

REFERENCE TITLE: **online impersonation; offense**

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2004

Introduced by
Representative Ugenti

AN ACT

AMENDING TITLE 13, CHAPTER 20, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2012; RELATING TO ONLINE IMPERSONATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 20, Arizona Revised Statutes, is amended
3 by adding section 13-2012, to read:

4 13-2012. Online impersonation; defenses; classification;
5 definitions

6 A. A PERSON COMMITS ONLINE IMPERSONATION IF THE PERSON, WITHOUT
7 OBTAINING THE OTHER PERSON'S CONSENT AND WITH THE INTENT TO HARM, DEFRAUD,
8 INTIMIDATE OR THREATEN ANY PERSON, USES THE NAME OR PERSONA OF ANOTHER PERSON
9 TO DO EITHER OF THE FOLLOWING:

10 1. CREATE A WEB PAGE ON A COMMERCIAL SOCIAL NETWORKING SITE OR OTHER
11 INTERNET WEBSITE.

12 2. POST OR SEND ONE OR MORE MESSAGES ON OR THROUGH A COMMERCIAL SOCIAL
13 NETWORKING SITE OR OTHER INTERNET WEBSITE, OTHER THAN ON OR THROUGH AN
14 ELECTRONIC MAIL PROGRAM OR MESSAGE BOARD PROGRAM.

15 B. A PERSON COMMITS ONLINE IMPERSONATION IF THE PERSON SENDS AN
16 ELECTRONIC MAIL, INSTANT MESSAGE, TEXT MESSAGE OR SIMILAR COMMUNICATION THAT
17 REFERENCES A NAME, DOMAIN ADDRESS, PHONE NUMBER OR OTHER ITEM OF PERSONAL
18 IDENTIFYING INFORMATION BELONGING TO ANY PERSON AND ALL OF THE FOLLOWING
19 APPLY:

20 1. THE PERSON DOES NOT OBTAIN THE OTHER PERSON'S CONSENT.

21 2. THE PERSON INTENDS TO CAUSE A RECIPIENT OF THE COMMUNICATION TO
22 REASONABLY BELIEVE THAT THE OTHER PERSON AUTHORIZED OR TRANSMITTED THE
23 COMMUNICATION.

24 3. THE PERSON INTENDS TO HARM OR DEFRAUD ANY PERSON.

25 C. IF CONDUCT THAT CONSTITUTES AN OFFENSE UNDER THIS SECTION ALSO
26 CONSTITUTES AN OFFENSE UNDER ANY OTHER LAW, THE PERSON MAY BE PROSECUTED
27 UNDER THIS SECTION, THE OTHER LAW, OR BOTH.

28 D. IT IS A DEFENSE TO A PROSECUTION UNDER THIS SECTION THAT THE PERSON
29 IS ANY OF THE FOLLOWING ENTITIES OR THAT THE PERSON'S CONDUCT CONSISTED
30 SOLELY OF ACTION TAKEN AS AN EMPLOYEE OF ANY OF THE FOLLOWING ENTITIES:

31 1. A COMMERCIAL SOCIAL NETWORKING SITE.

32 2. AN INTERNET SERVICE PROVIDER.

33 3. AN INTERACTIVE COMPUTER SERVICE AS DEFINED IN 47 UNITED STATES CODE
34 SECTION 230.

35 4. A TELECOMMUNICATIONS PROVIDER.

36 5. A VIDEO SERVICE PROVIDER OR CABLE SERVICE PROVIDER.

37 E. ONLINE IMPERSONATION UNDER SUBSECTION A OF THIS SECTION IS A CLASS
38 5 FELONY. ONLINE IMPERSONATION UNDER SUBSECTION B OF THIS SECTION IS A CLASS
39 1 MISDEMEANOR, EXCEPT THAT IT IS A CLASS 5 FELONY IF THE PERSON COMMITS THE
40 OFFENSE WITH THE INTENT TO SOLICIT A RESPONSE BY EMERGENCY PERSONNEL.

41 F. FOR THE PURPOSES OF THIS SECTION:

42 1. "CABLE SERVICE PROVIDER" MEANS A PERSON WHO PROVIDES CABLE SERVICE.

43 2. "COMMERCIAL SOCIAL NETWORKING SITE" MEANS ANY BUSINESS,
44 ORGANIZATION OR OTHER SIMILAR ENTITY OPERATING A WEBSITE THAT PERMITS PERSONS
45 TO BECOME REGISTERED USERS TO ESTABLISH PERSONAL RELATIONSHIPS WITH OTHER

1 USERS THROUGH DIRECT OR REAL-TIME COMMUNICATION WITH OTHER USERS OR THE
2 CREATION OF WEB PAGES OR PROFILES AVAILABLE TO THE PUBLIC OR TO OTHER USERS.
3 COMMERCIAL SOCIAL NETWORKING SITE DOES NOT INCLUDE AN ELECTRONIC MAIL PROGRAM
4 OR A MESSAGE BOARD PROGRAM.

5 3. "TELECOMMUNICATIONS PROVIDER":
6 (a) MEANS:
7 (i) A CERTIFICATED TELECOMMUNICATIONS UTILITY.
8 (ii) A SHARED TENANT SERVICE PROVIDER.
9 (iii) A NONDOMINANT CARRIER OF TELECOMMUNICATIONS SERVICES.
10 (iv) A PROVIDER OF COMMERCIAL MOBILE SERVICE AS DEFINED IN THE
11 COMMUNICATIONS ACT OF 1934 (47 UNITED STATES CODE SECTION 332(d)), FEDERAL
12 COMMUNICATIONS COMMISSION RULES AND THE OMNIBUS BUDGET RECONCILIATION ACT OF
13 1993 (P.L. 103-66).
14 (b) DOES NOT INCLUDE:
15 (i) A PROVIDER OF ENHANCED OR INFORMATION SERVICES, OR ANOTHER USER OF
16 TELECOMMUNICATIONS SERVICES, WHO DOES NOT ALSO PROVIDE TELECOMMUNICATIONS
17 SERVICES.
18 (ii) A STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION OR A
19 SERVICE PROVIDED BY A STATE AGENCY OR STATE INSTITUTION OF HIGHER EDUCATION.

20 4. "VIDEO SERVICE PROVIDER" MEANS A VIDEO PROGRAMMING DISTRIBUTOR THAT
21 DISTRIBUTES VIDEO PROGRAMMING SERVICES THROUGH WIRELINE FACILITIES LOCATED
22 AT LEAST IN PART IN THE PUBLIC RIGHT OF WAY WITHOUT REGARD TO DELIVERY
23 TECHNOLOGY. VIDEO SERVICE PROVIDER DOES NOT INCLUDE A CABLE SERVICE
24 PROVIDER.