

SENATE BILL No. 1459

August 17, 2010, Introduced by Senators HUNTER, SWITALSKI, BASHAM, OLSHOVE, CHERRY, WHITMER, BRATER, JACOBS, ANDERSON, CLARK-COLEMAN, THOMAS and SCOTT and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
(MCL 750.1 to 750.568) by adding section 411w.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 411W. (1) A PERSON SHALL NOT DO ANY OF THE FOLLOWING:

2 (A) POST A MESSAGE OR STATEMENT IN A PUBLIC MEDIA FORUM ABOUT
3 ANY OTHER PERSON WHO IS LESS THAN 18 YEARS OF AGE IF ALL OF THE
4 FOLLOWING APPLY:

5 (i) THE PERSON KNOWS THAT THE MESSAGE OR STATEMENT IS FALSE OR
6 INTENTIONALLY MISLEADING.

7 (ii) A REASONABLE PERSON WOULD FIND THE MESSAGE OR STATEMENT TO
8 BE DAMAGING TO THE CHARACTER OR REPUTATION OF ANOTHER PERSON.

9 (iii) THE MESSAGE OR STATEMENT IS POSTED WITH THE INTENT TO
10 INTIMIDATE, FRIGHTEN, OR HARASS ANY OTHER PERSON OR TO CAUSE

1 EMOTIONAL DISTRESS.

2 (B) POST A MESSAGE OR STATEMENT IN A PUBLIC MEDIA FORUM ABOUT
3 ANY OTHER PERSON WHO IS LESS THAN 18 YEARS OF AGE IF BOTH OF THE
4 FOLLOWING APPLY:

5 (i) THE PERSON INTENTIONALLY CONCEALS HIS OR HER IDENTITY IN
6 ORDER TO MISLEAD ANY OTHER PERSON INTO BELIEVING THAT THE MESSAGE
7 WAS POSTED BY ANOTHER PERSON.

8 (ii) THE MESSAGE OR STATEMENT IS POSTED WITH THE INTENT TO
9 INTIMIDATE, FRIGHTEN, OR HARASS ANY OTHER PERSON OR TO CAUSE
10 EMOTIONAL DISTRESS.

11 (C) POST A MESSAGE OR STATEMENT IN A PUBLIC MEDIA FORUM
12 URGING, RECOMMENDING, OR SOLICITING ANOTHER PERSON WHO IS LESS THAN
13 18 YEARS OF AGE TO INJURE OR KILL HIMSELF OR HERSELF IF ANY OF THE
14 FOLLOWING APPLY:

15 (i) THE MESSAGE OR STATEMENT IS POSTED WITH THE INTENT TO CAUSE
16 THE OTHER PERSON TO INJURE OR KILL HIMSELF OR HERSELF OR IS POSTED
17 UNDER CIRCUMSTANCES OR IN SUCH A MANNER THAT A REASONABLE PERSON
18 WOULD KNOW THAT THE OTHER PERSON MAY INJURE OR KILL HIMSELF OR
19 HERSELF.

20 (ii) THE MESSAGE OR STATEMENT IS POSTED WITH THE INTENT TO
21 INTIMIDATE, FRIGHTEN, OR HARASS ANY OTHER PERSON OR TO CAUSE
22 EMOTIONAL DISTRESS.

23 (2) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CRIME AS
24 FOLLOWS:

25 (A) IF THE PERSON WHO VIOLATES THIS SECTION IS LESS THAN 18
26 YEARS OF AGE:

27 (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), FOR A VIOLATION OF

1 SUBSECTION (1) (A) OR (B), THE PERSON IS GUILTY OF A MISDEMEANOR
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF
3 NOT MORE THAN \$500.00, OR BOTH.

4 (ii) FOR A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (1) (A)
5 OR (B), THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY
6 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
7 \$1,000.00, OR BOTH.

8 (iii) FOR A VIOLATION OF SUBSECTION (1) (C), THE PERSON IS GUILTY
9 OF A CRIME AS FOLLOWS:

10 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), THE
11 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
12 NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

13 (B) IF THE OTHER PERSON CAUSES SERIOUS IMPAIRMENT OF A BODY
14 FUNCTION TO HIMSELF OR HERSELF, THE PERSON IS GUILTY OF A FELONY
15 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
16 NOT LESS THAN \$1,000.00 OR MORE THAN \$5,000.00, OR BOTH.

17 (C) IF THE OTHER PERSON KILLS HIMSELF OR HERSELF, THE PERSON
18 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
19 15 YEARS OR A FINE OF NOT LESS THAN \$2,500.00 OR MORE THAN
20 \$10,000.00, OR BOTH.

21 (B) IF THE PERSON WHO VIOLATES THIS SECTION IS 18 YEARS OF AGE
22 OR OLDER:

23 (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii), FOR A VIOLATION OF
24 SUBSECTION (1) (A) OR (B), THE PERSON IS GUILTY OF A MISDEMEANOR
25 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
26 NOT MORE THAN \$1,000.00, OR BOTH.

27 (ii) FOR A SECOND OR SUBSEQUENT VIOLATION OF SUBSECTION (1) (A)

1 OR (B), THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
2 FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR
3 BOTH.

4 (iii) FOR A VIOLATION OF SUBSECTION (1) (C), THE PERSON IS GUILTY
5 OF A CRIME AS FOLLOWS:

6 (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPHS (B) AND (C), THE
7 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
8 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$5,000.00, OR BOTH.

9 (B) IF THE OTHER PERSON CAUSES SERIOUS IMPAIRMENT OF A BODY
10 FUNCTION TO HIMSELF OR HERSELF, THE PERSON IS GUILTY OF A FELONY
11 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
12 NOT LESS THEN \$2,500.00 OR MORE THAN \$10,000.00, OR BOTH.

13 (C) IF THE OTHER PERSON KILLS HIMSELF OR HERSELF, THE PERSON
14 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
15 20 YEARS OR A FINE OF NOT LESS THAN \$5,000.00 OR MORE THAN
16 \$20,000.00, OR BOTH.

17 (3) AS USED IN THIS SECTION:

18 (A) "PUBLIC MEDIA FORUM" MEANS THE INTERNET OR ANY OTHER
19 MEDIUM DESIGNED OR INTENDED TO BE USED TO CONVEY INFORMATION TO
20 OTHER INDIVIDUALS, REGARDLESS OF WHETHER A MEMBERSHIP OR PASSWORD
21 IS REQUIRED TO VIEW THE INFORMATION.

22 (B) "SERIOUS IMPAIRMENT OF A BODY FUNCTION" MEANS THAT TERM AS
23 DEFINED IN SECTION 58C OF THE MICHIGAN VEHICLE CODE, 1949 PA 300,
24 MCL 257.58C.