

**As Concurred by the House**

**131st General Assembly**

**Regular Session**

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**Sub. H. B. No. 151**

**Representative Anielski**

**Cosponsors: Representatives Grossman, LaTourette, Kraus, Dever, Blessing, Rogers, Brown, Butler, Antonio, Arndt, Ashford, Baker, Boose, Conditt, Cupp, Driehaus, Duffey, Ginter, Hambley, Hayes, Howse, Johnson, T., Koehler, Kunze, Landis, Leland, Manning, McClain, O'Brien, M., O'Brien, S., Patterson, Pelanda, Retherford, Schaffer, Scherer, Sears, Sheehy, Slaby, Smith, K., Sprague, Sweeney, Young, Speaker Rosenberger, Boyce Senators Eklund, Burke, Cafaro, Coley, Hackett, Hite, Hughes, LaRose, Lehner, Manning, Oelslager, Patton, Schiavoni, Tavares, Thomas, Uecker, Williams**

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**A BILL**

To amend sections 2903.211 and 2917.21 of the 1  
Revised Code to expand the offenses of menacing 2  
by stalking and telecommunications harassment 3  
and to prohibit a person from knowingly causing 4  
another person to believe that the offender will 5  
cause physical harm or mental distress to a 6  
family or household member of the other person. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 2903.211 and 2917.21 of the 8  
Revised Code be amended to read as follows: 9

**Sec. 2903.211.** (A) (1) No person by engaging in a pattern 10  
of conduct shall knowingly cause another person to believe that 11  
the offender will cause physical harm to the other person or a 12  
family or household member of the other person or cause mental 13  
distress to the other person or a family or household member of 14

the other person. In addition to any other basis for the other 15  
person's belief that the offender will cause physical harm to 16  
the other person or the other person's family or household 17  
member or mental distress to the other person or the other 18  
person's ~~mental distress~~ family or household member, the other 19  
person's belief or mental distress may be based on words or 20  
conduct of the offender that are directed at or identify a 21  
corporation, association, or other organization that employs the 22  
other person or to which the other person belongs. 23

(2) No person, through the use of any form of written 24  
communication or any electronic method of remotely transferring 25  
information, including, but not limited to, any computer, 26  
computer network, computer program, ~~or~~ computer system, or 27  
telecommunication device shall post a message or use any 28  
intentionally written or verbal graphic gesture with purpose to 29  
~~urge~~ do either of the following: 30

(a) Violate division (A)(1) of this section; 31

(b) Urge or incite another to commit a violation of 32  
division (A)(1) of this section. 33

(3) No person, with a sexual motivation, shall violate 34  
division (A)(1) or (2) of this section. 35

(B) Whoever violates this section is guilty of menacing by 36  
stalking. 37

(1) Except as otherwise provided in divisions (B)(2) and 38  
(3) of this section, menacing by stalking is a misdemeanor of 39  
the first degree. 40

(2) Menacing by stalking is a felony of the fourth degree 41  
if any of the following applies: 42

(a) The offender previously has been convicted of or 43  
pleaded guilty to a violation of this section or a violation of 44  
section 2911.211 of the Revised Code. 45

(b) In committing the offense under division (A) (1), (2), 46  
or (3) of this section, the offender made a threat of physical 47  
harm to or against the victim, or as a result of an offense 48  
committed under division (A) (2) or (3) of this section, a third 49  
person induced by the offender's posted message made a threat of 50  
physical harm to or against the victim. 51

(c) In committing the offense under division (A) (1), (2), 52  
or (3) of this section, the offender trespassed on the land or 53  
premises where the victim lives, is employed, or attends school, 54  
or as a result of an offense committed under division (A) (2) or 55  
(3) of this section, a third person induced by the offender's 56  
posted message trespassed on the land or premises where the 57  
victim lives, is employed, or attends school. 58

(d) The victim of the offense is a minor. 59

(e) The offender has a history of violence toward the 60  
victim or any other person or a history of other violent acts 61  
toward the victim or any other person. 62

