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Prison Awaiting Hostile Bloggers

By David Kravets [✉](#) May 5, 2009 | 5:12 pm | Categories: [Censorship](#)

Proposed congressional legislation would demand up to two years in prison for those whose electronic speech is meant to “coerce, intimidate, harass, or cause substantial emotional distress to a person.”



Australian prison cell found on Flickr. Your cell may vary.

Instead of prison, perhaps we should say gulag.

The proposal by Rep. Linda Sanchez, D-Los Angeles, [would never pass](#) First Amendment muster, unless the U.S. Constitution was altered without us knowing. So Sanchez, and the 14 other lawmakers who signed on to the proposal, are grandstanding to show the public they care about children and are opposed to cyberbullying.

The measure, [H.R. 1966](#), is labeled the Megan Meier Cyberbullying Prevention Act. It's designed to target the behavior that led to last year's suicide of the 13-year-old Meier.

In response to Meier's suicide, prosecutors turned to an anti-hacking statute, the Computer Fraud and Abuse Act, and [prosecuted](#) Lori Drew. She was accused of violating MySpace's terms of service agreement in what prosecutors said was a complex conspiracy to harass Meier via a fake MySpace online profile.

The judge presiding over the case is weighing a motion to nullify the jury's verdict on allegations the authorities failed to prove Drew knew the MySpace terms of service existed — allegations that would be mooted had Drew been prosecuted under Sanchez's proposal. Drew's case was the nation's

first cyberbullying prosecution under the Computer Fraud and Abuse Act.

Sanchez's bill goes way beyond cyberbullying and comes close to making it a federal offense to log onto the internet or use the telephone. The methods of communication where hostile speech is banned include e-mail, instant messaging, blogs, websites, telephones and text messages.

We can't say what we think of Sanchez's proposal. Doing so would clearly get us two years in solitary confinement.

The bill has been referred to the House Judiciary Committee.

Photo: [amandabhslater](#)

See Also:

- [Can Lori Drew Verdict Survive the 9th Circuit](#)
- [Lori Drew Indicted in MySpace Suicide Case — Updated](#)
- [Prosecutor: Lori Drew Intended to 'Prey' on Girl's Psyche](#)
- [Lori Drew Files Motions to Dismiss in MySpace Cyberbullying Case ...](#)
- ['The Analyzer' Hack Probe Widens; \\$10 Million Allegedly](#)
- [How to hack your way into space](#)
- [ATM Hack Uncovered](#)
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Comments (43)

Posted by: fluentinsilence | 05/5/09 | 5:46 pm

How very ignorant this is. More should be done to toughen up kids, educate them further on the various notorious aspects of the internet, and reject bullying, not give them more excuses to be "wussies." You're not going to eliminate bullying entirely when people have the capacity for anonymity, but you can help a kid stand up to people more efficiently.

Posted by: himura_kenshin | 05/5/09 | 6:13 pm

@fluentinsilence

You don't even need to just worry about anonymous bullies - there are plenty that exist in meatspace that have names.

Personally, I think it's absolutely ridiculous how much time and effort is being put into legislation about something that has caused so little harm. I could understand if thousand or even tens of thousands of people were being driven to suicide through bullying on the internet.

It simply isn't possible or worthwhile to outlaw everything that doesn't make everyone happy. What happened is unfortunate. It's also unfortunate that there was no logical direct legal recourse to respond to it - hence using the backdoor Computer Fraud and Abuse Act. However, this proposed bill is ridiculous. I hope it dies a very, very swift death.

Posted by: vulturetx | 05/5/09 | 6:32 pm

@KRAVETZ Thanks for referencing The Volokh Conspiracy, it really does you credit.

As for those who sponsored this bill, well “hanging’s to good for them”. I had to say before our DEM controlled Congress actually passed this POS.

Posted by: chrissowick | 05/5/09 | 8:13 pm

“coerce, intimidate, harass, or cause substantial emotional distress to a person.”

unfortunately, if this is the verbiage, then it would criminalize half the “text speech” on the whole internet.

And just to play devils advocate with the author, I don’t know what country you’ve been blogging from for the past 8 years but Constitutional muster hasn’t been much of a guiding principle for long time. Bad analogy, but yes, its horrendous affront to free speech, and its never going to go anywhere. Its gotta be technically hate speech for this to fly. Anything can be construed as “harassment.”

