

BILL ANALYSIS

Senate Research Center

H.B. 1666
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Last session the legislature passed H.B. 2003, creating an offense for online harassment that does not cover activity that occurs on Craigslist (Section 33.07, Penal Code). That law states that a person commits an offense if the person uses 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. A social networking site is an online service, platform, or site that focuses on building social networks or social relations among people who share interests and/or activities. Examples include Facebook, MySpace, LinkedIn, and Twitter.

Craigslist is a centralized network of online communities, featuring classified ads—with sections devoted to jobs, housing, personals, for sale, services, community, gigs, resumes and discussion forums. It is not considered a social networking site, and is more akin to classified ads in newspapers and is more of a one-way, static communication.

The Bexar County District Attorney (DA) reports several cases in which an ex-husband or boyfriend has posted pictures of the ex-wife or girlfriend on Craigslist offering or soliciting sexual services, as though she was the one posting the advertisement. The DA reports that she has not been able to prosecute under the statute passed last session because Craigslist is not a commercial social networking site.

The purpose of H.B. 1666 is to expand the scope of Section 33.07(a) to include targeted online harassment committed not only on commercial social networking sites, but also on any other Internet website, such as Craigslist.

Currently, Section 33.07(a) penalizes only conduct committed on commercial social networking sites as defined under Section 33.07(f)(1). Although targeted online harassment can occur on other Internet websites, conduct committed on those websites is currently excluded from prosecution.

H.B. 1666 amends current law relating to the prosecution of the offense of online impersonation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 33.07, Penal Code, to read as follows:

Sec. 33.07. ONLINE IMPERSONATION.

SECTION 2. Amends Section 33.07(a), Penal Code, as follows:

(a) Provides that a person commits an offense if the person, without obtaining the other person's consent and with the intent to harm, defraud, intimidate, or threaten any person, uses the name or persona of another person to:

(1) create a web page on a commercial social networking site or other Internet website; or

(2) post or send one or more messages on or through a commercial social networking site or other Internet website, other than on or through an electronic mail program or message board program.

Makes nonsubstantive changes.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.