(f) While committing the offense under division (A) (1) of 63  
this section or a violation of division (A) (3) of this section 64  
based on conduct in violation of division (A) (1) of this 65  
section, the offender had a deadly weapon on or about the 66  
offender's person or under the offender's control. Division (B) 67  
(2) (f) of this section does not apply in determining the penalty 68  
for a violation of division (A) (2) of this section or a 69  
violation of division (A) (3) of this section based on conduct in 70  
violation of division (A) (2) of this section. 71

(g) At the time of the commission of the offense, the 72  
offender was the subject of a protection order issued under 73  
section 2903.213 or 2903.214 of the Revised Code, regardless of 74  
whether the person to be protected under the order is the victim 75  
of the offense or another person. 76

(h) In committing the offense under division (A) (1), (2), 77  
or (3) of this section, the offender caused serious physical 78  
harm to the premises at which the victim resides, to the real 79  
property on which that premises is located, or to any personal 80  
property located on that premises, or, as a result of an offense 81  
committed under division (A) (2) of this section or an offense 82  
committed under division (A) (3) of this section based on a 83  
violation of division (A) (2) of this section, a third person 84  
induced by the offender's posted message caused serious physical 85  
harm to that premises, that real property, or any personal 86  
property on that premises. 87

(i) Prior to committing the offense, the offender had been 88  
determined to represent a substantial risk of physical harm to 89  
others as manifested by evidence of then-recent homicidal or 90  
other violent behavior, evidence of then-recent threats that 91  
placed another in reasonable fear of violent behavior and 92  
serious physical harm, or other evidence of then-present 93  
dangerousness. 94

(3) If the victim of the offense is an officer or employee 95  
of a public children services agency or a private child placing 96  
agency and the offense relates to the officer's or employee's 97  
performance or anticipated performance of official 98  
responsibilities or duties, menacing by stalking is either a 99  
felony of the fifth degree or, if the offender previously has 100  
been convicted of or pleaded guilty to an offense of violence, 101

the victim of that prior offense was an officer or employee of a 102  
public children services agency or private child placing agency, 103  
and that prior offense related to the officer's or employee's 104  
performance or anticipated performance of official 105  
responsibilities or duties, a felony of the fourth degree. 106

(C) Section 2919.271 of the Revised Code applies in 107  
relation to a defendant charged with a violation of this 108  
section. 109

(D) As used in this section: 110

(1) "Pattern of conduct" means two or more actions or 111  
incidents closely related in time, whether or not there has been 112  
a prior conviction based on any of those actions or incidents, 113  
or two or more actions or incidents closely related in time, 114  
whether or not there has been a prior conviction based on any of 115  
those actions or incidents, directed at one or more persons 116  
employed by or belonging to the same corporation, association, 117  
or other organization. Actions or incidents that prevent, 118  
obstruct, or delay the performance by a public official, 119  
firefighter, rescuer, emergency medical services person, or 120  
emergency facility person of any authorized act within the 121  
public official's, firefighter's, rescuer's, emergency medical 122  
services person's, or emergency facility person's official 123  
capacity, or the posting of messages, use of intentionally 124  
written or verbal graphic gestures, or receipt of information or 125  
data through the use of any form of written communication or an 126  
electronic method of remotely transferring information, 127  
including, but not limited to, a computer, computer network, 128  
computer program, computer system, or telecommunications device, 129  
may constitute a "pattern of conduct." 130

(2) "Mental distress" means any of the following: 131

(a) Any mental illness or condition that involves some temporary substantial incapacity;	132 133
(b) Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.	134 135 136 137 138
(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in section 2133.21 of the Revised Code.	139 140 141
(4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in section 2909.04 of the Revised Code.	142 143 144
(5) "Public official" has the same meaning as in section 2921.01 of the Revised Code.	145 146
(6) "Computer," "computer network," "computer program," "computer system," and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.	147 148 149
(7) "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating, or attempting to transfer, send, post, publish, disseminate, or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.	150 151 152 153 154 155 156
(8) "Third person" means, in relation to conduct as described in division (A) (2) of this section, an individual who is neither the offender nor the victim of the conduct.	157 158 159

