



128 DORRANCE STREET, SUITE 220
PROVIDENCE, RI 02903
401.831.7171 (t)
401.831.7175 (f)
www.riaclu.org

**COMMENTS IN OPPOSITION TO 15-H 5467,
RELATING TO COMPUTER CRIME
February 24, 2015**

The ACLU of Rhode Island is very concerned by the breadth of this legislation. Its criminalization of speech, particularly against individuals who may have had no ill intent but are blamed for the actions of others, raises significant First Amendment concerns.

Under current law, cyberstalking and cyberharassment occur as a result of “a series of acts over a period of time, evidencing a continuity of purpose.” To have violated the law, then, at least three elements must be met: an individual must (1) intend to harass a victim, (2) over a period of time, and (3) be directly responsible for the activities leading to that harassment. This legislation, however, would undermine all three of these logical elements of the offense by allowing for charges of cyberstalking and cyberharassment if one single act “causes a person to be repeatedly contacted by others in a manner which seriously alarms, annoys, or bothers” them. Regardless of an individual’s intent to bother a victim, if only one e-mail or posting on a social networking site is used by others to “repeatedly contact” someone in a way that “bothers” that person, even without the knowledge of the individual originating the post, the original poster faces up to a year in prison.

Thus, a reporter who posts a story on the *Providence Journal’s* website about a controversial topic or person could be charged with cyberstalking and cyberharassment if readers of that story decide to express their opinion in an “annoying” way to a subject of the article. By allowing for cyberstalking and cyberharassment charges in any instance where an individual has been “seriously alarmed, annoyed, or bothered,” people looking to post on a website must not only censor their own words so as not to offend a particular individual, but must also attempt the impossible task of predicting the behavior of anyone who will read their words. This creates a serious chilling effect on the First Amendment rights of individuals who choose to post online.

As one legal scholar has noted, “harassment and stalking laws — which were designed to stop (among other things) unwanted speech *to* a person — are now being used to stop unwanted speech *about* a person. Yet so long as the speech about a person doesn’t consist of true threats or other unprotected forms of speech, it must remain constitutionally protected.” This is an important distinction, but one undercut by this bill. The ACLU therefore opposes its passage.