

Advancing Bullying Awareness

Cyberbullying, Cyberstalking, Sexting & the Law

► In this third of a five-part series, you will learn Alabama's laws and penalties related to cyber harassment and how they apply to youth.

Parents and guardians often think that cyberbullying and sexting only have short-term social and psychological consequences for their children. But cyber harassment, stalking, or forwarding sexually explicit photos to peers can have serious legal consequences for youth and families. The consequences can impact both the victim and the one doing the harassment. It is important, therefore, for families to be aware of the laws that address cyberbullying, cyberstalking, and sexting.

This article will help parents/guardians understand the legal definitions of cyberbullying, cyberstalking, and sexting, along with the Alabama laws that govern those behaviors.

Cyberbullying, Cyberstalking, and Sexting

Cyberbullying, also referred to legally as cyber harassment, is defined as using the internet (social media, email, etc.), cell phones, or other technology to send text or images intended to hurt or embarrass another person. Cyberbullying includes sending hurtful words and images, pretending to be another person online, sending hate mail, stalking, and doing other harmful behaviors. When people talk about cyberbullying in general, cyberstalking is not often discussed, but it is also a serious issue.

Cyberstalking is defined as using the internet, phones, social media, and other forms of electronic communication to track another person. The use of email, texting, social media sites, and restaurant/business apps that allow people to share their location with others provides ways for cyberstalkers to track someone very easily.

Cyberstalking can include threats of physical or sexual violence, lies spread publicly, a private fact about someone shared publicly (for example, a private health issue or a criminal record), sensitive information about



someone shared online (home address, license plate number, etc.), and technological attacks (such as shutting down a person's social media account or creating a social media account under the victim's name).

Cyberbullying and cyberstalking can both be connected to sexting abuse. *Sexting* is sharing or forwarding sexually explicit messages and photos (nude or nearly nude of oneself or another) shared or forwarded electronically. Cyberbullying through sexting can have a long-lasting effect on the victim. Suicides, as well as depression and anxiety, have been linked to sexting cyberbullying.

A recent study about sexting behaviors revealed that when girls refused to send more photos, the photos that were previously sent were used to bully them into sending more. While this type of bullying has been shown to be less common in boys, these issues affect them as well. Sexting can easily become an ongoing form of harassment or extortion, if youth are being repeatedly asked for explicit photos.



Though a recent problem among youth, cyberbullying and cyberstalking have created the need for law enforcement to find ways to protect the interest of victims. Parents/guardians and youth should understand how cyberbullying and cyberstalking are defined by Alabama law, the rights of the victim, and consequences for perpetrators.

Jamari Terrell Williams Student Bullying Prevention Act

Public schools in Alabama are guided by the Jamari Terrell Williams Student Bullying Act, formerly known as the Student Harassment Prevention Act.

According to the act, bullying is “a continuous pattern of intentionally harmful behavior that takes place on or off school property, on a school bus, or at a school-sponsored function including, but not limited to, cyberbullying, written, electronic, verbal, or physical acts that are reasonably perceived as being motivated by any characteristic of a student, or by the association of a student with an individual who has particular characteristics” (AL Code § 16-28B-3, 2013).

The act requires each public K–12 school to develop plans or programs to encourage students to report and address incidents of bullying and violence, as well as threats of violence. Each district is responsible for creating a reporting form and ensuring its availability to each student, employee, and parent/guardian. It also holds schools accountable for making sure that the “punishment conforms to applicable federal and state disability, anti-discrimination, and education laws” (AL Code § 16-28B-6, 2013).

The Jamari Terrell Williams Student Bullying Prevention Act applies to student against student bullying, harassment, intimidation, violence, and threats of violence in and outside of public schools (including the

Alabama Institute for Deaf and Blind, the Alabama High School of Mathematics and Science, and the Alabama School of Fine Arts), but not private schools.

Crime Categories

Crimes in Alabama are divided into felony and misdemeanor categories, with three classes (A, B, and C) in each category. Class A represents the greatest level of punishment, while C is the lowest. Each class has a set sentencing range. A defendant’s exact sentence is decided by the court based on the circumstances of the crime.

