

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2007-139

State of Arkansas

As Engrossed: S3/27/07

86th General Assembly

A Bill

Regular Session, 2007

SENATE BILL 828

By: Senator Critcher

Referred to

Judiciary Committee - Senate

by the Arkansas Senate

on 04/02/2007

For An Act To Be Entitled

AN ACT TO PROHIBIT THE USE OF AUTOMATED TELEPHONE SOLICITATION FOR DEBT COLLECTION PURPOSES; TO PROHIBIT COLLECTION CALLS TO PERSONS OTHER THAN A DEBTOR; AND FOR OTHER PURPOSES.

Subtitle

TO PROHIBIT THE USE OF AUTOMATED TELEPHONE SOLICITATION FOR DEBT COLLECTION PURPOSES AND TO PROHIBIT COLLECTION CALLS TO PERSONS OTHER THAN A DEBTOR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-71-209 is amended to read as follows:
5-71-209. Harassing communications.

(a) A person commits the offense of harassing communications if:

(1) ~~with~~ With the purpose to harass, annoy, or alarm another person, the person:

~~(1)(A)~~ (A) Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written communication, in a manner likely to harass, annoy, or cause alarm;

1 ~~(2)(B)~~ Makes a telephone call or causes a telephone to
2 ring repeatedly, with no purpose of legitimate communication, regardless of
3 whether a conversation ensues; or

4 ~~(3)(C)~~ Knowingly permits any telephone under his or her
5 control to be used for any purpose prohibited by this section; or

6 (2)(A) The person knowingly makes more than one (1) telephone
7 communication to a third party for the purpose of acquiring consumer location
8 information, unless the third party consents to future calls or is obligated
9 to pay the debt.

10 (B) Subdivision (a)(2)(A) of this section does
11 not apply to a telephone call by a public utility, a commercial mobile radio
12 service provider, or an agent or contractor of the public utility or the
13 commercial mobile radio service provider.

14 (b) An offense involving use of a telephone may be prosecuted in the
15 county where the defendant was located when he or she used a telephone, or in
16 the county where the telephone made to ring by the defendant was located.

17 (c) Harassing communications is a Class A misdemeanor.

18 (d)(1) Upon the pretrial release of the defendant, a judicial officer
19 shall enter a no contact order in writing consistent with Rules 9.3 and 9.4
20 of the Arkansas Rules of Criminal Procedure and shall give notice to the
21 defendant of penalties contained in Rule 9.5 of the Arkansas Rules of
22 Criminal Procedure.

23 (2) This no contact order remains in effect during the pendency
24 of any appeal of a conviction under this section.

25 (3) The judicial officer or prosecuting attorney shall provide a
26 copy of this no contact order to the victim and arresting agency without
27 unnecessary delay.

28 (e) If the judicial officer has reason to believe that mental disease
29 or defect of the defendant will or has become an issue in the cause, the
30 *judicial officer shall enter such orders as are consistent with § 5-2-305.*

31 (f) A federally insured depository institution is in compliance with
32 this section if the institution is in compliance with all debt collection
33 regulations issued by the institution's primary state or federal regulator.

34
35 /s/ Critcher

36

- 1
- 2
- 3
- 4
- 5