

# House Bill 2541

Sponsored by Representative GARRETT; Representatives BARNHART, DOHERTY, GELSER, MATTHEWS, OLSON  
(Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies crime of telephonic harassment to include electronic communications.  
Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to telephonic harassment; creating new provisions; amending ORS 30.405 and 166.090; and  
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 166.090 is amended to read:

6 166.090. (1) A [*telephone caller*] **person** commits the crime of telephonic **or electronic**  
7 harassment if the [*caller*] **person** intentionally harasses or annoys another person:

8 (a) By causing the telephone of the other person to ring[, *such caller*] **without** having [*no*] a  
9 communicative purpose[;].

10 (b) By causing [*such*] **the** other person's telephone to ring, knowing that the [*caller*] **person** has  
11 been forbidden from so doing by a person exercising lawful authority over the receiving  
12 telephone[; *or*].

13 (c) By sending to, or leaving at, the other person's telephone a text message, voice mail or any  
14 other message, knowing that the [*caller*] **person** has been forbidden from so doing by a person ex-  
15 exercising lawful authority over the receiving telephone.

16 (d) **By sending to, leaving at or posting on an electronic account or webpage an electronic**  
17 **mail, instant message, post or other form of communication, knowing that the person has**  
18 **been forbidden from so doing by a person exercising lawful authority over the receiving**  
19 **electronic account or webpage.**

20 (2) Telephonic **or electronic** harassment is a Class B misdemeanor.

21 (3) It is an affirmative defense to a charge of violating subsection (1) of this section that the  
22 [*caller*] **person** is a debt collector, as defined in ORS 646.639, who engaged in the conduct proscribed  
23 by subsection (1) of this section while attempting to collect a debt. The affirmative defense created  
24 by this subsection does not apply if the debt collector committed the unlawful collection practice  
25 described in ORS 646.639 (2)(a) while engaged in the conduct proscribed by subsection (1) of this  
26 section.

27 (4) **As used in this section:**

28 (a) **"Electronic account" means an electronic mail account, instant messaging account**  
29 **or any other manner of receiving or storing electronic communications that is protected by**  
30 **a password or that otherwise ensures that the contents of the communications are not**  
31 **publicly accessible.**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1       **(b) “Webpage” means a webpage created by the person exercising lawful authority over**  
2 **the webpage or by a social networking website to which the person exercising lawful au-**  
3 **thority over the webpage has subscribed and over which the person exercising lawful au-**  
4 **thority over the webpage has managerial control.**

5       **SECTION 2.** ORS 30.405 is amended to read:

6       30.405. (1) A public servant or the public servant’s employer may petition a circuit court for an  
7 order enjoining a person who engages in conduct that:

8       (a) Is directed at the public servant;

9       (b) Relates to the public servant’s employment or the public servant’s status as an elected or  
10 appointed public servant; and

11       (c) Constitutes any of the following crimes:

12       (A) Obstructing governmental or judicial administration under ORS 162.235.

13       (B) Assault under ORS 163.160, 163.165, 163.175 or 163.185.

14       (C) Menacing under ORS 163.190.

15       (D) Criminal trespass in the first degree under ORS 164.255.

16       (E) Disorderly conduct under ORS 166.025.

17       (F) Harassment under ORS 166.065.

18       (G) Telephonic **or electronic** harassment under ORS 166.090.

19       (2) The petitioner has the burden of proof by a preponderance of the evidence under subsection  
20 (1) of this section. An order issued under this section is valid for one year after entry in the register  
21 of the court or until vacated by the court, whichever occurs first.

22       (3) Contempt proceedings against a person who violates an order issued by a circuit court under  
23 subsection (1) of this section shall be as provided in ORS 33.055 or 33.065.

24       (4) As used in this section, “public servant” has the meaning given that term in ORS 162.005.

25       **SECTION 3. The amendments to ORS 30.405 and 166.090 by sections 1 and 2 of this 2013**  
26 **Act apply to communications sent to, left at or posted on a person’s telephone, electronic**  
27 **account or webpage on or after the effective date of this 2013 Act.**

28       **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**  
29 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
30 **on its passage.**

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