

SB

128

<TARGET><BILL>SB 128</BILL><SUBJECT>SB
128</SUBJECT><COMM>SJUD28</COMM></TARGET>

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 128(JUD)
Fiscal Note Number: 1
(S) Publish Date: 3/10/14

Identifier: SB128-LAW-CRIM-02-13-14
Title: ELECTRONIC BULLYING
Sponsor: MEYER
Requester: (S) JUDICIARY

Department: Department of Law
Appropriation: Criminal Division
Allocation: Criminal Justice Litigation
OMB Component Number: 2202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

Initial version, not applicable.

Prepared By:	<u>Loretta Withington, Division Operations Manager</u>	Phone:	<u>(907)465-5427</u>
Division:	<u>Department of Law</u>	Date:	<u>02/13/2014 12:09 PM</u>
Approved By:	<u>Michael C. Geraghty, Attorney General</u>	Date:	<u>02/13/14</u>
Agency:	<u>Department of Law</u>		

FISCAL NOTE ANALYSIS #1

**STATE OF ALASKA
2014 LEGISLATIVE SESSION**

BILL NO. CSSB 128(JUD)

Analysis

Senate Bill 128 amends the crime of harassment in the second degree by adding a prohibition of insulting, taunting, challenging or intimidating a minor by electronic communication that subjects the person to the fear of physical injury, severe mental or emotional injury, or damage to the person's property.

The Department of Law anticipates no fiscal impact from SB 128.

Fiscal Note

State of Alaska
2014 Legislative Session

Bill Version: CSSB 128(JUD)
Fiscal Note Number: 2
(S) Publish Date: 3/10/14

Identifier: SB128-DOC-OC-02-14-14
Title: ELECTRONIC BULLYING
Sponsor: MEYER
Requester: Senate Judiciary

Department: Department of Corrections
Appropriation: Administration and Support
Allocation: Office of the Commissioner
OMB Component Number: 694

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues								
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Estimated SUPPLEMENTAL (FY2014) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2015) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version:

This is the original version of the bill.

Prepared By:	<u>April Wilkerson, Director</u>	Phone:	<u>(907)465-3460</u>
Division:	<u>Administrative Services - Department of Corrections</u>	Date:	<u>02/14/2014 08:45 AM</u>
Approved By:	<u>Leslie Houston, Deputy Commissioner</u>	Date:	<u>02/14/14</u>
Agency:	<u>Department of Corrections</u>		

FISCAL NOTE ANALYSIS #2

STATE OF ALASKA
2014 LEGISLATIVE SESSION

BILL NO. CSSB 128(JUD)

Analysis

This legislation makes it a class B misdemeanor to insult, taunt, or intimidate someone who is under 18 via electronic communication in such a way that puts that person in fear of physical, mental or emotional harm or damage to their property.

A class B misdemeanor is punishable by a term of imprisonment of up to 90 days. At the current daily cost of care, the Department could see an impact ranging from \$0.0 (no time served) to \$14,280.30 (for a 90 day sentence) for each offender convicted under this legislation.

Alaska State Legislature



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Senator Kevin Meyer Senate District L

SPONSOR STATEMENT **SENATE BILL 128**

With advances in technology and social media, harassment by electronic means, or "cyberbullying," has become increasingly prevalent. Our current statutes allow for some forms of bullying to be handled within the school system, however not all bullying occurs on or near school property. In some extreme cases, cyberbullying has led to suicide. SB 128 will allow for punishment outside of the school system, and makes harassment of a person under 18 years of age by electronic communication a class B misdemeanor.

I encourage your support on SB 128.

SB 128: "An Act relating to the crime of harassment"

Changes between Version P and Version I:

PAGE, LINE	VERSION P	VERSION I
Page 2, Line 3	"sends an electronic communication..."	"repeatedly sends or publishes an electronic communication..."
Page 2, Lines 5-6	"causes significant damage to the person's property..."	DELETED

1. Added the word "repeatedly" to clarify that the cyberbullying is an intentional, deliberate act. This language is also used in the existing harassment statute, "*makes repeated telephone calls at inconvenient hours...*"
2. Added the word "publishes" to include the act of posting something to a publicly viewed website, such as social media sites including Facebook, Instagram, SnapChat, MySpace, etc. This language is also used in the existing harassment statute, "*publishes or distributes electronic or printed photographs...*"
3. Removed the property damage section. This language was too ambiguous and may have overlapped with existing statutes for criminal mischief, which is a stiffer penalty.