(9) "Sexual motivation" has the same meaning as in section 2971.01 of the Revised Code. 160  
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(10) "Organization" includes an entity that is a governmental employer. 162  
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(11) "Family or household member" means any of the following: 164  
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(a) Any of the following who is residing or has resided with the person against whom the act prohibited in division (A)(1) of this section is committed: 166  
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(i) A spouse, a person living as a spouse, or a former spouse of the person; 169  
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(ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person; 171  
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(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person. 174  
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(b) The natural parent of any child of whom the person against whom the act prohibited in division (A)(1) of this section is committed is the other natural parent or is the putative other natural parent. 178  
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(12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in division (A)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of 182  
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the act in question. 188

(E) The state does not need to prove in a prosecution 189  
under this section that a person requested or received 190  
psychiatric treatment, psychological treatment, or other mental 191  
health services in order to show that the person was caused 192  
mental distress as described in division (D) (2) (b) of this 193  
section. 194

(F) (1) This section does not apply to a person solely 195  
because the person provided access or connection to or from an 196  
electronic method of remotely transferring information not under 197  
that person's control, including having provided capabilities 198  
that are incidental to providing access or connection to or from 199  
the electronic method of remotely transferring the information, 200  
and that do not include the creation of the content of the 201  
material that is the subject of the access or connection. In 202  
addition, any person providing access or connection to or from 203  
an electronic method of remotely transferring information not 204  
under that person's control shall not be liable for any action 205  
voluntarily taken in good faith to block the receipt or 206  
transmission through its service of any information that it 207  
believes is, or will be sent, in violation of this section. 208

(2) Division (F) (1) of this section does not create an 209  
affirmative duty for any person providing access or connection 210  
to or from an electronic method of remotely transferring 211  
information not under that person's control to block the receipt 212  
or transmission through its service of any information that it 213  
believes is, or will be sent, in violation of this section 214  
except as otherwise provided by law. 215

(3) Division (F) (1) of this section does not apply to a 216  
person who conspires with a person actively involved in the 217



creation or knowing distribution of material in violation of 218  
this section or who knowingly advertises the availability of 219  
material of that nature. 220

**Sec. 2917.21.** (A) No person shall knowingly make or cause 221  
to be made a telecommunication, or knowingly permit a 222  
telecommunication to be made from a telecommunications device 223  
under the person's control, to another, if the caller does any 224  
of the following: 225

(1) ~~Fails to identify the caller to the recipient of the~~ 226  
~~telecommunication and makes~~ Makes the telecommunication with 227  
purpose to harass, intimidate, or abuse any person at the 228  
premises to which the telecommunication is made, whether or not 229  
actual communication takes place between the caller and a 230  
recipient; 231

(2) Describes, suggests, requests, or proposes that the 232  
caller, the recipient of the telecommunication, or any other 233  
person engage in sexual activity, and the recipient or another 234  
person at the premises to which the telecommunication is made 235  
has requested, in a previous telecommunication or in the 236  
immediate telecommunication, that the caller not make a 237  
telecommunication to the recipient or to the premises to which 238  
the telecommunication is made; 239

(3) During the telecommunication, violates section 2903.21 240  
of the Revised Code; 241

(4) Knowingly states to the recipient of the 242  
telecommunication that the caller intends to cause damage to or 243  
destroy public or private property, and the recipient, any 244  
member of the recipient's family, or any other person who 245  
resides at the premises to which the telecommunication is made 246

owns, leases, resides, or works in, will at the time of the 247  
destruction or damaging be near or in, has the responsibility of 248  
protecting, or insures the property that will be destroyed or 249  
damaged; 250

(5) Knowingly makes the telecommunication to the recipient 251  
of the telecommunication, to another person at the premises to 252  
which the telecommunication is made, or to those premises, and 253  
the recipient or another person at those premises previously has 254  
told the caller not to make a telecommunication to those 255  
premises or to any persons at those premises; 256

(6) Knowingly makes any comment, request, suggestion, or 257  
proposal to the recipient of the telecommunication that is 258  
threatening, intimidating, menacing, coercive, or obscene with 259  
the intent to abuse, threaten, or harass the recipient; 260

