

"Cyber-Bullies in North Carolina: Are Our Children Protected?"

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Each year, thousands of adolescents in North Carolina find themselves the victims of "cyber-bullying." The North Carolina General Assembly has attempted to address the issue to protect our children while, at the same time, not infringing on constitutionally protected speech.

Cyber-Bullying

There is no single and universal definition for cyber-bullying, but most definitions agree that "cyber-bullying" is a term that describes the use of the Internet, cell phones, or other technology to send or post text or images intended to hurt or embarrass another person. Cyber-bullying is associated most often with the victimization of minors.

As an example, consider the case of 13-year-old Megan Meier. Megan had a social networking profile. She met "Josh Evans" online and the two became fast friends, communicating exclusively online. The friendship lasted for about a month, though it quickly changed when "Josh" began sending and posting messages such as, "the world would be a better place without you." Unfortunately, as a result of these messages, Megan committed suicide. The investigation into the events revealed that Josh Evans was not a real person; rather, "Josh Evans" was the 47-year-old mother of one of Megan's friends who wanted to find out how Megan felt about her daughter.

Megan's tragedy was one of the first introductions the nation had to cyber-bullying and, as a result, a significant push followed, both on the federal and state level, for laws to be enacted to protect minors from such abuse on the Internet. Such laws are of vital importance, as statistics have shown that approximately 97% of teenagers are now using the Internet in some form or fashion, and each year thousands of teenagers, nationally and in North Carolina, have become victims of cyber-bullying through instant messages, blogs, message boards, chat rooms, online video games, and social networks.

§ 14-458.1 of the North Carolina General Statutes (Cyber-Bullying)

There have been numerous attempts by the individual states to criminalize cyber-bullying. Such attempts have ranged from forcing schools to enact and enforce policies to protect against cyber-bullying to imposing age limitations on individuals who are allowed to communicate on the Internet.

In 2009, the North Carolina General Assembly responded to cyber-bullying by enacting a new statute which makes some potential acts of cyber-bullying illegal. Section 14-458.1 criminalizes certain behaviors, specifically providing that a person who uses a computer or computer network to do any of the following six items has committed a criminal offense:

1. With the intent to intimidate or torment a minor,

1. Build a fake profile or website;
 2. Pose as a minor in an Internet chat room, electronic mail, or instant message;
 3. Follow a minor online or into an Internet chat room; or,
 4. Post or encourage others to post private, personal, or sexual information pertaining to a minor on the Internet;
2. With the intent to intimidate or torment a minor or a minor's parent or guardian,
 1. Post a real or doctored image of a minor on the Internet;
 2. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password protected account or stealing or otherwise accessing passwords; or,
 3. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a minor;
 3. Place any statement on the Internet, whether true or false, which would tend to provoke, or that actually provokes, any third party to stalk or harass a minor;
 4. Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a minor for the purpose of intimidating or tormenting that minor;
 5. Enroll a minor on a pornographic Internet site; or,
 6. Without authorization of the minor or the minor's parent or guardian, sign up a minor for electronic mailing lists or to receive junk electronic messages and instant messages, resulting in intimidation or torment of the minor.

While § 14-458.1 does act as an impediment to the posting of false information about others or posing as another online, it fails to criminalize directly harassing or intimidating communications to another or indirect cyber-bullying, where the communication may not be directly threatening or harassing (such as in the case with Megan Meier where she was told "the world would be a better place without you").

All forms of cyber-bullying can be harmful, yet forms not addressed by § 14-458.1 would seem to be at least as harmful as the ones that are addressed. In addition to failing to protect against all forms of cyber-bullying, the North Carolina statute does not appear to be very effective, as over the past two years there have been approximately 40 cases of cyber-bullying charged, with few, if any, resulting in convictions.

Cyber-bullying has been identified as a significant problem in North Carolina, as evidenced by the fact that the General Assembly has responded with § 14-458.1. While § 14-458.1 may seem weak, there are legitimate concerns regarding the protection of an individual's First Amendment right to freedom of speech when words alone are used, albeit on the Internet with all the world to read or hear. Nevertheless, there are recognized limitations on speech which allow the criminalization of "fighting words" and speech which presents a "clear and present danger of a serious harm" which may be useful in combating cyber-bullying.

Conclusion

Cyber-bullying among adolescents in North Carolina is increasing and there are calls to put limits into play to protect against the harm that cyber-bullying can cause, like that of Megan Meier back in 2006. Although the implementation of § 14-458.1 of the North Carolina General Statutes has laid the groundwork for progress in North Carolina on the issue of cyber-bullying, it appears that the state is still searching for a compelling way to control this growing problem among adolescents. So are our children protected in North Carolina from cyber-bullying? The answer to that question appears to remain unanswered at this time.

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