

# NC Cyberbullying, Cyberstalking and Computer Statutes

2010

## § 115C-407.15. Bullying and harassing behavior

(a) As used in this Article, "bullying or harassing behavior" is any pattern of gestures or written, electronic, or verbal communications, or any physical act or any threatening communication, that takes place on school property, at any school-sponsored function, or on a school bus, and that:

- (1) Places a student or school employee in actual and reasonable fear of harm to his or her person or damage to his or her property; or
- (2) Creates or is certain to create a hostile environment by substantially interfering with or impairing a student's educational performance, opportunities, or benefits. For purposes of this section, "hostile environment" means that the victim subjectively views the conduct as bullying or harassing behavior and the conduct is objectively severe or pervasive enough that a reasonable person would agree that it is bullying or harassing behavior.

Bullying or harassing behavior includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, academic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability, or by association with a person who has or is perceived to have one or more of these characteristics.

(b) No student or school employee shall be subjected to bullying or harassing behavior by school employees or students.

(c) No person shall engage in any act of reprisal or retaliation against a victim, witness, or a person with reliable information about an act of bullying or harassing behavior.

(d) A school employee who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior shall report the incident to the appropriate school official.

(e) A student or volunteer who has witnessed or has reliable information that a student or school employee has been subject to any act of bullying or harassing behavior should report the incident to the appropriate school official.

## 115C-523. Care of school property.

It shall be the duty of every teacher and principal in charge of school buildings to instruct the children in the proper care of public property, and it is their duty to exercise due care in the protection of school property against damage, either by defacement of the walls and doors or any breakage on the part of the pupils, and if they shall fail to exercise a reasonable care in the protection of property during the day, they may be held financially responsible for all such damage, and if the damage is due to carelessness or negligence on the part of the teachers or principal, the superintendent may hold those in charge of the building responsible for the

damage, and if it is not repaired before the close of a term, a sufficient amount may be deducted from their final vouchers to repair the damage for which they are responsible.

Notwithstanding any other provision of law, the parents or legal guardians of any minor are liable for any gross negligence or willful damage or destruction of school property by that minor to the extent of five thousand dollars (\$5,000). The Board of Education shall make written demand upon the parent or legal guardian as a prerequisite to bringing suit.

It shall be the duty of all principals to report immediately to their respective superintendents any unsanitary condition, damage to school property or needed repair. (1955, c. 1372, art. 17, s. 7; 1981, c. 423, s. 1; 1985, c. 581, s. 4.)

### **§ 14-196.3. Cyberstalking.**

(a) The following definitions apply in this section:

- (1) Electronic communication. – Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.
- (2) Electronic mail. – The transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

(b) It is unlawful for a person to:

- (1) Use in electronic mail or electronic communication any words or language threatening to inflict bodily harm to any person or to that person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.
- (2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of abusing, annoying, threatening, terrifying, harassing, or embarrassing any person.
- (3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to abuse, annoy, threaten, terrify, harass, or embarrass.
- (4) Knowingly permit an electronic communication device under the person's control to be used for any purpose prohibited by this section.

(c) Any offense under this section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received in this State, or first viewed by any person in this State.

(d) Any person violating the provisions of this section shall be guilty of a Class 2 misdemeanor.

(e) This section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others. This section shall not be construed to impair any constitutionally protected activity, including speech, protest, or assembly. (2000-125, s. 1; 2000-140, s. 91.)

**§ 14-454. Accessing computers.**

(a) It is unlawful to willfully, directly or indirectly, access or cause to be accessed any computer, computer program, computer system, computer network, or any part thereof, for the purpose of:

- (1) Devising or executing any scheme or artifice to defraud, unless the object of the scheme or artifice is to obtain educational testing material, a false educational testing score, or a false academic or vocational grade, or
- (2) Obtaining property or services other than educational testing material, a false educational testing score, or a false academic or vocational grade for a person, by means of false or fraudulent pretenses, representations or promises.

A violation of this subsection is a Class G felony if the fraudulent scheme or artifice results in damage of more than one thousand dollars (\$1,000), or if the property or services obtained are worth more than one thousand dollars (\$1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any computer, computer program, computer system, or computer network for any purpose other than those set forth in subsection (a) above, is guilty of a Class 1 misdemeanor.

(c) For the purpose of this section, the phrase "access or cause to be accessed" includes introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1979, 2nd Sess., c. 1316, s. 19; 1981, cc. 63, 179; 1993, c. 539, s. 293; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 2000-125, s. 4.)

**§ 14-454.1. Accessing government computers.**

(a) It is unlawful to willfully, directly or indirectly, access or cause to be accessed any government computer for the purpose of:

- (1) Devising or executing any scheme or artifice to defraud, or
- (2) Obtaining property or services by means of false or fraudulent pretenses, representations, or promises.

A violation of this subsection is a Class F felony.

(b) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any government computer for any purpose other than those set forth in subsection (a) of this section is guilty of a Class H felony.

(c) Any person who willfully and without authorization, directly or indirectly, accesses or causes to be accessed any educational testing material or academic or vocational testing scores or grades that are in a government computer is guilty of a Class 1 misdemeanor.

(d) For the purpose of this section the phrase "access or cause to be accessed" includes introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (2002-157, s. 4.)

