

Regular Session, 2012

HOUSE BILL NO. 96

BY REPRESENTATIVE MORENO

CRIME: Creates the crime of online impersonation

1 AN ACT

2 To enact R.S. 14:73.10, relative to computer-related crime; to create the crime of online
3 impersonation; to provide for definitions; to provide for penalties; to provide for
4 exceptions; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:73.10 is hereby enacted to read as follows:

7 §73.10. Online impersonation

8 A.(1) It shall be unlawful for any person, with the intent to harm, intimidate,
9 threaten, or defraud, to intentionally impersonate another actual person, without the
10 consent of that person, in order to engage in any of the following:

11 (a) Open an electronic mail account, any other type of account, or a profile
12 on a social networking website or other Internet website.

13 (b) Post or send one or more messages on or through a social networking
14 website or other Internet website.

15 (2) It shall be unlawful for any person, with the intent to harm, intimidate,
16 threaten, or defraud, to send an electronic mail, instant message, text message, or
17 other form of electronic communication that references a name, domain address,
18 phone number, or other item of identifying information belonging to another actual
19 person without the consent of that person and with the intent to cause the recipient
20 of the communication to believe that the other person authorized or transmitted the
21 communication.

1 B. For purposes of this Section, the following words shall have the following
2 meanings:

3 (1) "Access software provider" means a provider of software, including
4 client or server software, or enabling tools that do one or more of the following:

5 (a) Filter, screen, allow, or disallow content.

6 (b) Select, choose, analyze, or digest content.

7 (c) Transmit, receive, display, forward, cache, search, organize, reorganize,
8 or translate content.

9 (2) "Cable operator" means any person or group of persons who provides
10 cable service over a cable system and directly, or through one or more affiliates,
11 owns a significant interest in such cable system, or who otherwise controls or is
12 responsible for, through any arrangement, the management and operation of such
13 cable system.

14 (3) "Interactive computer service" means any information service, system,
15 or access software provider that provides or enables computer access by multiple
16 users to a computer server, including a service or system that provides access to the
17 Internet and such systems operated or services offered by libraries or educational
18 institutions.

19 (4) "Social networking website" means an Internet website that has any of
20 the following capabilities:

21 (a) Allows users to register and create web pages or profiles about
22 themselves that are available to the general public or to any other users.

23 (b) Offers a mechanism for direct or real-time communication among users,
24 such as a forum, chat room, electronic mail, or instant messaging.

25 (5) "Telecommunications service" means the offering of telecommunications
26 for a fee directly to the public, regardless of the facilities used.

27 C. Whoever violates any provision of this Section shall be fined not less than
28 two hundred fifty dollars nor more than one thousand dollars, imprisoned for not less
29 than ten days nor more than six months, or both.

1 D. The provisions of this Section shall not apply to any of the following or
2 to any person who is employed by any of the following when the actions of the
3 employee are within the course and scope of his employment:

4 (1) A social networking website.

5 (2) An interactive computer service provider.

6 (3) A telecommunications service provider.

7 (4) A cable operator.

8 (5) An Internet service provider.

9 (6) Any law enforcement officer or agency.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Moreno

HB No. 96

Abstract: Creates the crime of online impersonation and provides for penalties including a fine of \$250 to \$1,000, imprisonment for 10 days to six months, or both.

Proposed law provides that it shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to intentionally impersonate another actual person, without the consent of that person, in order to engage in any of the following:

- (1) Open an electronic mail account, any other type of account, or a profile on a social networking website or other Internet website.
- (2) Post or send one or more messages on or through a social networking website or other Internet website.

Proposed law further provides that it shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to send an electronic mail, instant message, text message, or other form of electronic communication that references a name, domain address, phone number, or other item of identifying information belonging to another actual person without the consent of that person and with the intent to cause the recipient of the communication to believe that the other person authorized or transmitted the communication.

Proposed law provides definitions for "access software provider", "cable operator", "interactive computer service", "social networking website", and "telecommunications service".

Proposed law provides for criminal penalties, including a fine of not less than \$250 nor more than \$1,000, imprisonment for not less than 10 days nor more than six months, or both.

Proposed law provides an exception for the following entities and employees of those entities when the actions of the employees are within the course and scope of employment:

- (1) A social networking website.
- (2) An interactive computer service provider.
- (3) A telecommunications service provider.
- (4) A cable operator.
- (5) Internet service provider.
- (6) Any law enforcement officer or agency.

(Adds R.S. 14:73.10)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Deleted the provision which required online impersonation to include the use of another person's name.
2. Added any law enforcement officer or law enforcement agency acting in the scope of employment to the list of persons to whom the provisions of proposed law do not apply.
3. Added requirement that the online impersonation be of an actual person.

House Floor Amendments to the engrossed bill.

1. Added provision which states that it shall also be unlawful for a person to send the unauthorized electronic communication with the intent to intimidate or threaten.