OLR Bill Analysis
sSB 989

AN ACT CONCERNING ONLINE HARASSMENT.

SUMMARY

This bill expands various crimes related to harassment to include conduct initiated through electronic methods.

The bill does so by expanding what constitutes 2nd degree stalking to include certain conduct:

1. concerning, but not directed at, a specific person;
2. that causes fear of property damage or harm to an animal; and
3. involving the disclosure of personally identifiable information through electronic communications, in a manner that causes fear or serious distress or inconvenience.

The bill allows those harmed by a disclosure to bring a civil action to recover damages and other relief.

It also:

1. expands 2nd degree harassment to include electronic methods of communication;
2. limits 1st degree stalking of someone under age 16 to situations in which the actor is age 22 or older; and
3. expands 1st degree stalking to include situations in which the actor intentionally directs the conduct at the other person based on bias (e.g., race, sex, or disability).

The bill specifies that the crime of trafficking in personal identifying information includes selling, giving, or otherwise transferring personal
identifying information, as defined by the bill for purposes of 2nd degree stalking (see below). Existing law already defines “personal identifying information” broadly to include information that may be used, alone or in conjunction with other information, to identify a specific individual (§ 3).

EFFECTIVE DATE: October 1, 2021

§§ 2 & 4 — 2ND DEGREE STALKING

The bill expands what constitutes 2nd degree stalking, by including (1) certain instances when an actor uses electronic communications to disclose a person’s personally identifiable information, causing distress, fear, or inconvenience, and (2) specified additional instances where the stalking would cause a reasonable person to fear for their property or an animal’s safety.

The bill specifies that 2nd degree stalking may be deemed to have been committed either in the place the communication began or was received.

By law, 2nd degree stalking is a class A misdemeanor (punishable by up to one year imprisonment, up to a $2,000 fine, or both).

Conduct Concerning but not Directed at a Specific Person

Under current law, an actor commits 2nd degree stalking when he or she:

1. knowingly engages in conduct directed at a specific person that would cause a reasonable person to (a) fear for his, her, or a third person’s physical safety or (b) suffer emotional distress or

2. intentionally, and for no legitimate purpose, engages in conduct directed at a specific person that would cause a reasonable person to fear that his or her employment, business, or career is threatened, and has been previously asked to cease.

The bill broadens these categories of conduct to include instances where the actor engages in conduct concerning a specific person.
**Fear of Property Damage or Harm to Animal**

The bill also expands the conduct that constitutes 2nd degree stalking to include instances when the actor knowingly engages in a course of conduct that is directed at or concerning a specific person and would cause a reasonable person to fear (1) damage or destruction to or tampering with the specific person’s property or (2) injury to or the death of an animal the specific person owns, possesses, or controls.

**Electronic Communications to Workplace**

Under current law for 2nd degree stalking, when a person’s employment, business, or career is threatened, the actor’s threatening conduct may consist of the actor telephoning, appearing at, or initiating communication or contact at the other person’s place of employment or business. The bill specifies that these communication methods include electronic video-teleconferencing or digital media. As under existing law, in order for it to be 2nd degree stalking, the actor must not have been previously and clearly informed to stop this conduct.

**Electronic Disclosures Made for No Legitimate Purpose**

The bill also makes it 2nd degree stalking when the actor, for no legitimate purpose and with intent to harass, terrorize, or alarm, by means of electronic communication, including electronic or social media, discloses a specific person’s personally identifiable information without the person’s consent, knowing, that under the circumstances, the disclosure would cause a reasonable person to:

1. fear for his or her or a third person’s physical safety;

2. fear damage or destruction to or tampering with the property the person owns, possesses, or controls; or

3. suffer emotional distress or serious inconvenience.

**Definitions.** Under the bill, “serious inconvenience” means that a person significantly modifies his or her actions or routines in an attempt to avoid the actor or because of the actor’s conduct. It includes changing a telephone number or e-mail address, deleting or...
meaningfully changing or significantly decreasing Internet use, moving from an established residence, changing daily routines or routes to and from work, changing employment or employment schedule, or losing time from employment.

