

1 information that provides a reasonable basis to conclude that the  
2 user or <sup>1</sup>【third party】 visitor<sup>1</sup> 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 <sup>1</sup>communication<sup>1</sup> or <sup>1</sup>【abusive】 harassing<sup>1</sup>  
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 <sup>1</sup>【third party】 visitor<sup>1</sup>, including investigation and referral to law  
16 enforcement if appropriate, and provides users and <sup>1</sup>【third parties】  
17 visitors<sup>1</sup> 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 <sup>1</sup>【third parties】 visitors<sup>1</sup> whom users allege  
21 have transmitted a sexually offensive <sup>1</sup>communication<sup>1</sup> or  
22 <sup>1</sup>【abusive】 harassing<sup>1</sup> 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 <sup>1</sup>communications<sup>1</sup> and <sup>1</sup>【abusive】 harassing<sup>1</sup>  
30 communications.

31 <sup>1</sup>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). <sup>1</sup>

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 <sup>1</sup>【third party】 visitor<sup>1</sup> 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 <sup>1</sup>【which is  
2 accessible to third parties and】 located on the Internet<sup>1</sup> on which  
3 users <sup>1</sup>【under the age of 18】<sup>1</sup> located in New Jersey may <sup>1</sup>【post】  
4 create a searchable profile, page or similar account that is accessible  
5 to other users or visitors to the website and share<sup>1</sup> personal  
6 information <sup>1</sup>with other users or visitors,<sup>1</sup> and through which  
7 <sup>1</sup>【third parties】 other users or visitors<sup>1</sup> may communicate <sup>1</sup>directly<sup>1</sup>  
8 with such users.

9 c. <sup>1</sup>【“Abusive communication”】 “Harassing communication”<sup>1</sup>  
10 means any communication which <sup>1</sup>is directed at a specific person,  
11 serves no legitimate purpose, and<sup>1</sup> 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 <sup>1</sup>【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 minors<sup>1</sup>.

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

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

33 <sup>1</sup>g. “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.<sup>1</sup>

46  
47 7. This act shall take effect immediately.