Posted by: bornean | 05/5/09 | 10:56 pm

Personally I don’t see what’s wrong.

I guess they’re eager to grandstand. At everyone’s expensive though? Well, let’s let him slide by. Just this once.

Posted by: Scriptable | 05/5/09 | 10:58 pm

If it passed, this legislation could be easily abused with the effect of criminalizing all criticism. You probably could even criticize the legislation itself because it would cause Senator Sanchez emotional distress or possibly be considered a form of intimidation. Combine this act with the DMCA and the US would have a complete lockdown on all non-authorized forms of free speech.

Posted by: trixter | 05/5/09 | 11:20 pm

The first amendment has been modified and apparently you werent told.

“Congress shall pass NO LAW ...” (emphasis added), yet laws do exist, and they are enforced. The FTC has truth in advertising laws, the FCC has anti obscenity laws, the FBI investigates fradulent statements, the secret service investigates threats to the president, the FDA regulates medical claims, the SEC regulates prospectus/investing statements, the list goes on.

The supreme court supports this because modifying the constitution without ratification is good so long as they think it serves the publics best interest, granted this forms an oligarchy and removes the republic, putting them in charge of what the constitution says, what amendments exist, and removes that power from the people, but hey this is a popular idea to reinterpret the constitution (even though that is specifically forbidden under the 10th amendment).

Only when people stand up for all of the constitution, even the parts they dont agree with, can the government be put in check. If you agree that any provision in the constitution can be ignored, then you open the door for someone else to take away the ones you like.

The fact that this was proposed indicates that the representatives believe they can do anything, anytime, anywhere, and that they are not limited by the constitution. Congress needs to have a clear

message sent, that they are not allowed to even suggest taking away rights granted in the constitution without first ratifying the constitution (and those suggestions can be treated on their own, but at least its honest). The way to send this message is to write letters, to inform people of what is going on so they too can write letters, and FOLLOW UP WITH A VOTE. Do not reelect anyone who proposes the removal of rights, recall if possible. If the elected officials ("public servants") know that they will end their career if they propose things like this, they are far less likely to propose them.

Freedom requires constant vigilance followed by action, if you are unwilling to fight for your freedom you probably wont have any.

Posted by: jessica90 | 05/5/09 | 11:27 pm

This is a hot topic now at the hot age gap dating club ' agegapmingle.com ' which is a good place for 18+ singles to meet cute younger or older girls with big boobs online. This is the only site where sexy younger or older girls like discussing sports, cougars...

Posted by: stinky | 05/6/09 | 12:13 am

Why do we want to protect coercion, intimidation, and harassment?

Posted by: TowerTone | 05/6/09 | 12:42 am

"unless the U.S. Constitution was altered without us knowing."
Or if it was opened to new interpretation, or international law, or bastardized in a Roe vs. Wade type decision.
Let's ask Michael Savage.....

Posted by: rfrancis1980 | 05/6/09 | 12:46 am

@ stinky

Because different people have different definitions for coercion, intimidation, and harassment. If I started cursing you out for supporting this bill you might consider that harassment and I would therefore run afoul of this law.

We do have restraining order laws, those should be adequate.

Posted by: rfrancis1980 | 05/6/09 | 12:49 am

I'm going to have to coerce, intimidate, harass, or cause substantial emotional distress to the reader of Joe Courtney's email in an effort to get him to drop his co-sponsorship of this bill.

Posted by: oratem | 05/6/09 | 1:43 am

@chrisowick:

"Its gotta be technically hate speech for this to fly"

Why would you even accept a restriction on “hate speech?” As vile as it may be, any attempt to restrict even that is an affront to the first amendment. Besides, then you have the slippery slope of defining what constitutes hateful speech. While it may begin nobly with restricting unfair, prejudiced, bigoted statements intended to incite fear and hatred, in the modern American environment, it would be quickly twisted to serve a chilling effect on all speech. It would likely, in effect, become the same as this proposed legislation by the socialist power-grabbing Democrats.