**§ 14-455 Damaging computers, computer programs, computer systems, computer networks, and resources.**

(a) It is unlawful to willfully and without authorization alter, damage, or destroy a computer, computer program, computer system, computer network, or any part thereof. A violation of this subsection is a Class G felony if the damage caused by the alteration, damage, or destruction is more than one thousand dollars (\$1,000). Any other violation of this subsection is a Class 1 misdemeanor.

(a1) It is unlawful to willfully and without authorization alter, damage, or destroy a government computer. A violation of this subsection is a Class F felony.

(b) This section applies to alteration, damage, or destruction effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1979, 2nd Sess., c. 1316, s. 20; 1981, cc. 63, 179; 1993, c. 539, s. 294; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 1995, c. 509, s. 12; 2000-125, s. 5; 2002-157, s. 5.)

**§ 14-456. Denial of computer services to an authorized user.**

(a) Any person who willfully and without authorization denies or causes the denial of computer, computer program, computer system, or computer network services to an authorized user of the computer, computer program, computer system, or computer network services is guilty of a Class 1 misdemeanor.

(b) This section also applies to denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (1979, c. 831, s. 1; 1993, c. 539, s. 295; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 764, s. 1; 2000-125, s. 6.)

**§ 14-456.1. Denial of government computer services to an authorized user.**

(a) Any person who willfully and without authorization denies or causes the denial of government computer services is guilty of a Class H felony. For the purposes of this section, the term "government computer service" means any service provided or performed by a government computer as defined in G.S. 14-454.1.

(b) This section also applies to denial of services effectuated by introducing, directly or indirectly, a computer program (including a self-replicating or a self-propagating computer program) into a computer, computer program, computer system, or computer network. (2002-157, s. 6.)

**§ 14-458. Computer trespass; penalty.**

(a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network without authority and with the intent to do any of the following:

- (1) Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs, or computer software from a computer or computer network.
- (2) Cause a computer to malfunction, regardless of how long the malfunction persists.
- (3) Alter or erase any computer data, computer programs, or computer software.
- (4) Cause physical injury to the property of another.
- (5) Make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network.
- (6) Falsely identify with the intent to deceive or defraud the recipient or forge commercial electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk commercial electronic mail through or into the computer network of an electronic mail service provider or its subscribers.

For purposes of this subsection, a person is "without authority" when (i) the person has no right or permission of the owner to use a computer, or the person uses a computer in a manner exceeding the right or permission, or (ii) the person uses a computer or computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk commercial electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider.

(b) Any person who violates this section shall be guilty of computer trespass, which offense shall be punishable as a Class 3 misdemeanor. If there is damage to the property of another and the damage is valued at less than two thousand five hundred dollars (\$2,500) caused by the person's act in violation of this section, the offense shall be punished as a Class 1 misdemeanor. If there is damage to the property of another valued at two thousand five hundred dollars (\$2,500) or more caused by the person's act in violation of this section, the offense shall be punished as a Class I felony.

(c) Any person whose property or person is injured by reason of a violation of this section may sue for and recover any damages sustained and the costs of the suit pursuant to G.S. 1-539.2A. (1999-212, s. 3; 2000-125, s. 7.)

### **§ 14-458.1. Cyber-bullying; penalty**

(a) Except as otherwise made unlawful by this Article, it shall be unlawful for any person to use a computer or computer network to do any of the following:

- (1) With the intent to intimidate or torment a minor:
  - a. Build a fake profile or Web site;
  - b. Pose as a minor in
    1. An Internet chat room
    2. An electronic mail message; or

3. An instant message;

c. Follow a minor online or into an Internet chat room; or

d. Post or encourage others to post on the Internet private, personal, or sexual information pertaining to a minor.

(2) With the intent to intimidate or torment a minor or the minor's parent or guardian:

a. Post a real or doctored image of a minor on the Internet;

b. Access, alter, or erase any computer network, computer data, computer program, or computer software, including breaking into a password protected account or stealing or otherwise accessing passwords; or

c. Use a computer system for repeated, continuing, or sustained electronic communications, including electronic mail or other transmissions, to a minor.

(3) Plant any statement, whether true or false, tending to provoke or that actually provokes any third party to stalk or harass a minor.

(4) Copy and disseminate, or cause to be made, an unauthorized copy of any data pertaining to a minor for the purpose of intimidating or tormenting that minor (in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network).

(5) Sign up a minor for a pornographic Internet site.

(6) Without authorization of the minor or the minor's parent or guardian, sign up a minor for electronic mailing lists or to receive junk electronic messages and instant messages, resulting in intimidation or torment of the minor.

(b) Any person who violates this section shall be guilty of cyber-bullying, which offense shall be punishable as a Class 1 misdemeanor if the defendant is 18 years of age or older at the time the offense is committed. If the defendant is under the age of 18 at the time the offense is committed, the offense shall be punishable as a Class 2 misdemeanor.

(c) Whenever any person pleads guilty to or is guilty of an offense under this section, and the offense was committed before the person attained the age of 18 years, the court may, without entering a judgment of guilt and with the consent of the defendant, defer further proceedings and place the defendant on probation upon such reasonable terms and conditions as the court may require. Upon fulfillment of the terms and conditions of the probation provided for in this subsection, the court shall discharge the defendant and dismiss the proceedings against the defendant. Discharge and dismissal under this subsection shall be without court adjudication of guilt and shall not be deemed a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Upon discharge and dismissal pursuant to this subsection, the person may apply for an order to expunge the complete record of the proceedings resulting in the dismissal and discharge, pursuant to the procedures and requirements set forth in G.S. 15A-146