

**SUBJECT:** Expanding offense of online harassment to include Internet sites

**COMMITTEE:** Criminal Jurisprudence — committee substitute recommended

**VOTE:** 8 ayes — Gallego, Hartnett, Aliseda, Burkett, Carter, Christian, Y. Davis, Zedler

0 nays

1 absent — Rodriguez

**WITNESSES:** For — Cliff Herberg, for Bexar County District Attorney Susan D. Reed; (*Registered, but did not testify:* Kevin Petroff, Harris County District Attorneys Association)

Against — (*Registered, but did not testify:* Andrea Bos, ACLU of Texas)

**BACKGROUND:** Under Penal Code, sec. 33.07(a), it is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) to use the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site without another's consent and with the intent to harm, defraud, intimidate, or threaten anyone.

**DIGEST:** CSHB 1666 would expand the current offense of online harassment to include:

- creating a web page on Internet websites other than commercial networking sites; and
- sending messages through commercial networking sites and posting or sending messages on or through other Internet websites, other than on or through electronic mail programs or message board programs.

The actions would have to be done without another's consent and with intent to harm, defraud, intimidate, or threaten another.

The bill would take effect September 1, 2011, and apply to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

CSHB 1666 is necessary to ensure that the criminal offense of online harassment is broad enough to cover harassment that occurs through Internet sites other than social networking sites. Current law applies the offense only to commercial social networking sites, but this definition is too narrow to cover the malicious use of others' names that occurs on other sites and should be prohibited as well.

The bill would make the offense of online harassment broad enough to cover sites like Craigslist, which have been used for targeted on-line harassment. Texans deserve protection from illegal harassment that occurs through all Internet sites, not just social networking sites.

CSHB 1666 would not change what had to be done to commit the offense of online harassment. Offenders still would have to assume another's identity and use it with intent to harm, defraud, intimidate, or threaten another. This would continue the current law's narrow focus on criminal activity and avoid any infringement on free speech rights or the application of the law to harmless pranks.

**OPPONENTS  
SAY:**

Instances of cyberspace harassment and impersonation can be prosecuted effectively under current laws. Texas does not need another broadly worded statute expanding the criminal offense for harassment, especially something that can be punished as a third-degree felony.

**NOTES:**

The committee substitute removed a provision that would have excluded from the offense of online harassment electronic mail programs and message board programs functioning as part of a website.

The companion bill, SB 1329 by Watson, was referred to the Senate Criminal Justice Committee on March 22.