



# Illinois legislation takes aim at vicious new trend in cyberbullying

## Bill would make posting explicit 'revenge porn' images a felony

by Illinois Sen. Michael E. Hastings

Technology is changing at a rapid pace. It has led to major advancements in our means to communicate. Needing only access to the Internet, anybody can create a Skype account, and a person's ability to communicate is no longer confined by distance or the price of a phone call.

It amazes me that I no longer have to open a phone book to find the telephone number for a local restaurant, or make an unexpected stop at a gas station to ask for directions.

Instead, I can simply utilize the technology at my fingertips — my iPhone — and ask Siri who has the best pizza in Chicago, and thankfully, my GPS will not only provide me with directions, but will also steer me away from traffic congestion.

However, as our communication platforms expand, so too has the ability to use these technologies for harm. Cyberbullying was a fairly foreign phrase 20 years ago, but now it has increasingly and unfortunately become a household term.

According to a 2011 report by the National Crime Prevention Council, cyberbullying is a problem that affects almost half of all American teens.

While serving on our local school board, I noticed that more and more parents were reporting incidents of their child being harassed on the Internet. So, after I was elected to the state Senate in 2012, I decided to raise awareness about cyberbullying and the harm it can do to our younger generations. I wanted to make it an issue that was not only discussed, but also addressed by lawmakers.

While doing research on cyberbullying, I started realizing that it doesn't just affect teens, but young and older adults as well.

More and more stories cropped up about victims, most of whom were women, who were being extorted by a bitter ex. Story after story told the same tale of an unsuspecting victim being traumatized by a disgruntled ex-partner with past digital images or videos of intimate moments that they were threatening to post, or even worse, had already posted online. This heinous act is called "revenge porn."

These stories really hit home for me, as I have three younger sisters and could not even fathom the kind of pain and anxiety that these victims were experiencing.

Some may make the argument that cyberbullying is the result of millennials being careless with technology, but what happens when those videos or photos were the result of an abusive relationship?

Not until I spoke with a victim, a young woman who provided testimony about her experience, did I realize the full devastating and humiliating — and potentially long-lasting — impact this can have on someone's life.

### Story after story told of an unsuspecting victim being traumatized by a disgruntled ex-partner posting images of past intimate moments.

#### States beginning to address growing problem of 'revenge porn'

As "revenge porn" — the posting of sexual images of people (usually women) without their consent, often with identifying information and intent to harass after a breakup — has become increasingly common, states have begun to address the issue with legislation.

Currently, only two U.S. states, California and New Jersey, have passed laws criminalizing the practice, though legislation to do so has been proposed in numerous other states, including Wisconsin and Illinois in the Midwest.

California's SB 255, signed into law last year, makes disseminating revenge porn a misdemeanor punishable by up to six months in jail, a fine of up to \$1,000 or both. Those seeking harsher penalties, such as the organization End Revenge Porn ([endrevengeporn.org](http://endrevengeporn.org)), say that although the law is a good start, it is inadequate. Under the law, they say, charges are contingent not only upon the images having been taken by other individuals, thus leaving out self-taken photos, but also upon "intent to cause serious emotional distress," which requires an additional, unnecessary burden of proof. New Jersey's prohibition of unauthorized dissemination of sexual images (punishable by a fine of up to \$30,000) is the result of a 2004 invasion-of-privacy law that was intended to address voyeurism.

In Wisconsin, current law makes it a Class I felony to possess, reproduce or distribute a nude or sexually graphic image taken without the depicted person's knowledge or consent, punishable by up to three years and six months in prison and/or a fine of up to \$10,000. AB 462 would make it a Class A misdemeanor to disseminate such an image without the depicted person's consent, whether or not the person originally consented to its being taken. Penalties include up to nine months in jail and a fine of up to \$10,000. Under Illinois' SB 2694, posting explicit images without the depicted person's consent (including self-taken images) and with intent to cause emotional distress would be a Class 4 felony, punishable by up to 3 years in prison and a fine of up to \$25,000.

After I introduced SB 2694, my proposal targeting revenge porn, my office was contacted by a woman who wanted to share her story in the hope that her experience would garner support for the bill. Diana, an interior designer from Chicago, was in an abusive marriage.

#### Abuse can be more than physical

As she explained to lawmakers in committee, "An abusive relationship doesn't always come with broken bones and bloodied lips." She described the abuse as both emotional and physical, including threats to participate in certain acts "or else." For her, complying became a form of self-preservation.

She eventually got a divorce, but that didn't end the threats of extortion from her ex-husband. Diana described it as a constant "noose around her neck." She was fearful that friends, family or co-workers would see the graphic material, and worse, that it could lead to her losing her job.

After multiple threats, she filed for an order of protection against her ex-husband; however, the order only lasted two years and once it expired, she was once again left with no legal protection to help deter her husband from releasing the graphic material.

My hope is that SB 2694 would serve as that deterrent. Under this proposal, the penalty for anyone who posts explicit content, without consent and with

intent to cause emotional distress, can be charged with a Class 4 felony, which carries a maximum prison sentence of three years and a fine of up to \$25,000.

At the moment, there is very little information on the number of people who are victims. But I believe that has begun to change as revenge porn and cyberbullying receive more public attention.

California and New Jersey have already passed or are seeking to strengthen laws in an attempt to address revenge-porn loopholes. Illinois and numerous other states are now considering similar laws. This illustrates that the general public is becoming more aware of this trending problem.

Today's technology has truly shaped the way we live, but unfortunately, it has brought with it some negative consequences — revenge porn being a prime example.

Technology is always evolving, and as citizens we must constantly be vigilant to ensure that our criminal justice system has the necessary protections to keep pace with our rapidly changing, technology-based environment. ★

Illinois Sen. Michael E. Hastings, a Democrat from Orland Park, was first elected in 2012.

#### Submissions welcome

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