

ASSEMBLY, No. 3473

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

SYNOPSIS

Provides penalties for sexually offensive or abusive communication through social networking websites.

CURRENT VERSION OF TEXT

As introduced.



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 or about a
12 person located in New Jersey who is, or who the actor reasonably
13 believes to be less than 13 years of age, or at least 13 but less than
14 16 years old and at least four years younger than the actor.

15 A person who transmits a sexually offensive communication in
16 violation of this subsection shall be liable to the social networking
17 website operator in a civil action for damages of \$1,000, plus
18 reasonable attorney’s fees, for each violation.

19 A person who transmits a sexually offensive communication in
20 violation of this subsection shall also be liable to the recipient of the
21 communication in a civil action for damages in the amount of
22 \$5,000, plus reasonable attorney’s fees, or actual damages,
23 whichever is greater.

24 Actual damages shall consist of compensatory and punitive
25 damages and costs of suit, including reasonable attorney’s fees.
26 Compensatory damages may include, but are not limited to,
27 damages for pain and suffering, medical expenses, emotional
28 trauma, diminished childhood, diminished enjoyment of life, costs
29 of counseling, and lost wages.

30

31 3. No person shall transmit an abusive communication through
32 a social networking website to or about a person located in New
33 Jersey who is, or who the actor reasonably believes to be less than
34 18 years of age.

35

36 4. a. Except as provided in subsection b. of this section, it
37 shall be an unlawful practice and a violation of P.L.1960, c.39
38 (C.56:8-1 et seq.) for a social networking website operator to fail to
39 revoke, in the most expedient time possible without unreasonable
40 delay, the website access of any user or third party upon receipt of
41 information that provides a reasonable basis to conclude that the
42 user or third party has violated section 2 or section 3 of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44 b. A social networking website operator shall not be deemed to
45 be in violation of subsection a. of this section if the operator
46 maintains a reporting mechanism available to the user that meets
47 the following requirements:

1 (1) the social networking website displays, in a conspicuous
2 location, a readily identifiable icon or link that enables a user or
3 third party to report to the social networking website operator a
4 sexually offensive or abusive communication transmitted through
5 the social networking website;

6 (2) the operator conducts a review, in the most expedient time
7 possible without unreasonable delay, of any report by a user or third
8 party, including investigation and referral to law enforcement if
9 appropriate, and provides users and third parties with the
10 opportunity to determine the status of the operator's review or
11 investigation of any such report; and

12 (3) the mechanism provides the means to enable a user to block
13 communications from third parties whom users allege have
14 transmitted a sexually offensive or abusive communication.

15 c. A social networking website operator that does not maintain
16 a reporting mechanism that meets the requirements set forth in
17 subsection b. of this section shall include on its website, in a clear
18 and conspicuous manner, a statement notifying users that the
19 website does not maintain a reporting mechanism that comports
20 with New Jersey state law provisions to protect users against
21 sexually offensive and abusive communications.

22
23 5. A social networking website operator or any employee or
24 agent thereof who reports information to law enforcement
25 concerning an allegation that a user or third party has violated
26 section 2 or section 3 of P.L. , c. (C.) (pending before the
27 Legislature as this bill) is immune from civil and criminal liability
28 arising from such report, unless the person acts in bad faith or with
29 malicious purpose.

30
31 6. For the purposes of this act:

32 a. "Operator" means any person, business or organization
33 qualified to do business in this State that operates a social
34 networking website.

35 b. "Social networking website" means a website which is
36 accessible to third parties and on which users under the age of 18
37 located in New Jersey may post personal information and through
38 which third parties may communicate with such users.

39 c. "Abusive communication" means any communication which
40 a reasonable person would believe is intended to threaten,
41 intimidate or harass another person.

42 d. "Sexually offensive communication" means any
43 communication which a reasonable person would believe is
44 intended to solicit or request a person to engage in sexual activity,
45 and any communication which transmits obscene material as
46 defined in N.J.S.2C:34-3.

