

## **COMMITTEE BILL ANALYSIS**

**Bill:** House Bill 2249

**Printer's No.:** 4173

**Sponsor:** Rep. Watson

**Prepared by:** Gregg Warner

**Synopsis:** This bill amends the Crimes Code, Title 18 of the Pennsylvania Consolidated Statutes, to create the criminal offense of online impersonation, and the Judicial Code, Title 42, to provide for damages in civil actions for online impersonation.

### **Summary:**

#### **Criminal offense defined**

A person commits the criminal offense of online impersonation if the person uses the name, persona or identifying information of another person or of a fictitious person to do any of the following:

- (1) Create a web page.
- (2) Post one or more messages on a commercial networking site.
- (3) Send an electronic mail, instant message, text message or similar communication.
- (4) Open an e-mail account.
- (5) Open an account or profile on a commercial social networking site.

In addition to using the name, persona or identifying information of another person or of a fictitious person, the person must engage in an activity prohibited under any of the following:

- (1) Section 2706 (relating to terroristic threats).
- (2) Section 2709 (relating to harassment).
- (3) Section 2709.1 (relating to stalking).
- (4) Section 4952 (relating to intimidation of witnesses or victims).
- (5) Section 4953 (relating to retaliation against witness, victim or party).

### **Grading**

The criminal offense of online impersonation shall be classified as a misdemeanor of the second degree or one degree higher in classification than the classification of the underlying offense, whichever is greater.

### **Application**

The criminal offense of online impersonation shall not be construed to apply to works of public interest, including commentary, satire and parody. A person may be convicted of online impersonation if the victim or the offender is located in Pennsylvania.

**Concurrent jurisdiction**

The Attorney General shall have the authority to investigate and to institute criminal proceedings for the criminal offense of online impersonation when the offense or series of offenses involves more than one county in Pennsylvania or another state.

**Civil action**

The Judicial Code is amended to create a civil cause of action based upon online impersonation as defined in the criminal statute. The purpose of the civil action is to recover damages for any loss or injury sustained as a result of the criminal offense.

An action may be brought by:

- (1) A natural person.
- (2) A parent or guardian of a natural person, if the natural person is incompetent or is an individual under 18 years of age.
- (3) A corporation, partnership, limited liability company, business trust, other association, estate, trust or foundation.

The court may award damages as follows:

- (1) Actual damages arising from the incident or \$500, whichever is greater. Damages include loss of money, reputation or property, whether real or personal. The court may, in its discretion, award up to three times the actual damages sustained, but not less than \$500.
- (2) Reasonable attorney fees and court costs.
- (3) Additional relief the court deems necessary and proper.

**Effective date**

This act takes effect in 60 days.

**Background:** The House of Representatives passed House Bill 2249 on October 3, 2012 by a vote of 196 to 1.