Alabama Laws on Cyberbullying

The laws regarding cyberbullying are different in every state. In Alabama, the Jamari Terrell Williams Student Bullying Prevention Act covers cyberbullying and there are other laws against the harassment of others in person or through technology. Online harassment is classified as a Class C misdemeanor. This can involve a fine of up to \$500 and/or up to 3 months’ incarceration in the county or municipal jail. According to the Code of Alabama, Section 13A-11-8, a pattern of behavior must do any of the following to be considered harassment:

- place a student in reasonable fear of harm to his or her person or damage to his or her property
- substantially interfere with the educational performance, opportunities, or benefits of a student
- substantially disrupt or interfere with the orderly operation of the school
- create a hostile environment in the school, on school property, on a school bus, or at a school-sponsored function
- be sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student

Alabama Laws on Cyberstalking

Cyberstalking is covered in the general stalking laws of Alabama. Stalking is defined by Alabama law as someone who is repeatedly harassing, threatening, or creating fear in another person by means of physical, verbal, or electronic communication.

Stalking charges are serious and can be designated a felony. Individuals convicted of stalking in Alabama can be fined, assigned a restraining order, receive probation, or be sentenced to 1 to 20 years in prison.

In 2011, a 12-year-old girl convicted of cyberstalking was sentenced to 6 months of probation and 20 hours of community service, along with mandatory adult supervision of all computer usage.

Penalties for breaking stalking laws include the following:

- Stalking in the first degree is a Class C felony punishable by a sentence of 1 to 10 years in prison and up to a \$15,000 fine.
- Stalking in the second degree is a Class B misdemeanor punishable by not more than 6 months in jail and a \$3,000 fine.
- Aggravated stalking in the first degree is a Class B felony punishable by a sentence of 2 to 20 years in prison and at least a \$30,000 fine.
- Aggravated stalking in the second degree is a Class C felony punished the same as stalking in the first degree.

Alabama Laws Related to Sexting and Minors

Anyone, including an adolescent, who electronically sends, posts, or possesses nude or partially nude images of minors may be charged with the production, distribution, and possession of child pornography, all of which are federal crimes. These crimes are defined as follows:

- Production of child pornography is taking a photo of a minor who is nude or committing sexual acts (even if the minor is the one taking the photo).
- Distribution of child pornography is sending the images or videos and sharing them with others.
- Possession of child pornography is having sexually explicit photos of minors under the age of 17 in a phone or computer.

Although child pornography laws were created to protect minors from adult exploitation, states are prosecuting minors under child pornography statutes for sending nude or otherwise explicit self-portraits, even when minors send the selfies without coercion.

There currently is no exception for teens that willingly take or distribute sexually explicit photos of themselves. Thus, a high school student sending a nude or partially nude selfie to a boyfriend or girlfriend could put both of them at risk of prosecution for production, distribution, or possession of child pornography. If the photo is

posted online or sent to others through direct sharing methods, such as text messaging, any other teens who receive or distribute the photo could also find themselves vulnerable to felony charges.

In Alabama, an individual can be sentenced to 1 to 10 years in prison, sent to juvenile detention, and registered as a sex offender for owning/possessing images of persons under the age of 17 for sexual pleasure. Owning images can include photographs or videos exchanged through the use of a phone or file sharing program to access such content; searches for child pornography; possession of images on a computer; child pornography stored in the memory of a computer's hard drive; and possession of actual photos.

In Alabama, there is no exclusion when it comes to minors participating in sexting. Sexting between minors under the age of 17 is still prosecutable under the state's child pornography laws.

Conclusion

It is important to remember that the legal system is often lagging behind technological advances. The court system may not be entirely equipped to address all of the complexities of cyberbullying in all of its various forms. Alabama's legislators and educators, however, have enacted policies and procedures to protect students' learning environments from all forms of harassment.

Parents/guardians need to know the laws involving cyberbullying, cyberstalking, and sexting. This knowledge can be used to help children understand how the consequences of their actions can affect their lives today and long-term.



Adrienne M. Duke, *Extension Specialist*, Assistant Professor, Human Development and Family Studies, Auburn University

For more information, contact your county Extension office. Visit www.aces.edu/directory.

The Alabama Cooperative Extension System (Alabama A&M University and Auburn University) is an equal opportunity educator and employer. Everyone is welcome! Please let us know if you have accessibility needs.

Revised November 2021, FCS-2268

© 2021 by the Alabama Cooperative Extension System. All rights reserved.

www.aces.edu