

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL DRS45220-ML-42

Short Title: Prohibit Online Impersonations. (Public)

Sponsors: Senator Perry (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE USE OF ANOTHER PERSON'S NAME OR PERSONA
3 WITHOUT THE PERSON'S CONSENT FOR THE PURPOSE OF HARMING,
4 DEFRAUDING, INTIMIDATING, OR THREATENING THE PERSON.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 60 of Chapter 14 of the General Statutes is amended by adding
7 a new section to read:

8 "**§ 14-459. Online impersonation.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) Cable service provider. – A person who provides cable service, as that term is
11 defined in 47 U.S.C. § 522.

12 (2) Commercial social networking site. – Any business, organization, or other
13 similar entity operating a website that permits persons to become registered
14 users for the purpose of establishing personal relationships with other users
15 through (i) direct or real-time communication or (ii) the creation of web pages
16 or profiles available to the public or other users. This term does not include
17 electronic mail or message boards.

18 (3) Identifying information. – Information that, alone or in conjunction with other
19 information, identifies a person. This term includes any of the following
20 information about a person:

21 a. Name and date of birth.

22 b. Unique biometric data, including the person's fingerprint, voice print,
23 or retina or iris image.

24 c. Unique electronic identification number, address, routing code, or
25 financial institution account number.

26 d. Telecommunication identifying information or access device.

27 e. Social security number or other government-issued identification
28 number.

29 (4) Interactive computer service. – As defined in 47 U.S.C. § 230.

30 (5) Telecommunications service provider. – As defined in G.S. 14-113.5.

31 (6) Video service provider. – A video programming distributor that distributes
32 video programming services through wireline facilities located at least in part
33 in the public right-of-way without regard to delivery technology. This term
34 does not include a cable service provider.

35 (b) Offense. – It is unlawful to do either of the following:



1 (1) Use the name or persona of another person, without obtaining the other
2 person's consent and with the intent to harm, defraud, intimidate, or threaten
3 any person, to do either of the following:

4 a. Create a web page on a commercial social networking site or other
5 internet website.

6 b. Post or send one or more messages on or through a commercial social
7 networking site or other internet website. This sub-subdivision does
8 not include messages posted on or sent through electronic mail or a
9 message board.

10 (2) Send an electronic mail, instant message, text message, or similar
11 communication that (i) references a name, domain address, phone number, or
12 other item of identifying information belonging to a person and (ii) meets all
13 of the following requirements:

14 a. The communication was sent without obtaining the person's consent.

15 b. The communication was sent with the intent to cause a recipient of the
16 communication to reasonably believe that the person authorized or
17 transmitted the communication.

18 c. The communication was sent with the intent to harm or defraud the
19 person.

20 (c) Punishment. – Any person who (i) violates subdivision (1) of subsection (b) of this
21 section, or (ii) violates subdivision (2) of subsection (b) of this section with the intent to solicit a
22 response by law enforcement or other emergency personnel, is guilty of a Class D felony, which
23 may include a fine not to exceed ten thousand dollars (\$10,000). Any other violation of this
24 section is a Class A1 misdemeanor, which may include a fine not to exceed four thousand dollars
25 (\$4,000).

26 (d) Aiding and Abetting. – If a person uses information resulting from the commission of
27 an offense under subsection (b) of this section to commit a separate crime against the victim of
28 the offense under subsection (b) of this section, the person who committed the offense under
29 subsection (b) of this section shall be guilty of aiding and abetting the commission of the separate
30 crime and punished in accordance with the applicable statute.

31 (e) Defense. – It is a defense to prosecution under this section that the person is any of
32 the following entities or that the person's conduct consisted solely of action taken as an employee
33 of any of the following entities:

34 (1) A commercial social networking site.

35 (2) An internet service provider.

36 (3) An interactive computer service.

37 (4) A telecommunications service provider.

38 (5) A video service provider.

39 (6) A cable service provider."

40 **SECTION 2.** This act becomes effective December 1, 2021, and applies to offenses
41 committed on or after that date.