

As Introduced

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S. B. No. 8

Senators Austria, Amstutz, Jacobson, Spada, Harris, Mumper,
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A B I L L

To amend section 2903.211 of the Revised Code to
expand menacing by stalking to prohibit the
posting of a computer-related message with intent
to urge or incite a person to illegally stalk
another, to specifically include electronic
communication and telecommunication as a pattern
of conduct under the crime, and to clarify the
nature of the mental distress that constitutes an
element of the crime.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2903.211 of the Revised Code be
amended to read as follows:

Sec. 2903.211. (A)(1) No person by engaging in a pattern of
conduct shall knowingly cause another person to believe that the
offender will cause physical harm to the other person or cause
mental distress to the other person.

(2) No person, through the use of any computer, computer
network, computer program, or computer system, shall post a
message with purpose to urge or incite another to commit a
violation of division (A)(1) of this section.

(B) Whoever violates this section is guilty of menacing by 20
stalking. 21

(1) Except as otherwise provided in divisions (B)(2) and (3) 22
of this section, menacing by stalking is a misdemeanor of the 23
first degree. 24

(2) Menacing by stalking is a felony of the fourth degree if 25
any of the following applies: 26

(a) The offender previously has been convicted of or pleaded 27
guilty to a violation of this section or a violation of section 28
2911.211 of the Revised Code. 29

(b) In committing the offense under division (A)(1) or (2) of 30
this section, the offender made a threat of physical harm to or 31
against the victim, or as a result of an offense committed under 32
division (A)(2) of this section, a third person induced by the 33
offender's posted message made a threat of physical harm to or 34
against the victim. 35

(c) In committing the offense under division (A)(1) or (2) of 36
this section, the offender trespassed on the land or premises 37
where the victim lives, is employed, or attends school, or as a 38
result of an offense committed under division (A)(2) of this 39
section, a third person induced by the offender's posted message 40
trespassed on the land or premises where the victim lives, is 41
employed, or attends school. 42

(d) The victim of the offense is a minor. 43

(e) The offender has a history of violence toward the victim 44
or any other person or a history of other violent acts toward the 45
victim or any other person. 46

(f) While committing the offense under division (A)(1) of 47
this section, the offender had a deadly weapon on or about the 48
offender's person or under the offender's control. Division 49

(B)(2)(f) of this section does not apply in determining the 50
penalty for a violation of division (A)(2) of this section. 51

(g) At the time of the commission of the offense, the 52
offender was the subject of a protection order issued under 53
section 2903.213 or 2903.214 of the Revised Code, regardless of 54
whether the person to be protected under the order is the victim 55
of the offense or another person. 56

(h) In committing the offense under division (A)(1) or (2) of 57
this section, the offender caused serious physical harm to the 58
premises at which the victim resides, to the real property on 59
which that premises is located, or to any personal property 60
located on that premises, or as a result of an offense committed 61
under division (A)(2) of this section, a third person induced by 62
the offender's posted message caused serious physical harm to that 63
premises, that real property, or any personal property on that 64
premises. 65

(i) Prior to committing the offense, the offender had been 66
determined to represent a substantial risk of physical harm to 67
others as manifested by evidence of then-recent homicidal or other 68
violent behavior, evidence of then-recent threats that placed 69
another in reasonable fear of violent behavior and serious 70
physical harm, or other evidence of then-present dangerousness. 71

(3) If the victim of the offense is an officer or employee of 72
a public children services agency or a private child placing 73
agency and the offense relates to the officer's or employee's 74
performance or anticipated performance of official 75
responsibilities or duties, menacing by stalking is either a 76
felony of the fifth degree or, if the offender previously has been 77
convicted of or pleaded guilty to an offense of violence, the 78
victim of that prior offense was an officer or employee of a 79
public children services agency or private child placing agency, 80
and that prior offense related to the officer's or employee's 81

formance or anticipated performance of official responsibilities 82
or duties, a felony of the fourth degree. 83

(C) Section 2919.271 of the Revised Code applies in relation 84
to a defendant charged with a violation of this section. 85

(D) As used in this section: 86

(1) "Pattern of conduct" means two or more actions or 87
incidents closely related in time, whether or not there has been a 88
prior conviction based on any of those actions or incidents. 89
Actions or incidents that prevent, obstruct, or delay the 90
performance by a public official, firefighter, rescuer, emergency 91
medical services person, or emergency facility person of any 92
authorized act within the public official's, firefighter's, 93
rescuer's, emergency medical services person's, or emergency 94
facility person's official capacity, or the posting of messages 95
through the use of a computer, computer network, computer program, 96
computer system, or telecommunications device, may constitute a 97
"pattern of conduct." 98

(2) "Mental distress" means any of the following: 99

(a) Any mental illness or condition that involves some 100
temporary substantial incapacity ~~or~~; 101

(b) Any mental illness or condition that would normally 102
require psychiatric treatment, whether or not any person requested 103
or received psychiatric treatment. 104

(3) "Emergency medical services person" is the singular of 105
"emergency medical services personnel" as defined in section 106
2133.21 of the Revised Code. 107

(4) "Emergency facility person" is the singular of "emergency 108
facility personnel" as defined in section 2909.04 of the Revised 109
Code. 110

(5) "Public official" has the same meaning as in section 111

1.01 of the Revised Code.	112
<u>(6) "Computer," "computer network," "computer program,"</u>	113
<u>"computer system," and "telecommunications device" have the same</u>	114
<u>meanings as in section 2913.01 of the Revised Code.</u>	115
<u>(7) "Post a message" means transferring, sending, posting,</u>	116
<u>publishing, disseminating, or otherwise communicating, or</u>	117
<u>attempting to transfer, send, post, publish, disseminate, or</u>	118
<u>otherwise communicate, any message or information, whether</u>	119
<u>truthful or untruthful, about an individual, and whether done</u>	120
<u>under one's own name, under the name of another, or while</u>	121
<u>impersonating another.</u>	122
<u>(8) "Third person" means, in relation to conduct as described</u>	123
<u>in division (A)(2) of this section, an individual who is neither</u>	124
<u>the offender nor the victim of the conduct.</u>	125
<u>(E) The state does not need to prove in a prosecution under</u>	126
<u>this section that a person requested or received psychiatric</u>	127
<u>treatment in order to show that the person was caused mental</u>	128
<u>distress as described in division (D)(2)(b) of this section.</u>	129
Section 2. That existing section 2903.211 of the Revised Code	130
is hereby repealed.	131