

Ariz. bill against 'annoying' online to get change

April 5 2012, By TERRY TANG , Associated Press

(AP) -- Arizonans venturing online may have to think twice before leaving a comment on a website.

Words that someone could view as "annoying" or "offensive" on [Facebook](#) or [Twitter](#), for example, could be deemed a criminal offense under a bi-partisan bill that's moving swiftly to Gov. Jan Brewer's desk.

The bill would update telephone [harassment](#) and stalking laws by adding the use of computers or smartphones.

Supporters say the measure would help victims of online stalking and harassment whose cases have been dismissed in court because state law has not caught up with the technology.

"There's a bona fide need to protect people from one-on-one harassment," said Rep. Vic Williams, a Tucson Republican who has been a key supporter of the bill.

Critics say the proposal goes too far.

"Speaking to annoy or offend is not a crime," said David Horowitz, the executive director of the Media Coalition, a New York-based First Amendment [advocacy group](#), adding that the measure is unconstitutionally broad.

The measure's sponsor Tucson Republican Rep. Tim Vogt said late

Wednesday the bill will be updated to address such concerns.

"This is not meant to affect constitutionally protected [free speech](#) or activity or speech authorized by law," Vogt said, adding that he decided to amend the plan after hearing from concerned supporters in the state House.

As written, if the bill becomes law, Horowitz said, speech done in satire, political debate or even sports trash talking could get people in unnecessary legal trouble.

"Somebody who posts on their Facebook page and they happen to be an Arizona Diamondbacks fan ... whoever their [rivals](#) are, they can say 'Hey your team stinks, and I hope you lose,'" Horowitz said.

"Is that an intent to offend or annoy? There's a lot of common banter this would potentially apply to," he said.

The group has asked Brewer to veto the measure. So far, Brewer has not publicly commented on their letter.

Williams said he welcomes groups like the Media Coalition to weigh in.

But he rejected claims from those he called "crackpots and conspiracy theorists" who he says have associated the bill with Orwellian images of authoritarian governments seeking to crack down of freedom of expression.

Vogt said the bill has been misrepresented as overly broad by critics.

"Some people have glommed onto the older language," he said, characterizing the legislation as simply an update to the state's "telephone stalking bill."

Across the country, more than 30 states have laws against harassment and stalking that reference electronic communication, according to the National Conference of State Legislatures.

Several states have legislation in place similar to the proposal awaiting a final vote in the Arizona House.

Pima County Attorney Barbara LaWall, who worked with legislators on the bill, said harassment laws need to keep up with technology, calling cries of Internet censorship "overblown and unrealistic."

"People's [First Amendment](#) right to say horrible things is not being infringed upon," she said.

LaWall said comments posted online have to be directed at a certain target to face prosecution.

James Weinstein, an Arizona State University professor who teaches constitutional law, said that without changes the statute's wording leaves it vulnerable to being overturned. Unlike telephones, online chatter is open to a much wider audience, Weinstein said.

"Now that they're extending it to the Internet generally or electronic media generally, it loses that natural limitation to targeted individuals," he said. "I think this is just bad drafting.

"I don't think they're trying to be like China," Weinstein said in reference to that nation's restrictive Internet laws.

Weinstein said this law may lead to some self-censoring, but he doesn't think it will result in a rush of prosecutions.

"Even the world's worst prosecutor wouldn't prosecute" someone for

bring offensive or annoying online, he said.

But LaWall said the law is needed, saying too often she has seen courts dismiss cases of stalking or harassment simply because the law hasn't caught up to the technology.

"Right now if an individual attempts to terrify or intimidate or harass somebody by sending them a text on their phone, then it's not really covered by the current statutes," she said. Texting wasn't around then, she said.

Elizabeth Ditlevson, director of the Arizona Coalition Against Domestic Violence, said updating the law won't hurt people's free speech rights.

"If you can show your speech is to express an opinion, that's different than using speech to harass, to degrade, to stalk another person," Ditlevson said. "The longer we wait to pass the [law](#), the longer people wait to be protected."

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