(7) Without a lawful business purpose, knowingly 261  
interrupts the telecommunication service of any person; 262

(8) Without a lawful business purpose, knowingly transmits 263  
to any person, regardless of whether the telecommunication is 264  
heard in its entirety, any file, document, or other 265  
communication that prevents that person from using the person's 266  
telephone service or electronic communication device; 267

(9) Knowingly makes any false statement concerning the 268  
death, injury, illness, disfigurement, reputation, indecent 269  
conduct, or criminal conduct of the recipient of the 270  
telecommunication or family or household member of the recipient 271  
with purpose to abuse, threaten, intimidate, or harass the 272  
recipient; 273

(10) Knowingly incites another person through a 274  
telecommunication or other means to harass or participate in the 275

<u>harassment of a person;</u>	276
<u>(11) Knowingly alarms the recipient by making a</u>	277
<u>telecommunication without a lawful purpose at an hour or hours</u>	278
<u>known to be inconvenient to the recipient and in an offensive or</u>	279
<u>repetitive manner.</u>	280
(B) <u>(1)</u> No person shall make or cause to be made a	281
telecommunication, or permit a telecommunication to be made from	282
a telecommunications device under the person's control, with	283
purpose to abuse, threaten, or harass another person.	284
<u>(2) No person shall knowingly post a text or audio</u>	285
<u>statement or an image on an internet web site or web page for</u>	286
<u>the purpose of abusing, threatening, or harassing another</u>	287
<u>person.</u>	288
(C) (1) Whoever violates this section is guilty of	289
telecommunications harassment.	290
(2) A violation of division (A) (1), (2), (3), <del>or</del> (5), <u>(6),</u>	291
<u>(7), (8), (9), (10), or (11)</u> or (B) of this section is a	292
misdemeanor of the first degree on a first offense and a felony	293
of the fifth degree on each subsequent offense.	294
(3) Except as otherwise provided in division (C) (3) of	295
this section, a violation of division (A) (4) of this section is	296
a misdemeanor of the first degree on a first offense and a	297
felony of the fifth degree on each subsequent offense. If a	298
violation of division (A) (4) of this section results in economic	299
harm of one thousand dollars or more but less than seven	300
thousand five hundred dollars, telecommunications harassment is	301
a felony of the fifth degree. If a violation of division (A) (4)	302
of this section results in economic harm of seven thousand five	303
hundred dollars or more but less than one hundred fifty thousand	304

dollars, telecommunications harassment is a felony of the fourth 305  
degree. If a violation of division (A) (4) of this section 306  
results in economic harm of one hundred fifty thousand dollars 307  
or more, telecommunications harassment is a felony of the third 308  
degree. 309

(D) No cause of action may be asserted in any court of 310  
this state against any provider of a telecommunications service, 311  
interactive computer service as defined in section 230 of Title 312  
47 of the United States Code, or information service, or against 313  
any officer, employee, or agent of a telecommunication service, 314  
interactive computer service as defined in section 230 of Title 315  
47 of the United States Code, or information service, for any 316  
injury, death, or loss to person or property that allegedly 317  
arises out of the provider's, officer's, employee's, or agent's 318  
provision of information, facilities, or assistance in 319  
accordance with the terms of a court order that is issued in 320  
relation to the investigation or prosecution of an alleged 321  
violation of this section. A provider of a telecommunications 322  
service, interactive computer service as defined in section 230 323  
of Title 47 of the United States Code, or information service, 324  
or an officer, employee, or agent of a telecommunications 325  
service, interactive computer service as defined in section 230 326  
of Title 47 of the United States Code, or information service, 327  
is immune from any civil or criminal liability for injury, 328  
death, or loss to person or property that allegedly arises out 329  
of the provider's, officer's, employee's, or agent's provision 330  
of information, facilities, or assistance in accordance with the 331  
terms of a court order that is issued in relation to the 332  
investigation or prosecution of an alleged violation of this 333  
section. 334

