

FLORIDA HOUSE OF REPRESENTATIVES

BILL ANALYSIS

This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.

BILL #: [CS/HB 781](#)

TITLE: Cyberintimidation by Publication

SPONSOR(S): Gottlieb, Daley

COMPANION BILL: [SB 908](#) (Polsky)

LINKED BILLS: None

RELATED BILLS: None

Committee References

[Criminal Justice](#)

15 Y, 0 N, As CS



[Civil Justice & Claims](#)



[Judiciary](#)

SUMMARY

Effect of the Bill:

CS/HB 781 increases the penalty for an offense of cyberintimidation by publication from a first-degree misdemeanor to a third-degree felony.

The bill also requires that a person's personal identification information be electronically published without his or her consent in order to constitute a violation and removes a requirement to demonstrate that the offender intended to place the person in reasonable fear of bodily harm when making a threat or harassing such person by publishing his or her personal identification information.

The bill also authorizes a person whose personal identifying information was electronically published without his or her consent and when the offender had specified intent to initiate a civil cause of action against the offender.

Fiscal or Economic Impact:

The bill may have an indeterminate positive impact on jail and prison beds by increasing the penalty for offenses of cyberintimidation by publication, which may result in more jail and prison admissions and offenders being sentenced to longer terms of incarceration. The bill may also have an indeterminate positive fiscal impact on a person whose personal identifying information was electronically published without his or her consent when the offender had specified intent by authorizing such a person to initiate a civil action to recover monetary damages from the offender.

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ANALYSIS

EFFECT OF THE BILL:

CS/HB 781 increases the penalty for an offense of [cyberintimidation by publication](#) from a first-degree misdemeanor to a third-degree felony. (Section [1](#))

The bill requires that a person's [personal identification information](#) be electronically published without his or her consent in order to constitute a violation of the prohibition against cyberintimidation by publication. The bill further removes the requirement that an offender intend that a person be placed in reasonable fear of bodily harm when the offender threatens or harasses the person by publishing his or her personal identification information. (Section [1](#))

The bill authorizes a person whose personal identifying information was electronically published without his or her consent in violation of [s. 836.115, F.S.](#), to initiate a civil cause of action against the person who published such information to obtain appropriate relief to prevent or remedy the publication of such information, including:

- Injunctive relief.
- Monetary damages.
- Reasonable attorney fees and costs.

STORAGE NAME: h0781a.CIV

DATE: 4/1/2025

- Any other appropriate relief in law or in equity. (Section [1](#))

The bill requires that in such a civil action the violation must be established by [clear and convincing evidence](#). (Section [1](#))

The bill provides an effective date of October 1, 2025. (Section [2](#))

FISCAL OR ECONOMIC IMPACT:

STATE GOVERNMENT:

The bill may have an indeterminate positive impact on prison beds by increasing the penalty for an offense of cyberintimidation by publication, which may result in more prison admissions and offenders being sentenced to longer terms of incarceration.

LOCAL GOVERNMENT:

The bill may have an indeterminate positive impact on jail beds by increasing the penalty for an offense of cyberintimidation by publication, which may result in more jail admissions and offenders being sentenced to longer terms of incarceration.

PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on a person whose personal identifying information was electronically published without his or her consent and when the offender had specified intent by authorizing such a person to initiate a civil action to recover monetary damages from the offender.

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Cyberintimidation by Publication](#)

Section [836.115, F.S.](#), prohibits a person from electronically publishing¹ another person's personal identification information with the intent:

- To harass² or threaten³ a person, placing such person in reasonable fear of bodily harm or to incite violence or commit a crime against the person; or
- That a third party will use the information to harass or threaten a person, placing such person in reasonable fear of bodily harm or to incite violence or commit a crime against the person.⁴

A violation of the prohibition is a first-degree misdemeanor.⁵

[“Personal identification information”](#) means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any:

¹ “Electronically publish” means to disseminate, post, or otherwise disclose information to an Internet site or forum. S. [836.115\(1\)\(a\), F.S.](#)

² “Harass” means to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose. “Harass” does not mean to use personal identification information for accepted commercial purposes. The term does not include constitutionally protected conduct such as organized protests or the use of personal identification information for accepted commercial purposes. S. [817.568\(1\)\(c\), F.S.](#)

³ “The First Amendment does not protect certain modes of speech or expression, including true threats, fighting words, incitements to imminent lawless action, and classes of lewd and obscene speech. . . . True threats encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.” *Brayshaw v. City of Tallahassee, Fla.*, 709 F. Supp. 2d 1244, 1248 (N.D. Fla. 2010)(internal emphasis and quotations removed).