Posted by: Garst | 05/6/09 | 2:04 am

You know what so ironic? They want to make more ambiguous laws to make it less clear why you are breaking to make it more clear that you are breaking laws. I hope if this law get passed, a judge kills it immediately and scolds anyone who voted for the bill, including the president. Then proceeds to try the 15 lawmakers for treason. And yes, it is treason when you try to take away our inalienable rights. If you don't agree with me, what next will you let the government take away from us, the right to think our own thoughts? Would you be willing to let the government order everyone to be lobotomized and turned into cattle? I have news for you not all cattle are “cattle;” many are quite capable to thinking on their own. And one last thing: look up the case study of case study of Phineas Gage. The gist of it says lobotomies don't always make people more complacent

Posted by: margarzon | 05/6/09 | 4:29 am

This is my first time to know that bullying in the internet should be put in prison. I think when no one reacts to file a law against it then it means nothing but if there is malice to those big people around then you will be given judgement for meaningless basis.

[back pain relief</a.](#)

Posted by: hypn0tiq | 05/6/09 | 4:46 am

lets be honest, america is a corporation not a country, we start wars to turn profits and boost our economy. we arent citizens we are employees....anarchy anyone?

Posted by: ManekiNeko | 05/6/09 | 5:18 am

I hate children. The fact that politicians pander to parents by violating everyone else's civil rights makes me hate them even more.

Posted by: groceriesack | 05/6/09 | 6:05 am

This isn't at all related to the fact that we have gradually let technology babysit children? Maybe this could have been prevented if the parents provided her with a better antidepressant. The child was given a tool and improperly monitored. Quit relying on drugs and technology and start being parents.

Posted by: worldkontor | 05/6/09 | 7:08 am

FYI, it's not *smaller*. It's *bigger*. It weighs in at 727MB (bigger than the original CD!), and you need 1.5GB just to install it.

Posted by: Tamm | 05/6/09 | 8:13 am

@ManekiNeko

hey dont blame the children. we hate this stuff too.
the internets is one of the few places we dont need to modify speech to fit preconcieved adult notions of how we should talk and act.
its total bullshit.

Posted by: ShadoeKnight | 05/6/09 | 8:19 am

What I find interesting is that political figures who know beyond a shadow of a doubt that something like this is wrong and unconstitutional are the people who we vote into office. We need to let them know that this isn't the kind of time wasting and money spending we want or need. Real solutions to the problems are necessary not fake grandstanding utter nonsense. Vote them out.

Posted by: jonsands23 | 05/6/09 | 9:16 am

i am not a hostile blogger. or so i think. lol.
[jon](#)

Posted by: deweysghost | 05/6/09 | 10:18 am

If more educators had a better grasp of the current technological world in which we live and could teach in a way that mimics or enhances the way kids already interact with the world, schools could show children how to deal with "cyber-bullying" instead of attempts to create such an idiotic law. Did I read correctly that a Democrat sponsored this bill? Perhaps she should wander over to the other side of the isle, and drop a 22" CRT monitor on her head.

Posted by: EhrichWeiss1926 | 05/6/09 | 12:04 pm

The "greatest country in the world" continues it's downward spiral.

Posted by: bornean | 05/6/09 | 12:05 pm

We already have this law in a few states. Illinois has this as a law. It also expands it to blogs, "Cyberstalking" is how they regard it. That's a felony I think. You just need to hurt their feelings.

You would be shocked to see the excuses they come up to arrest people.

Posted by: bornean | 05/6/09 | 12:06 pm

<http://www.haltabuse.org/resources/laws/illinois.shtml>

Posted by: BaronOfWar | 05/6/09 | 12:14 pm

@ManekiNeko

While I don't hate children, I would agree that all these laws are pushed by parents' lobby because

it's "for the children." Children are resilient, they'll be alright for the most part. Overprotecting does no child any favors later in life. They'll be wussies that can't hack it in adult life. Most of us GenX and older grew up with cold hard metal monkey bars, swing sets, etc. Now they have everything plastic and soft. Anyways, with the use of these laws to protect people from themselves from their own stupidity, they could drive a truck through to get anybody prosecuted for almost anything, in the name of protecting some person's easily bruised self-image. It also makes for a risk-averse culture which in the end is not good for progress. Most people that achieve great things have also learned a great deal from prior, often spectacular, failures.

Posted by: Robohobo | 05/6/09 | 12:42 pm

If ye love wealth better than liberty, the tranquility of servitude better than the animating contest of freedom, go home from us in peace. We ask not your counsels or arms. Crouch down and lick the hands which feed you. May your chains set lightly upon you, and may posterity forget that ye were our countrymen.