(E) (1) This section does not apply to a person solely 335

because the person provided access or connection to or from an 336  
electronic method of remotely transferring information not under 337  
that person's control, including having provided capabilities 338  
that are incidental to providing access or connection to or from 339  
the electronic method of remotely transferring the information, 340  
and that do not include the creation of the content of the 341  
material that is the subject of the access or connection. In 342  
addition, any person providing access or connection to or from 343  
an electronic method of remotely transferring information not 344  
under that person's control shall not be liable for any action 345  
voluntarily taken in good faith to block the receipt or 346  
transmission through its service of any information that the 347  
person believes is, or will be sent, in violation of this 348  
section. 349

(2) Division (E) (1) of this section does not create an 350  
affirmative duty for any person providing access or connection 351  
to or from an electronic method of remotely transferring 352  
information not under that person's control to block the receipt 353  
or transmission through its service of any information that it 354  
believes is, or will be sent, in violation of this section 355  
except as otherwise provided by law. 356

(3) Division (E) (1) of this section does not apply to a 357  
person who conspires with a person actively involved in the 358  
creation or knowing distribution of material in violation of 359  
this section or who knowingly advertises the availability of 360  
material of that nature. 361

(4) A provider or user of an interactive computer service, 362  
as defined in section 230 of Title 47 of the United States Code, 363  
shall neither be treated as the publisher or speaker of any 364  
information provided by another information content provider, as 365

defined in section 230 of Title 47 of the United States Code, 366  
nor held civilly or criminally liable for the creation or 367  
development of information provided by another information 368  
content provider, as defined in section 230 of Title 47 of the 369  
United States Code. Nothing in this division shall be construed 370  
to protect a person from liability to the extent that the person 371  
developed or created any content in violation of this section. 372

(F) Divisions (A) (5) to (11) and (B) (2) of this section do 373  
not apply to a person who, while employed or contracted by a 374  
newspaper, magazine, press association, news agency, news wire 375  
service, cable channel or cable operator, or radio or television 376  
station, is gathering, processing, transmitting, compiling, 377  
editing, or disseminating information for the general public 378  
within the scope of the person's employment in that capacity or 379  
the person's contractual authority in that capacity. 380

(G) As used in this section: 381

(1) "Economic harm" means all direct, incidental, and 382  
consequential pecuniary harm suffered by a victim as a result of 383  
criminal conduct. "Economic harm" includes, but is not limited 384  
to, all of the following: 385

(a) All wages, salaries, or other compensation lost as a 386  
result of the criminal conduct; 387

(b) The cost of all wages, salaries, or other compensation 388  
paid to employees for time those employees are prevented from 389  
working as a result of the criminal conduct; 390

(c) The overhead costs incurred for the time that a 391  
business is shut down as a result of the criminal conduct; 392

(d) The loss of value to tangible or intangible property 393  
that was damaged as a result of the criminal conduct. 394

(2) "Caller" means the person described in division (A) of this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.

(3) "Telecommunication" and "telecommunications device" have the same meanings as in section 2913.01 of the Revised Code.

(4) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

~~(F)~~(5) "Family or household member" means any of the following:

(a) Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in division (A) (9) of this section is committed:

(i) A spouse, a person living as a spouse, or a former spouse of the recipient;

(ii) A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.

(b) The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in division (A) (9) of this section is committed is the other natural parent or is the putative other natural parent.

(6) "Person living as a spouse" means a person who is

living or has lived with the recipient of the telecommunication 423  
against whom the act prohibited in division (A) (9) of this 424  
section is committed in a common law marital relationship, who 425  
otherwise is cohabiting with the recipient, or who otherwise has 426  
cohabited with the recipient within five years prior to the date 427  
of the alleged commission of the act in question. 428

(7) "Cable operator" has the same meaning as in section 429  
1332.21 of the Revised Code. 430

(H) Nothing in this section prohibits a person from making 431  
a telecommunication to a debtor that is in compliance with the 432  
"Fair Debt Collection Practices Act," 91 Stat. 874 (1977), 15 433  
U.S.C. 1692, as amended, or the "Telephone Consumer Protection 434  
Act," 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. 435

**Section 2.** That existing sections 2903.211 and 2917.21 of 436  
the Revised Code are hereby repealed. 437