CSSB 128 (JUD) Summary of Changes

Page, Line	Version 28-LS1001\A	Version 28-LS1001\O
2, Lines 5-6 <i>(each changed element is color-coded to correspond to the new language)</i>	“...subjects the person to the fear of physical injury, severe mental or emotional injury, or damage to the person’s property.”	“...causes severe mental or emotional injury, causes significant damage to the person’s property, or places the person in reasonable fear of physical injury.”

1. Changed the action word “subjects” to “causes” – more objective verb
2. “Fear of physical injury” – Added the word “reasonable” to make the condition more objective.
3. “severe mental or emotional injury” – Rearranged this terminology so that there was no confusion regarding the “fear of...” severe mental or emotional injury. Added the word “causes” to clarify that the behavior must have *resulted in* the injury.
4. “damage to the person’s property” – Added the words “causes significant” to clarify that the behavior must have resulted in the damage.

This legislation is intended to allow for the punishment of what is known as “cyberbullying,” -- typically a school-age behavior. Currently school districts can punish “traditional” bullying for incidents that occur on school grounds; however, electronic bullying can and does occur no matter where an individual is located. Therefore:

1. The sponsor did not modify the language “a person under 18 years of age.” The purpose of this legislation is to protect school-age children, who are arguably more vulnerable than adults. Many minor suicides are related to bullying and/or cyberbullying. In the Lower 48, there have been many cases where there are no appropriate laws under which a perpetrator can successfully be charged or tried.
2. The sponsor also did not modify the language “sends an electronic communication.” In our first committee hearing it was suggested that the legislation state clearly that the communication be sent “to a person,” however that is not the sponsor’s intent. Social media sites such as Facebook, Instagram, Snapchat, Twitter, MySpace, blogs, etc., are sites that are accessed by the public, and one user’s posts are usually shared with many individuals. It is well documented that cyberbullying often involves the posting of derogatory or demeaning content with the intent of insulting, taunting, challenging, or intimidating another person, but does not necessarily have to be sent directly to that person.

Cyberbullying Fact Sheet

What you need to know about online aggression



Sameer Hinduja, Ph.D. and Justin W. Patchin, Ph.D.
Cyberbullying Research Center

Adolescents have been bullying each other for generations. The latest generation, however, has been able to utilize technology to expand the reach and harm associated with bullying. This phenomenon is being called *cyberbullying*, briefly defined as: “*willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices.*” We developed this definition because it is simple, concise, reasonably comprehensive, and captures the most important elements. These elements include: “willful” (the behavior has to be deliberate, not accidental); “repeated” (bullying reflects a pattern of behavior, not just one isolated incident); “harm” (the target must perceive that harm was inflicted); and “computers, cell phones, and other electronic devices” (this, of course, is what differentiates cyberbullying from traditional bullying).

Cyberbullying is willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices.

Though not explicit in our definition, there is usually an imbalance of “power” in cyberbullying situations. We choose not to include it in our definition because the type of power being exerted in cyberspace is somewhat amorphous and often shifting. While power in traditional bullying might be physical (stature) or social (wit or popularity), online power may simply stem from proficiency or knowledge or the possession of some content (information, pictures, or video) that can be used to inflict harm. Anyone with any of these characteristics or possessions within a certain online context has “power,” which can be wielded through some form of cyberbullying. It is also important to point out that while adults can, and often do, engage in the types of behaviors described in this fact sheet, the term “bullying” and therefore also “cyberbullying” is commonly used only to describe the behaviors of adolescents while interacting with their peers.

Examples of Cyberbullying

There are a number of common types of cyberbullying which we are seeing quite regularly. First, using an Internet-connected computer a bully can send harassing e-

mails or instant messages, post obscene, insulting, and slanderous messages to online bulletin boards or social networking sites, or develop Web pages to promote and disseminate defamatory content. Second, malicious text messages can be sent to the target via cell phones. In addition to sending threatening text messages, most phones have picture-taking and video-recording capabilities. This functionality creates additional opportunities for would-be bullies to collect content (e.g., a picture) that could be used against someone else. For example, a picture could be taken in a place where privacy is expected (e.g., a locker room) and posted online for all to see.