“Personally identifying information” means:

1. any information that can be used to distinguish or trace an individual’s identity, such as a name, prior legal name, alias, mother’s maiden name, Social Security number, date or place of birth, address, phone number, or biometric data;

2. any information that is linked or linkable to an individual, such as medical, financial, education, consumer, or employment information, data, or records; or

3. any other sensitive private information that is linked or linkable to a specific identifiable individual, such as gender identity, sexual orientation, or any sexually intimate visual depiction.

**Private Right of Action.** Under the bill, a person harmed by 2nd degree harassment through the intentional electronic disclosure of personally identifiable information (see above) may bring a civil action in Superior Court for the judicial district where the person resides or the Hartford judicial district. The action may be brought against (1) the person or persons who committed the violation or (2) any person who knowingly benefitted, financially or by receiving anything of value, from participating in the activity that the person knew or should have known involved 2nd degree harassment through an electronic disclosure. The plaintiff may recover damages and other appropriate relief, including reasonable attorney’s fees. The court, on a party’s motion, may issue a temporary or permanent injunction to prevent the disclosure or continued disclosure of a party’s personally identifying information.

The bill requires an individual who is found liable to be jointly and severally liable with other individuals, if any, who are found liable for damages from the same violation.
The bill sets the statute of limitations for this action at three years from the date of the violative act.

§ 5 — 2ND DEGREE HARASSMENT

The bill expands 2nd degree harassment to involve electronic methods of communication, and in certain instances it eliminates the intent to annoy someone as a prohibited action.

As under existing law, the offense may be deemed to have been committed either in the place the communication began or was received, and the court may order anyone convicted to be examined by one or more psychiatrists.

By law, 2nd degree harassment is a class C misdemeanor (punishable by up to three months imprisonment, up to a $500 fine, or both).

Communications Involving Indecent or Obscene Language

Under current law, an actor may commit 2nd degree harassment when by telephone, he or she addresses another person in, or uses, indecent or obscene language. The bill expands this crime to include instances when the person addresses another person using an electronic communication. It also requires, for a charge of 2nd degree harassment, that the indecent or obscene communication be made with the intent to harass, terrorize, or alarm the other person.

Harassment on Electronic Meeting Spaces

The bill expands 2nd degree harassment to include instances when a person, with intent to harass, terrorize, or alarm another person for no legitimate purpose, communicates or shares a photograph, video, or words or engages in any other communications to a digital, electronic, online, or other meeting space, in a manner likely to cause terror, intimidation, or alarm.

Other Harassing Communications

Under current law, it is 2nd degree harassment when an individual with the intent to harass, annoy, or alarm another person,
communicates by telegraph or mail, by transmitting a fax through a telephone network, computer network, or by other written communication, in a manner likely to cause annoyance or alarm. The bill eliminates the intent to annoy someone as a basis for a 2nd degree harassment charge and adds the intent to terrorize someone as a basis for it. It also specifies that covered communications include e-mail or text messages or other electronically sent messages, whether by digital media account, messaging program or application, or computer or computer service or network.

Under current law, it is 2nd degree harassment to make, in a manner likely to cause annoyance or alarm, a telephone call with intent to harass, annoy, or alarm another person, whether or not there is a conversation. The bill eliminates current law’s requirement that the communication be by telephone and makes this conduct through any form of communication (including electronic) 2nd degree harassment. The bill also removes the intent to annoy another person as a basis for a charge and adds intent to terrorize as a basis.

§ 1 — 1ST DEGREE STALKING

Under current law, a person is guilty of 1st degree stalking when he or she commits 2nd degree stalking (see above) and (1) previously was convicted of 2nd degree stalking, (2) violates a court order at the time of the offense, or (3) the victim is under age 16. The bill (1) limits the latter provision to situations in which the stalker is age 22 or older. It also expands the crime to include 2nd degree stalking combined with intentionally directing conduct at the other person because of his or her actual or perceived race, religion, ethnicity, disability, sex, sexual orientation, or gender identity or expression.

By law, 1st degree stalking is a class D felony (punishable by up to five years imprisonment, up to a $5,000 fine, or both).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 38  Nay 0  (04/08/2021)