

Creating a criminal offense for online harassment

HB 3490 by Cole (Huffman)

Digest

HB 3490 would have expanded the offense of harassment to include publishing repeated electronic communications on a website, including a social media platform, in a manner reasonably likely to harass, abuse, or torment another person.

Offenses would have been class B misdemeanors, except that offenses would have been class A misdemeanors if committed against a child under 18 years old with the intent that the child commit suicide or engage in conduct that caused serious bodily harm to the child. Offenses committed by an individual who previously had violated a temporary restraining order or injunction related to cyberbullying of a child also would have been class A misdemeanors.

Governor's reason for veto

“Cyberbullying is unacceptable and must be stopped. In 2017, I signed Senate Bill 179 into law because cyberbullying is a very real problem. House Bill 3490 shares the same good intentions.

“Unfortunately, the language used in the bill is overbroad and would sweep in conduct that legislators did not intend to criminalize, such as repeated criticisms of elected officials on Internet websites. I look forward to working next session to forcefully counter cyberbullying in ways that can be upheld constitutionally.”

Response

Rep. Sheryl Cole, the bill's author, said: “I respectfully disagree with the governor's veto of HB 3490. The purpose of the bill was to close the loopholes in our harassment and cyberbullying statutes. When there is a gap in the law that doesn't protect victims that are driven to self-harm or attempted suicide, it is clear that we must take action to

fix the law for vulnerable Texans, and especially for women and children.

“While passing HB 3490 through the House, we amended the language to be more narrowly written than other parts of the harassment penal code. Where other portions of the code consider annoying, alarming, or embarrassing communication, we narrowed HB 3490 to only consider the more serious kinds of harassing, abusive, or tormenting communication. We believed that by focusing only on serious criminal actions we were addressing the free speech concerns, which are both ambiguous and possibly a larger, fundamental issue when we consider how Texas' harassment penal code is written.

“I do plan on working over the interim on a new bill to fix any perceived issues, and I have received assurances from the governor's staff that we will get there so that Texas can finally correct this injustice and take action for victims of harassment.”

Sen. Joan Huffman, the Senate sponsor, had no comment on the veto.

Notes

[HB 3490](#) was digested in Part Three of the May 8 *Daily Floor Report*.