Issues to Consider

Certain characteristics inherent in new technologies increase the likelihood that they will be exploited to cause harm to others. For example, electronic bullies can remain “virtually” anonymous. Temporary email accounts and pseudonyms in chat rooms, instant messaging programs, and other Internet venues can make it very difficult for adolescents to determine the identity of aggressors. Individuals can hide behind some measure of anonymity when using their personal computer or cell phone to bully another individual, which perhaps frees them from normative and social constraints on their behavior.

14-year-old girl from New Jersey

Being bullied besides over the internet is worse. It's torment and hurts. They say 'sticks and stones may break my bones, but words will never hurt me.' That quote is a lie and I don't believe in it. Sticks and stones may cause nasty cuts and scars, but those cuts and scars will heal. Insultive words hurt and sometimes take forever to heal.

Further, it seems that bullies might be emboldened when using electronic means to harm others because it takes less energy and fortitude to express hurtful comments using a keyboard or keypad than with one's voice. Along similar lines, cyberbullies do not have to deal with the immediate emotional, psychological, or physical effects of face-to-face bullying on their victim. In cyberspace, there is usually no swift or certain response that clues in an adolescent to the inappropriateness of harmful words. Such feedback in real

life can send a message to bullies that “enough is enough” or that their behavior is inappropriate.

Another key feature that makes cyberbullying so problematic is the fact that hurtful or humiliating content can be sent to a large number of people in a short period of time. While spoken rumors seem to spread around a school like wildfire, this process is greatly expedited when utilizing technology. Text messages can be sent from one electronic device to a limitless number of recipients in a matter of seconds. If a student posts a humiliating picture of a classmate on the mirror in the girls’ bathroom, only those who ventured in there would view the picture. If the same picture was posted to a Web site or sent to “everyone” via e-mail, many more people would be drawn into the joke, thereby making the target feel even worse.

Additionally, supervision is lacking in cyberspace. While chat hosts sometimes observe the dialog in some chat rooms in an effort to police conversations and evict offensive individuals, personal messages sent between users are viewable only by the sender and the recipient, and therefore outside their regulatory reach. Furthermore, there are no individuals to monitor or censor offensive content in electronic mail or text messages sent via computer or cell phone.

14 year-old girl from Illinois

I still cry when I think of what she said. After awhile you start believing all of the things people tell you that aren't true. When I look in the mirror I wonder if I'm fat (I'm not) after what my ex-friend said.

Another problem is the increasingly-common presence of computers in the private bedrooms of adolescents. Indeed, teenagers often know more about computers and cell phones than adults and are therefore able to operate the technologies without worry or concern that a probing parent will discover their participation in bullying (or even their victimization).

In a similar vein, the inseparability of a cell phone from its owner makes that person a perpetual target for victimization. Users often need to keep it turned on for legitimate uses, which provides the opportunity for those with malicious intent to send threatening and insulting statements via the cell phone’s text messaging capabilities. What’s more, most adolescents connect to the Internet at home and are online all hours of the evening and night. This contributes to the invasive nature of cyberbullying. There may truly be “no rest for the weary” as it penetrates the walls of a home - traditionally a place where victims could seek refuge.

Finally, the coordination of a bullying attack can occur with more ease because it is not constrained by the physical location of the bullies or victims. A veritable onslaught of mistreatment can quickly and effectively torment a victim through the use of these communications and connectivity tools.

Nature and Extent of Cyberbullying

In 2007, we surveyed a random sample of approximately 2,000 middle-school students from a large school district to learn about their experiences with cyberbullying. When asked if they had been “cyberbullied” in their entire lives, 17.3% said “yes.” A similar proportion (17.6%) admitted to cyberbullying others at some point in their lifetime. Finally, 12% of the sample reported being both a victim and a bully.

In addition, 42.9% experienced at least one of the following in the last 30 days:

- Received an e-mail that made them upset (not spam)
- Received an instant message (IM) that made them upset
- Had something posted on MySpace that made them upset
- Been made fun of in chat room
- Had something posted on a Web site that made them upset
- Had something posted online they didn’t want others to see
- Been afraid to go on the computer

While some of the above behaviors may not fit neatly under our definition, they may be considered cyberbullying if perpetrated by peers repeatedly over time. The point is that students might say “no” when asked if they have been “cyberbullied” - but “yes” when asked about specific *forms* or *examples* of cyberbullying.

It is also important to point out that this latest study was conducted among middle-schoolers, so the prevalence rates are slightly less than much of our previous research (which also included high school aged students). We estimate that approximately one-third of Internet-using adolescents have experienced some form of cyberbullying within the past year. Unless we do something about it, this number will undoubtedly continue to rise.

