

House Bill 1809

By: Representatives Mobley of the 58<sup>th</sup> and Beasley-Teague of the 48<sup>th</sup>, Post 2

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to computer related crimes, so as to provide certain definitions; to establish a Child  
3 Protection Registry; to provide for registration of contact points for minors or schools that  
4 primarily serve minors; to prohibit improper communications with registered contact points;  
5 to provide for rules to be promulgated by the Office of Consumer Affairs; to provide for  
6 criminal and civil penalties; to provide for related matters; to repeal conflicting laws; and for  
7 other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Article 6 of Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to  
11 computer related crimes, is amended by adding a new Code section to read as follows:

12 "16-9-93.2.

13 (a) As used in this Code section, the term:

14 (1) 'Contact point' means an electronic identification to which a communication may be  
15 sent, including:

16 (A) An e-mail address;

17 (B) An instant message identity;

18 (C) A telephone number;

19 (D) A facsimile number; or

20 (E) Any similar electronic address.

21 (2) 'Office of Consumer Affairs' means the Governor's Office of Consumer Affairs.

22 (3) 'Registry' means the child protection registry established in subsection (b) of this  
23 Code section.

24 (b) The Office of Consumer Affairs shall:

- 1 (1) Establish and operate a child protection registry to compile and secure a list of  
2 contact points the Office of Consumer Affairs has received pursuant to this Code section;  
3 or  
4 (2) Contract with a third party to establish and secure the registry described in paragraph  
5 (1) of this subsection.
- 6 (c) A person may register a contact point with the Office of Consumer Affairs if:  
7 (1) The contact point belongs to a minor; or  
8 (2) A minor has access to the contact point.
- 9 (d) A school or other institution that primarily serves minors may register its domain name  
10 with the Office of Consumer Affairs.
- 11 (e) A person desiring to send a communication described in subparagraphs (a)(1)(A)  
12 through (a)(1)(E) of this Code section to a contact point or domain shall:  
13 (1) Use a mechanism established by rule made by the Office of Consumer Affairs; and  
14 (2) Pay a fee to be determined by the Office of Consumer Affairs for use of the  
15 mechanism described in paragraph (1) of this subsection.
- 16 (f) A person may not directly or indirectly send, cause to be sent, or conspire with a third  
17 party to send a communication to a contact point or domain that has been registered for  
18 more than 30 calendar days with the Office of Consumer Affairs if the communication:  
19 (1) Advertises a product or service that a minor is prohibited by law from purchasing;  
20 or  
21 (2) Contains or advertises material that is harmful to minors, as defined in paragraph (4)  
22 of subsection (a) of Code Section 16-12-100.1.
- 23 (g) The consent of a minor is not a defense to a violation of this Code section.
- 24 (h) The Office of Consumer Affairs by January 1, 2005, shall promulgate rules to  
25 establish procedures under which:  
26 (1) A person may register a contact point with the Office of Consumer Affairs; and  
27 (2) A school or other institution that primarily serves minors may register its domain  
28 name with the Office of Consumer Affairs.
- 29 (i)(1) A person who violates this Code section commits a computer crime and:  
30 (A) Is guilty of a misdemeanor for a first offense with respect to a contact point  
31 registered with the Office of Consumer Affairs; and  
32 (B) Is guilty of a misdemeanor of a high and aggravated nature:  
33 (i) For each subsequent violation with respect to a contact point registered with the  
34 Office of Consumer Affairs; or  
35 (ii) For each violation with respect to a domain name registered with the Office of  
36 Consumer Affairs.

1 (2) A person commits a computer crime and is guilty of a felony if the person uses  
 2 information obtained from the Office of Consumer Affairs to violate this Code section  
 3 by improperly obtaining contact points from the registry; improperly attempting to obtain  
 4 contact points from the registry; or improperly using or transferring to a third party to use  
 5 information from the registry to send a communication. A conviction under the  
 6 provisions of this paragraph shall be punishable by imprisonment for up to two years and  
 7 a fine not to exceed \$10,000.00, or both.

8 (3) A criminal conviction or penalty under this subsection does not relieve a person from  
 9 civil liability in an action under subsection (j) of this Code section.

10 (4) Each communication sent in violation of this Code section is a separate offense.

11 (j)(1) For a violation of this Code section, a civil action may be brought by:

12 (A) A user of a contact point or domain name registered with the Office of Consumer  
 13 Affairs; or

14 (B) A legal guardian of a user of a contact point or domain name registered with the  
 15 Office of Consumer Affairs.

16 (2) In each action brought under subparagraph (A) or (B) of paragraph (1) of this  
 17 subsection a person may recover the greater of actual damages or \$1,000.00 for each  
 18 communication sent in violation of this Code section; and the prevailing party shall be  
 19 awarded costs and reasonable attorney fees.

20 (k)(1) The Office of Consumer Affairs shall:

21 (A) Investigate violations of this Code section; and

22 (B) Issue cease and desist orders and assess administrative fines for violations of this  
 23 Code section.

24 (2) A person who violates this Code section is subject to:

25 (A) A cease and desist order; and

26 (B) An administrative fine not to exceed \$2,500.00 for each separate communication  
 27 sent in violation of this Code section.

28 (3) A person who intentionally violates this Code section is subject to an administrative  
 29 fine of not to exceed \$5,000.00 for each communication intentionally sent in violation of  
 30 this Code section. A person intentionally violates this Code section if the violation occurs  
 31 after the Office of Consumer Affairs, the Attorney General, a district attorney, or a  
 32 solicitor-general notifies the person by certified mail or statutory overnight delivery that  
 33 the person is in violation of this Code section."

## 34 SECTION 2.

35 All laws and parts of laws in conflict with this Act are repealed.