-Samuel Adams, speech at the Philadelphia State House, August 1, 1776

Posted by: vieko | 05/6/09 | 12:43 pm

what an ignorant, sneaky and shameful attempt to gain control of what is out of their reach. These politicians should be removed from office. Educate to prevent rather than police communications!

Posted by: cspearow | 05/6/09 | 12:44 pm

Let's expand this proposed legislation: why don't we make it illegal for anybody to do anything that anybody else doesn't like.

Isn't that where this is going?

Posted by: Giffitor | 05/6/09 | 1:10 pm

@ Trixter - Let's run down your list and examine where you went wrong:

1. Truth in advertising - Commercial speech is not afforded the same level of protection as individual speech; it is "afforded commercial speech a limited measure of protection, commensurate with its subordinate position in the scale of First Amendment values, while allowing modes of regulation that might be impermissible in the realm of noncommercial expression." (Ohralik v. Ohio State Bar Ass'n., 1978)
2. Obscenity - obscenity is not protected by the First Amendment and is defined as speech that appeals to the prurient interest of an average person applying contemporary community standards and has no serious literary, artistic, political or scientific value (Miller v. California, 1973). That said, the FCC's regulation rather ignores that "community standard" restriction.
3. Fraud - Fraud is a criminal act in which one party intentionally deceives another with the intent to cause damage to defrauded party, usually with the intent to unjustly receive property or services.
4. Presidential Threats - I can't blame the secret service for INVESTIGATING threats to the president, but generally speaking, unless your speech rises to the level of showing actual intent to commit an act or to incite that act by another, it's protected.
5. Medical Claims - although this remark is fairly vague, the government exists to promote the common welfare of the public and, as Justice Robert A. Jackson opined in Terminello v. Chicago (1949), the Constitution is not a suicide pact. The FDA's regulation of medicines and medical technology exists to prevent the dispersal of medicines and medical technologies that are either

inherently harmful, have not been subjected to scientific rigor, or exist as attempts to defraud individuals (a crime).

6. SEC Regulation - there are so many ways that the SEC's regulation doesn't even touch Free Speech, it would take hours to go through it all, but simply: it prevents fraud, it creates regulations that (ideally) stabilize commerce, it deals with commercial speech and it is in the duty of the government to regulate interstate commerce. Period.

There's a big difference between free speech (of which I am an ardent supporter) and the near-anarchy your references to the above-discussed laws and/or interpretations of the First Amendment exist to control.

Posted by: Virginia777 | 05/6/09 | 2:34 pm

I think this legislation is AWESOME!!

"I think it's absolutely ridiculous how much time and effort is being put into legislation about something that has caused so little harm."

are you kidding?? these bullies are causing serious harm! and if you don't think so, then you also have become immune to the rampant racism in the internet.

Open your eyes,

don't let these "First Amendment" freaks kid you, they care very little about your "rights"

and a whole lot about spreading unmitigated Hate.

Posted by: ic | 05/6/09 | 2:45 pm

You don't want Megan Meier Cyberbullying Prevention Act

Are you for Cyberbullying then?

To bully workers to join unions, the Dems want to pass Fair Employment, otherwise known as card check. If you are against it, you must be against Fair Employment. To bully radio stations owners to silence conservative radio talkers, they pass Fairness Doctrine. To bully taxpayers to pay more taxes, they want Fair Tax. To get this pass they must rename it: Fair Cyber Communication? Fair Internet Use? Whatever lame labels they can dream up to mask "speech". How about a law to outlaw right wing extremists from using the internet? Rightwing extremists, as identified by Homeland Security, such as vets who came back from Iraq and Afghanistan.

bornean | 05/5/09 | 10:56 pm "Its gotta be technically hate speech for this to fly." What do you mean by "technically hate speech"?

Haven't you heard those Tea-Partiers were racists, they protest high taxes because of a black president is in the White House? Are their anti-tax speech thinly veiled "hate speech"?

In any case, the Dems should wait after putting a couple more liberals in the Supreme Court before they consider their anti-free speech laws.

Posted by: Virginia777 | 05/6/09 | 3:01 pm

“To bully radio stations owners to silence conservative radio talkers”

“How about a law to outlaw right wing extremists from using the internet?”