What Can Be Done?

It is hoped that cyberbullying can be curtailed by proactively addressing the potentially negative uses of technology. Parents must regularly monitor the online activities in which their children are engaged. They must also encourage an open dialog with their children regarding issues of safety and responsible Internet use.

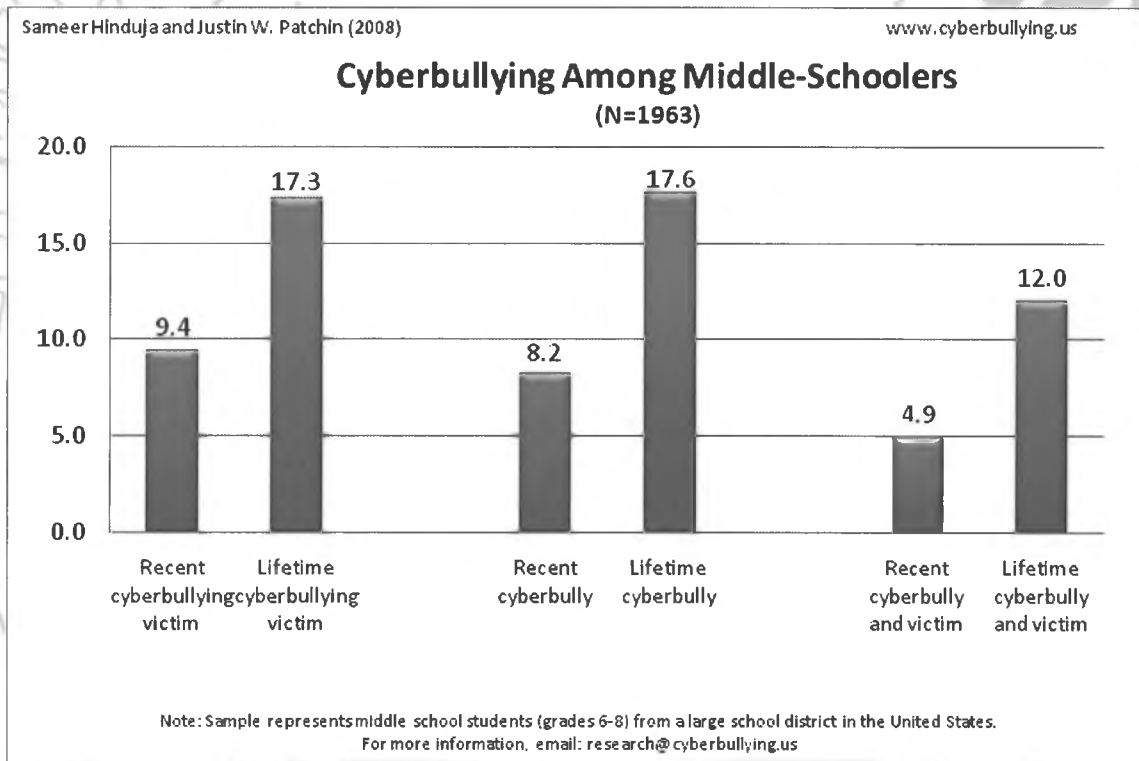
Teachers, too, must take care to supervise students as they use computers in the classrooms and should consider incorporating discussions of issues related to cybersafety in their curriculum when appropriate. "Hands-on" activities and role-playing exercises may be particularly useful for introducing this topic to youth. School liaison officers and law enforcement officials must investigate all instances of harassment – including electronic bullying – and hold responsible parties accountable. Each of us has an important role to play.

Conclusion

Victimization on the Internet through cyberbullying is increasing in frequency and scope. This negative

experience not only undermines a youth's freedom to use and explore valuable online resources, but also can result in severe functional, psychological, and emotional ramifications. It is hoped that this fact sheet will contribute to improving society's overall understanding of the causes and consequences of online aggression.

For more information about cyberbullying, visit www.cyberbullying.us and look for our book: Bullying Beyond the Schoolyard: Preventing, and Responding to Cyberbullying which is available from Sage Publications (Corwin Press).



Sameer Hinduja, Ph.D. is an Associate Professor at Florida Atlantic University and Justin W. Patchin, Ph.D. is an Associate Professor at the University of Wisconsin-Eau Claire. Together, they lecture across the United States on the causes and consequences of cyberbullying and offer comprehensive workshops for parents, teachers, counselors, mental health professionals, law enforcement, youth and others concerned with addressing and preventing online aggression.

