

JAN 25 2023

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# A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the significant rise  
2 in online harassment and attacks that has occurred in the last  
3 ten years, particularly as national and international internet  
4 usage has increased exponentially, and where protective  
5 legislation has lagged woefully behind. This includes, more  
6 recently, individuals feeling empowered by the increasingly  
7 polarized global political climate to release their grievances,  
8 anger, and hate online and direct the same at specific  
9 individuals due, in part, to the lack of any real consequences  
10 as a result thereof.

11           The legislature further finds that more appropriate  
12 remedies and more substantial penalties are particularly  
13 important where among the most frequently targeted groups of  
14 these increased attacks are women and members of disenfranchised  
15 minority communities, both ethnic as well as sexual, and where  
16 their complaints as to the same have gone largely unheeded,  
17 leaving them feeling victimized and vulnerable.



1 The purpose of this Act is to:

2 (1) Prohibit cyber harassment and cyberstalking; and

3 (2) Allow for civil liabilities and injunctions for cyber  
4 harassment and cyberstalking.

5 SECTION 2. Chapter 603, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§603- Action to enjoin violation of section 711- .

9 (a) Any person may maintain an action to enjoin a continuance  
10 of any act in violation of section 711- .

11 (b) A person who is the victim of cyber harassment or  
12 cyberstalking, or the parent or legal guardian of a minor child  
13 who is living at home, who seeks an injunction for protection  
14 against cyber harassment or cyberstalking on behalf of the minor  
15 child has standing in the court to file a petition for an  
16 injunction for protection against cyber harassment and  
17 cyberstalking.

18 (c) The cause of action for an injunction for protection  
19 may be sought regardless of whether any other cause of action is  
20 currently pending between the parties. However, the pendency of  
21 any cause of action shall be alleged in the petition.



1        (d) The cause of action for an injunction does not require  
2 either party to be represented by an attorney.

3        (e) The court shall not issue mutual orders of protection;  
4 however, the court is not precluded from issuing separate  
5 injunctions for protection against cyber harassment and  
6 cyberstalking if each party has complied with section 711- .  
7 Compliance with section 711- shall not be waived.

8        (f) In addition to orders of protection, the court may  
9 also issue an order of no-contact, which may include an absolute  
10 prohibition on referencing or alluding to the aggrieved person  
11 via any electronic device or social networking site. This  
12 relief may include, at the court's discretion, an order to  
13 delete any and all offending accounts owned or accessible by the  
14 perpetrator through any electronic device."

15        SECTION 3. Chapter 663, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:

18        "§663- Cyber harassment and cyberstalking liability. In  
19 addition to criminal penalties, an aggrieved person may initiate  
20 a civil action against any person or entity who violates section



1 711- in order to obtain all appropriate relief, including but  
2 not limited to the following:

3 (1) Monetary damages, including punitive damages; and

4 (2) Reasonable attorneys' fees and costs."

5 SECTION 4. Chapter 711, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§711- Cyber harassment and cyberstalking. (1) A  
9 person commits the offense of cyber harassment and cyberstalking  
10 if, while making one or more electronic communication via any  
11 electronic device or through any social networking site, and  
12 with the purpose of harassing, intimidating, tormenting, or  
13 embarrassing another, the person communicates or causes to be  
14 communicated, posts or causes to be posted, displays or causes  
15 to be displayed, or distributes or causes to be distributed  
16 information that:

17 (a) Threatens or alludes to the infliction of injury or  
18 physical harm to the victim, to any person related to,  
19 or affiliated with the victim, or to the personal  
20 property of the victim;



1        (b) Contains false statements concerning the death,  
2                    injury, illness, disfigurement, indecent conduct, or  
3                    criminal conduct of the victim;

4        (c) Contains lewd, indecent, or obscene material to or  
5                    about the victim that would emotionally harm a  
6                    reasonable person or place a reasonable person in fear  
7                    of physical or emotional harm to their person; or

8        (d) Entices, excites or aggravates any other person to  
9                    engage in a similar type of conduct as stated in  
10                   paragraphs (a), (b), and (c).

11        (2) Cyber harassment and cyberstalking is a misdemeanor  
12 for the first offense and a class C felony for the second or  
13 subsequent offense.

14        (3) Prosecution under this section does not preclude  
15 prosecution under any other law. Nothing in this section is  
16 intended to affect any civil remedies available for a violation  
17 of this section.

18        (4) Any person, including any minor under the age of  
19 eighteen, who is adjudicated delinquent for cyber harassment or  
20 cyberstalking, may be ordered by the court as a condition of the  
21 sentence (in the event the person is a minor under the age of



1 eighteen, then accompanied by a parent or guardian), to  
2 complete, in a satisfactory manner, one or both of the  
3 following:

- 4 (a) A class or training program intended to reduce the  
5 tendency toward cyber harassment behavior; or  
6 (b) A class or training program intended to bring  
7 awareness to the dangers associated with cyber-  
8 harassment.

9 Any person, including any parent or guardian who fails to comply  
10 with a condition imposed by the court pursuant to this  
11 subsection, shall be fined not more than \$500 for a first  
12 offense and not more than \$1,000 for each subsequent offense.

13 (5) The court may infer that a person acted with a purpose  
14 to harass another within the meaning of this section if the  
15 person knows or should have known that any of the person's  
16 actions constitute an offense herein.

17 (6) For purposes of this section:

18 "Course of conduct" means a pattern of conduct composed of  
19 a series of acts over a period of time, however short, which  
20 evidences a continuity of purpose.



1       "Electronic communication" means any transfer of signs,  
2 signals, writing, images, sounds, data, or intelligence of any  
3 nature transmitted in whole or in part by a wire, radio,  
4 electromagnetic, photoelectronic, or photo-optical system.

5       "Electronic device" includes telephones, cell phones,  
6 computers, internet web pages or sites, internet phones, e-mail,  
7 text messages, video messages, personal data assistants, video  
8 recorders, fax machines, and any and all other devices capable  
9 of transmitting data or sending signals to another.

10       "Harass" means a knowing and wilful course of conduct  
11 directed at a specific person that a reasonable person would  
12 consider as seriously alarming, seriously annoying, seriously  
13 tormenting, or seriously terrorizing and that serves no  
14 legitimate purpose.

15       "Social networking site" means an internet website, the  
16 primary purpose of which is facilitating social interaction with  
17 other users of the website and has the following capabilities:

18       (a) Allows users to create web pages or profiles about  
19       themselves that are available to the general public or  
20       to any other users; and

21       (b) Offers a mechanism for communication among users."



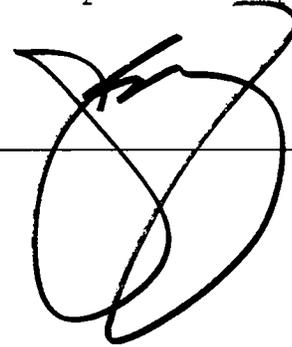
1 SECTION 5. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 6. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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# S.B. NO. 1483

**Report Title:**

Cyber Harassment; Cyberstalking; Prohibition; Civil Liabilities; Injunction

**Description:**

Prohibits cyber harassment and cyberstalking. Allows for civil liabilities and injunctions for cyber harassment and cyberstalking.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

