

By Senator Polsky

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1                   A bill to be entitled  
2       An act relating to electronic harassment; creating s.  
3       784.0491, F.S.; defining terms; authorizing a person  
4       to bring a civil action against another person if the  
5       actor intentionally posts another person's personal  
6       identifying information without consent of the person  
7       whose information is posted and if certain criteria  
8       are met; authorizing a victim to recover damages and  
9       any other appropriate relief, including reasonable  
10      attorney fees; providing for joint and several  
11      liability; authorizing injunctive relief; providing  
12      applicability and construction; providing for  
13      jurisdiction and severability; providing for liberal  
14      construction and application; providing an effective  
15      date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19       Section 1. Section 784.0491, Florida Statutes, is created  
20 to read:

21       784.0491 Electronic harassment.-

22       (1) DEFINITIONS.-As used in this section, the term:

23       (a) "Close relation" means a current or former spouse or  
24 domestic partner, a parent, a child, a sibling, a stepchild, a  
25 stepparent, a grandparent, any person who regularly resides in  
26 the household or who within the prior 6 months regularly resided  
27 in the household, or any person with a significant personal or  
28 professional relationship.

29       (b) "Course of conduct" means a pattern of conduct composed

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30 of two or more acts, evidencing a continuity of purpose.

31 (c) "Electronic communication" means any transfer of signs,  
32 signals, writing, images, sounds, data, or intelligence of any  
33 nature transmitted in whole or in part by a wire, radio,  
34 electromagnetic, photoelectronic, or photooptical system that  
35 affects interstate or foreign commerce.

36 (d) "Mental anguish" means emotional distress or emotional  
37 suffering as evidenced by anxiety, fear, torment, or  
38 apprehension that may or may not result in a physical  
39 manifestation of mental anguish or a mental health diagnosis.  
40 The mental anguish must be protracted and not merely trivial or  
41 transitory.

42 (e) "Personal identifying information" means any  
43 information that can be used to distinguish or trace a person's  
44 identity, such as a name, a prior legal name, an alias, a  
45 mother's maiden name, or a date or place of birth in combination  
46 with any other information that is linked or linkable to the  
47 person, including, but not limited to:

48 1. A social security number, a home address, a phone  
49 number, or biometric data;

50 2. Medical, financial, education, consumer, or employment  
51 information, data, or records;

52 3. Any other sensitive personal information that is linked  
53 or linkable to a specific identifiable person, such as gender  
54 identity, sexual orientation, or any sexually intimate visual  
55 depiction; or

56 4. Any information that provides access to a person's  
57 teleconferencing, video-teleconferencing, or other digital  
58 meeting room.

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59 (f) "Post" means to circulate, deliver, distribute,  
60 disseminate, transmit, or otherwise make available to two or  
61 more persons through electronic communication.

62 (g) "Publish" means to circulate, deliver, distribute,  
63 disseminate, transmit, or otherwise make available to another  
64 person or persons.

65 (h) "Regularly resides" means residing in the household  
66 with some permanency or regular frequency in the living  
67 arrangement.

68 (i) "Stalk" or "stalking" means to knowingly or  
69 intentionally engage in a course of conduct, without a  
70 legitimate purpose, directed at or concerning a specific person  
71 that would cause a reasonable person to fear for his or her  
72 safety or the safety of a close relation or to suffer  
73 substantial emotional distress.

74 (j) "Substantial life disruption" means that a person  
75 significantly modifies his or her actions or routines in an  
76 attempt to avoid the actor or because of the actor's course of  
77 conduct, such as changing a phone number, changing an electronic  
78 mail address, deleting personal electronic accounts,  
79 significantly decreasing use of the Internet, moving from an  
80 established residence, changing daily routines, changing routes  
81 to and from work, changing employment or a work schedule, or  
82 losing time from work or a job.

83 (2) OFFENSE.—A person may bring a civil action against  
84 another person if the actor intentionally posts another person's  
85 personal identifying information without consent of the person  
86 whose information is posted, and:

87 (a) The information is posted with the intent to harm or

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88 harass the person and with the knowledge or reckless disregard  
89 that the person whose information is posted would be reasonably  
90 likely to suffer death, bodily injury, or stalking; and

91 (b) The posting of the personal identifying information  
92 causes the person whose information is posted to suffer  
93 significant economic injury, mental anguish, or to fear serious  
94 bodily injury or death for oneself or for a close relation to  
95 him or her, or to suffer a substantial life disruption.

96 (3) CIVIL ACTION; JOINT AND SEVERAL LIABILITY.-

97 (a) Civil action.-An individual who is a victim of an  
98 offense specified under subsection (2) may bring a civil action  
99 against the person who committed the offense or against any  
100 person who knowingly benefits, financially or by receiving  
101 anything of value, from participation in a venture that the  
102 person knew or should have known was in violation of this  
103 section. The victim may recover damages and any other  
104 appropriate relief, including reasonable attorney fees.

105 (b) Joint and several liability.-An individual who is found  
106 liable under this subsection is jointly and severally liable  
107 with each other person, if any, who is found liable under this  
108 subsection for all damages arising from the same violation of  
109 this section.

110 (4) INJUNCTIVE RELIEF.-A court in which a suit is brought  
111 under this section may, upon the motion of a party, issue a  
112 temporary restraining order or a temporary or permanent  
113 injunction to restrain and prevent the disclosure or the  
114 continued disclosure of a party's personal identifying  
115 information.

116 (5) APPLICABILITY; CONSTRUCTION.-

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117 (a) Applicability.—It is not a violation of this section  
118 for a person to:

119 1. Provide a person's personal identifying information in  
120 connection with the reporting of criminal activity to an  
121 employee of a law enforcement agency or with any lawfully  
122 authorized investigative, protective, or intelligence activity  
123 of any law enforcement agency or of an intelligence agency of  
124 the United States and the person making the report reasonably  
125 believes it is true;

126 2. Provide a person's personal identifying information in  
127 connection with a lawful and constitutionally protected activity  
128 as it pertains to speech, assembly, or petition; or

129 3. Disseminate a person's personal identifying information  
130 for the purpose of, or in connection with, the reporting of  
131 conduct reasonably believed to be unlawful.

132 (b) Construction.—This section may not be construed to:

133 1. Conflict with 47 U.S.C. s. 230 of the Communication  
134 Decency Act;

135 2. Conflict with 42 U.S.C. s. 1983 of the Civil Rights Act;  
136 or

137 3. Prohibit any activity protected under the United States  
138 Constitution or the State Constitution.

139 (6) JURISDICTION.—A civil action may be brought in any  
140 county in which an element of the offense occurred, or in which  
141 a person resides who is the subject of the personal identifying  
142 information that was posted as an element of the offense.

143 (7) SEVERABILITY.—If any provision of this section as now  
144 or later amended or its application to any person or  
145 circumstance is held invalid, the invalidity does not affect

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146 other provisions or applications of this section which can be  
147 given effect without the invalid provision or application, and  
148 to this end the provisions of this section are severable.

149 (8) CONSTITUTIONALITY.—The Legislature does not intend, nor  
150 does this section allow, civil actions to be brought forward for  
151 constitutionally protected activity.

152 (9) LIBERAL CONSTRUCTION AND APPLICATION.—This section must  
153 be liberally construed and applied to promote its underlying  
154 purpose to protect persons from becoming, and provide adequate  
155 remedies to, victims.

156 Section 2. This act shall take effect July 1, 2024.