The Cyberbullying Research Center is dedicated to providing up-to-date information about the nature, extent, causes, and consequences of cyberbullying among adolescents. For more information, visit <http://www.cyberbullying.us>. © 2009 Cyberbullying Research Center - Sameer Hinduja and Justin W. Patchin



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02/10/2014

Dear Senator Meyer,

My name is Arlene Briscoe, RN-BC. I am a board certified mental health nurse. I am also a constituent from your district. I have been a mental health nurse since 1987. I am pleased that you have introduced SB 128- Electronic Bullying. I support this bill as it addresses a significantly growing problem that has been recognized, but not addressed. I work as a mental health staff nurse at a hospital in Anchorage and see daily the torment that any type of bullying creates. The hardest hit populations are middle and high school children. Cyber was a word only used in science fiction stories when I was a kid. When there were bullies at school, a child could go home and feel safe. Now with the advent of "cyber technology" a child or even an adult has no safe haven. A bully can follow a person home and greet them on their mobile phone, Facebook, Twitter or their own personal e-mail.

I have seen numerous children hospitalized endorsing suicide ideation after cyber bullying, the suffering it causes not only the child, but the entire family emotionally and financially is overwhelming. A child with substantial suicide ideation is hospitalized frequently a minimum of 10 days, with an average length of stay 2-3 weeks here in Anchorage.

Senate Bill 128 starts the process of protecting our most precious resource, our children and gives schools and families the power to protect kids not only the bullied children, but the "bullies". Children who are identified as bullies require help too, and by identifying these kids and setting limits on these behaviors they will hopefully get the help they need to stop this entire negative cycle.

I will be in Juneau for the nurses' fly-in, the week of February 17th and look forward to meeting you and thanking you personally for your effort.

Most Sincerely,

Arlene Briscoe, RN-BC
7330 Biglerville Circle
Anchorage, AK 99507
knitdogg20@hotmail.com

Regular Session, 2010

HOUSE BILL NO. 1259

BY REPRESENTATIVE BURRELL

CRIME: Creates the crime of cyberbullying

1 AN ACT

2 To enact R.S. 14:40.7, relative to assault and battery and related offenses; to create the crime

3 of cyberbullying; to provide for definitions; to provide for penalties; and to provide

4 for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:40.7 is hereby enacted to read as follows:

7 §40.7. Cyberbullying

8 A. Cyberbullying is the transmission of any electronic textual, visual,

9 written, or oral communication with the intent to coerce, abuse, torment, intimidate,

10 harass, embarrass, or cause emotional distress to a person under the age of seventeen.

11 B. For purposes of this Section, "electronic textual, visual, written, or oral

12 communication" means any communication of any kind made through the use of a

13 computer online service, Internet service, or any other means of electronic

14 communication, including but not limited to a local bulletin board service, Internet

15 chat room, electronic mail, or online messaging service.

16 C. An offense committed pursuant to the provisions of this Section may be

17 deemed to have been committed where the communication was originally sent,

18 originally received, or originally viewed by any person.

19 D.(1) Whoever commits the crime of cyberbullying shall be fined not more

20 than five hundred dollars, imprisoned for not more than six months, or both.

- 1 (2) Upon a second conviction, the offender shall be fined not more than two
2 thousand dollars, imprisoned for not more than one year, or both.
- 3 (3) Upon a third or subsequent conviction, the offender shall be fined not
4 more than five thousand dollars, imprisoned for not less than one year and not more
5 than three years, or both.
-

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Burrell

HB No. 1259

Abstract: Creates the crime of cyberbullying and provides for criminal penalties.

Proposed law provides that cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the intent to coerce, abuse, torment, intimidate, harass, embarrass, or cause emotional distress to a person under the age of 17.

Proposed law defines "electronic textual, visual, written, or oral communication" as any communication of any kind made through the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service.

Proposed law provides for the following criminal penalties for the crime of cyberbullying:

- (1) A fine of not more than \$500, imprisonment for not more than six months, or both.
- (2) Upon a second conviction, a fine of not more than \$2,000, imprisonment for not more than one year, or both.
- (3) Upon a third or subsequent conviction, a fine of not more than \$5,000, imprisonment for not less than one year and not more than three years, or both.

(Adds R.S. 14:40.7)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Changed the elements of the crime to apply only to victims who are under the age of 17.

House Floor Amendments to the engrossed bill.

1. Deleted "frighten" as an element of the offense.