⁴ S. [836.115\(2\), F.S.](#)

⁵ *Id.* A first-degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a \$1,000 fine. Ss. [775.082](#) and [775.083, F.S.](#)

- Name, postal or electronic mail address, telephone number, social security number, date of birth, mother's maiden name, official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank account number, credit or debit card number, or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized electronic use of such card;
- Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- Unique electronic identification number, address, or routing code;
- Medical records;
- Telecommunication identifying information or access device; or
- Other number or information that can be used to access a person's financial resources.⁶

Other Similar Criminal Offenses

Written or Electronic Threats to Kill

Section [836.10, F.S.](#), prohibits, as a second-degree felony,⁷ the sending, posting, or transmitting, or procuring the sending, posting, or transmission of, a writing or other record, including an electronic record,⁸ in any manner in which it may be viewed by another person, if the writing or record contains a threat to kill or do bodily injury to another person or to conduct a mass shooting or an act of terrorism.⁹

Stalking

Under [s. 784.048, F.S.](#), it is a first-degree misdemeanor to willfully, maliciously, and repeatedly follow, harass,¹⁰ or cyberstalk another person.¹¹ The severity of the offense is increased to a third-degree felony¹² if the offender also makes a credible threat to the person.¹³

“Cyberstalk” means:

- To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or
- To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission.¹⁴

Clear and Convincing Evidence

A burden of proof is the measurement by which a fact finder processes evidence to determine whether the elements of a crime, claim, or defense have been proven.¹⁵ Clear and convincing evidence is defined as an intermediate level of proof that entails both a qualitative and quantitative standard. Under such a standard, the evidence must be credible; the memories of the witnesses must be clear and without confusion; and the sum total of the evidence must be of sufficient weight to convince the fact finder without hesitancy.¹⁶

⁶ S. [817.568\(1\)\(f\), F.S.](#)

⁷ A second-degree felony is punishable by up a term of imprisonment not exceeding 15 years and a \$10,000 fine. Ss. [775.082, 775.083](#), or [775.084, F.S.](#)

⁸ “Electronic record” means any record created, modified, archived, received, or distributed electronically which contains any combination of text, graphics, video, audio, or pictorial represented in digital form, but does not include a telephone call. S. [836.10\(1\), F.S.](#)

⁹ S. [836.10\(2\), F.S.](#)

¹⁰ “Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. S. [784.048\(1\)\(a\), F.S.](#)

¹¹ S. [784.048\(2\), F.S.](#)

¹² A third-degree felony is punishable by a term of imprisonment not exceeding five years and a \$5,000 fine. Ss. [775.082, 775.083](#), or [775.084, F.S.](#)

¹³ S. [784.048\(3\), F.S.](#)

¹⁴ S. [784.048\(1\)\(d\), F.S.](#)

¹⁵ *In re A.W.*, 184 So. 3d 1179, 1182 (Fla. 2d DCA 2015).

¹⁶ *In re S.F.*, 22 So. 3d 650, 653 (Fla. 2d DCA 2009).

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2021	CS/HB 1	Fernandez-Barquin, Byrd	Burgess	Took effect on April 19, 2021.

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Criminal Justice Subcommittee	15 Y, 0 N, As CS	3/19/2025	Hall	Leshko
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none">• Required that a person's personal identification information be electronically published without his or her consent.• Clarified specific intentions an offender must maintain in order to constitute a violation of cyberintimidation by publication.			
Civil Justice & Claims Subcommittee			Jones	Leshko
Judiciary Committee				

THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
