



**Testimony of Michael Piecuch
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On Behalf of the Pennsylvania District Attorneys Association

**Before the House Judiciary Committee
Regarding HB 1163**

September 12, 2013

Good morning Chairman Marsico, Chairman Caltagirone, and members of the House Judiciary Committee. My name is Michael Piecuch, and I am the District Attorney of Snyder County. On behalf of the Pennsylvania District Attorneys Association, I appreciate the opportunity to speak to you today about the merits of House Bill 1163.

We live in an era of incredible technological advances – advances which often make our lives more efficient and more enjoyable. For better or worse, technology shapes and impacts our lives and those of our children.

Our children rely on technology as an indispensable tool for schoolwork, recreation, and socializing - so much so, one recent study found the number of teens getting driver's licenses had plummeted for the simple reason that most teens no longer considered a driver's license to be important. Kids said they don't need to drive since most of their socializing is done via social networking, texting, and email.

The reality is kids are “plugged in” to technology nearly every moment of every day. In 2010, it was estimated that 75% of 12 to 17-year-olds had their own cell phones. That number is even higher today. As technology is more widely available to teens, its abuse becomes more prevalent, particularly with respect to cyberharassment.

Technology is prone to abuse for two main reasons. First, it operates instantaneously, disseminating *any* information – correct or incorrect, innocent or hurtful – to countless numbers of people immediately. In the past, rumors circulated through schools over the course of days and weeks but with technology today, rumors can spread in seconds. Imagine what this means in the life of a teenager. Humiliating rumors and taunts may be viewed by millions, and it is almost impossible to remove information from the Internet. A malicious Facebook posting can set off a chain reaction, causing a dangerous situation that spirals out of control before adults can even intervene. Now if any teenagers were here, they might chuckle because for many Facebook is quite passé. Twitter, Vine, and Instagram are among the emerging technology trends, and they allow even faster dissemination.

Second, the anonymity of the online environment allows cyberharassment to flourish. A person can post and spread information without disclosing his or her identity. The anonymity makes it difficult to stop the flow of harmful information, and it emboldens bullies to do and say things they ordinarily would not. By hiding behind a computer or a cell phone, an offender can strike without seeing the impact – and this only exacerbates the cruelty.

Regardless of how or why it occurs, one thing is certain - cyberbullying has devastating effects. The National Annenberg Survey of Youth found 1 of 7 (or 14%) of adolescents and young adults have been a victim of cyberharassment. And the strain and stress experienced by these victims “can manifest itself in problematic emotions that lead to deviant behavior,” possibly even delinquency. Even worse - victims of cyberbullying are four times more likely to be suicidal.

Perhaps no case more clearly illustrates the dangers of cyberharassment than the case of Megan Meier. In 2006, Megan was a thirteen-year-old girl living in a small town in Missouri. Megan set up a MySpace account and shortly thereafter, was contacted by a teenage boy who lived in a nearby town. Although the two never met in person, they established a close online friendship. To her family, this friendship appeared to transform Megan. But all of that changed when, months later, she began to receive disparaging messages from her new friend – culminating in the message that read, “The world would be a better place without you.” Twenty minutes later, Megan’s body was found in her bedroom closet – Megan had hanged herself.

A subsequent investigation revealed Megan’s friend was entirely fictional. The MySpace page and messages were initiated and monitored by a woman who lived in Megan’s neighborhood. That woman was angry with Megan because Megan was no longer friendly with the woman’s daughter. The perpetrator was an adult, a mother.

But when Megan’s parents turned to local law enforcement to prosecute the woman, they were stunned to find out there was little that could be done. In response, the Missouri legislature amended the state’s harassment statute to penalize bullying through electronic media. To date, over twenty other states have followed suit and today, this trend reaches Pennsylvania.

Law must keep pace with technology, and House Bill 1163 does just that. This legislation is urgently needed, considering the prevalence of cyberharassment as well as the serious threat it poses to children.

Currently, no criminal offense adequately addresses cyberharassment. Section 6321 addresses the issue of sexting, but only applies if there is dissemination of a sexually explicit image. Section 2709 addresses harassment generally, but often requires repeated communications or communications which are lewd, obscene, or threatening. But since cyberharassment does not always involve repeated communications nor does it always involve obscene language.

This legislation would amend Title 18, Section 2709 – the offense of Harassment – to include the specific offense of “Cyber Harassment of a child.” It would provide that a person who uses electronic communication to harass a child – either by threatening or making disparaging comments – to be charged with a misdemeanor of the third degree.

Let me be clear - our goal is not to imprison these offenders, but to identify, punish and deter these crimes - through education, diversionary programs, and community service. The precious resources of law enforcement should be expended to negotiate isolated school-yard gossip. Accordingly, we anticipate that the vast majority of cyberharassment incidents will be handled informally, with parents and schools working together. But to do nothing is not an option. And the incidents that are most severe do warrant the involvement of law enforcement. Our children must know that those who torment them will be held accountable, and those who do the tormenting must be shown there is a better way.

I understand that some have argued the bill infringes on freedom of speech and criminalizes typical childhood behavior. That is clearly not the intent of this legislation, but with those arguments in mind, I would like to offer some suggestions:

First, the bill could mirror the stalking statute, 18 Pa.C.S. §2709.1, and apply only when there has been repeated acts or a pattern of behavior. In this way, a communication that is an isolated occurrence would not fall within the definition of cyberharassment. For instance, the Arkansas cyberharassment statute requires that the communication be in furtherance of “severe, repeated, or hostile behavior towards the child.”

Also, the requisite criminal intent could be heightened so that only the most serious cases are criminalized. The bill currently requires the perpetrator merely “intend to harass” the child. You may wish to amend the bill to require “an intent to coerce, intimidate, or torment” a child. Alternatively, mirror this statute after the Ethnic Intimidation statute – 18 Pa.C.S §2710 – and require the perpetrator to act “with malicious intention.” By changing the intent in either of these ways, behavior that is merely harassing or annoying would not constitute cyberharassment.

This bill will make a positive impact on the lives of Pennsylvania’s children. I congratulate Representative Marsico on this legislation and on behalf of the Pennsylvania District Attorneys Association, we look forward to working with all of you to get this bill passed.

Thank you for the opportunity to present testimony. I am happy to answer any questions you might have.