GOOD IDEAS!! (how about you examining how close your stance is to these right-wing extremists?)

In the name of “Free Speech” these first amendment freaks will accept anything! (even right-wing extremism, how convenient, what a fantastic way to pick up converts)

Posted by: hypn0tiq | 05/6/09 | 3:04 pm

virginia777 i sincerely hope that this is not your actual opinion and just something posted to spite all the normal americans.....since when has our freedom of speech ever been so blatantly ignored by the very people who are supposed to be protecting it? this is an outrage and the lawmakers who sponsored this should be drawn and quartered!!!!

Posted by: tao53nyc | 05/6/09 | 3:47 pm

If this passed, every right-wing and libertarian-oriented blogger would be thrown in jail.

Posted by: chrissowick | 05/6/09 | 4:04 pm

I can't believe some of the the responses of you defenders of this bill. Didn't you learn about the 1st Amendment in high school? Aren't you familiar with the Voltaire quote “I may not agree with what you say but I'll defend to the death your right to say it?” You are aware that KKK and Neo-NAZI rallies are legal? You guys do understand that here in America we are protected to say things that hurt people's feelings, and harass and insult them without fear of imprisonment? You are familiar with American popular culture and basic mainstream media free speech issues???

Everyone (rational) hates hate speech, and in some places under certain circumstances it is illegal, but generally, we tolerate it as a negative side effect because we are willing to accept the much greater benefits of an open and free society. By demanding our own freedom, we inherently accept that others with opposing or distasteful views are also equally free to express theirs. We always try to indirectly nudge speech with legislation because its impossible to make direct speech control rules flexible enough to not do more harm than good. What constitutes harm is to be liberally interpretation and based upon the ability of the harmed to simply choose not to be harmed. We only ban speech when the victim is unable to choose non-harm. Bullying must be dealt with by indirect means, like restraining orders or school discipline, not banning the bullying speech.

Posted by: kt_grl11 | 05/6/09 | 4:15 pm

Coerce, intimidate, harass, or cause substantial emotional distress to a person... I think we already have laws against these types of threats? Why should it matter if you harass someone in person, versus harassment via internet? Sue the jack@ss, get a restraining order, move on. No new anti cyber-bullying laws needed. Also, if you kill yourself because of what someone writes in an e-mail or on your “wall”, you probably have some underlying psychiatric problems. If you don't kill yourself today because of a cyberbully, you'll probably pull the trigger tomorrow because you didn't get into the college you wanted. Furthermore, if your a parent and you can't see that something is “off” or has “changed” with your kid, how dense are you? Personally, I think lawmakers piggy back

legislation like HR 1966 (which completely disregards the first amendment) to sensitive cyber-bullying issues because its and easy way to get stupid Americans to throw their support in. No one in congress cares about Meier, it's just another strategy aimed as whittling away our constitutional rights.

Posted by: liberty | 05/6/09 | 4:20 pm

What? The Federal government restricting free speech? Welcome to the Obama-nation.

“Cyber-bullying” and bullying in general is terrible and needs to be stopped. Restricting free speech designed to get politicians to follow the law needs to be encouraged, however. This bill might reduce cyber-bullying, but it will surely restrict free speech.

Posted by: RedFoxOne | 05/6/09 | 4:34 pm

Wow, that is freaking scary. One GIANT step towards Socialism!

RT

<http://www.privacy-web.net.tc>

Posted by: Virginia777 | 05/6/09 | 4:53 pm

“Everyone (rational) hates hate speech, and in some places under certain circumstances it is illegal, but generally, we tolerate it as a negative side effect because we are willing to accept the much greater benefits of an open and free society.”

I call that tolerating Fascism (the same thing as right-wing extremism!)

Posted by: Virginia777 | 05/6/09 | 4:55 pm

“One GIANT step towards Socialism!”

sounds good to me!! (if the other option, is towards Fascism)

Posted by: Virginia777 | 05/6/09 | 4:58 pm

“This is a hot topic now at the hot age gap dating club ‘ agegapmingle.com ‘ which is a good place for 18+ singles to meet cute younger or older girls with big boobs online.”

does THIS say it all, or what??

here, First Amendment fiends, is the blog for you! Hooray, Free Speech to blog about boobs all you want to!