47 e. "Third party" means a person other than the user or the
48 operator, or an employee of the operator.

1 f. "User" means a person located in this State who establishes
2 on a social networking website an online profile, page or similar
3 account on which the user may post personal information, and
4 which may be viewed by third parties.

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6 7. This act shall take effect immediately.
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9 STATEMENT
10

11 This bill would enact the "Social Networking Safety Act."

12 The bill provides for civil penalties against individuals who
13 transmit a sexually offensive communication through a social
14 networking website to or about a person located in New Jersey who
15 is, or who the actor reasonably believes to be: (1) less than 13 years
16 of age; or (2) at least 13 but less than 16 years old and at least four
17 years younger than the actor. Under the bill, this person would be
18 liable to the social networking website operator in a civil action for
19 damages of \$1,000, plus reasonable attorney's fees, for each
20 violation and to the recipient of the communication in a civil action
21 for damages in the amount of \$5,000, plus reasonable attorney's
22 fees, or actual damages, whichever is greater. Actual damages
23 would consist of compensatory and punitive damages and costs of
24 suit, including reasonable attorney's fees. Compensatory damages
25 may include, but are not limited to, damages for pain and suffering,
26 medical expenses, emotional trauma, diminished childhood,
27 diminished enjoyment of life, costs of counseling, and lost wages.

28 The bill defines "sexually offensive communication" as any
29 communication which a reasonable person would believe is
30 intended to solicit or request a person to engage in sexual activity,
31 and any communication which transmits obscene material as
32 defined in N.J.S.2C:34-3.

33 This bill also prohibits the transmission of abusive
34 communication through a social networking website to or about a
35 person located in New Jersey who is, or who the actor reasonably
36 believes to be, less than 18 years of age. This bill defines "abusive
37 communication" as any communication which a reasonable person
38 would believe is intended to threaten, intimidate or harass another
39 person.

40 The bill makes it an unlawful practice and a violation of the
41 Consumer Fraud Act, N.J.S.A.56:8-1, for a social networking
42 website operator to fail to revoke, in the most expedient time
43 possible without unreasonable delay, the website access of any user
44 or third party upon receipt of information that provides a reasonable
45 basis to conclude that the user or third party has transmitted
46 sexually offensive or abusive communications. The bill defines
47 "user" as a person located in this State who establishes on a social
48 networking website an online profile, page or similar account on

1 which the user may post personal information, and which may be
2 viewed by third parties.

3 A social networking website operator would not be deemed to be
4 in violation if the operator maintains a reporting mechanism
5 available to the user that meets the following requirements:

6 (1) the social networking website displays, in a conspicuous
7 location, a readily identifiable icon or link that enables a user to
8 report to the social networking website operator a sexually
9 offensive or abusive communication transmitted by a third party
10 through the social networking website;

11 (2) the operator conducts a review, in the most expedient time
12 possible without unreasonable delay, of any report by a user or third
13 party, including investigation and referral to law enforcement if
14 appropriate, and provides users and third parties with the
15 opportunity to determine the status of the operator's review or
16 investigation of any such report; and

17 (3) the mechanism provides the means to enable a user to block
18 communications from third parties whom users allege have
19 transmitted a sexually offensive or abusive communication.

20 Under the bill, a social networking website operator that does not
21 maintain a reporting mechanism meeting the requirements set forth
22 in the bill must include on its website, in a clear and conspicuous
23 manner, a statement notifying users that the website does not
24 maintain a reporting mechanism that comports with New Jersey
25 state law provisions to protect users against sexually offensive and
26 abusive communications.

27 In addition, the bill provides that a social networking website
28 operator or any employee or agent thereof who reports information
29 to law enforcement concerning an allegation that a user or third
30 party has transmitted sexually offensive or abusive communication
31 is immune from civil and criminal liability arising from such report,
32 unless the person acts in bad faith or with malicious purpose.