



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 341: Protection from Online Impersonation.

2021-2022 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 8, 2021
Introduced by:	Reps. White, Strickland	Prepared by:	Robert Ryan
Analysis of:	Second Edition		Jennifer Bedford Staff Attorneys

OVERVIEW: House Bill 341 would create a new crime and new civil cause of action for online impersonation.

CURRENT LAW:

G.S. 14-100. Obtaining property by false pretenses.

It is a Class H felony to knowingly obtain something of value worth up to \$100,00, from another person by making a false representation intended to deceive. It is a Class C felony if the value is more than \$100,000.

G.S. 14-113.20 – G.S. 14-113.25. Identify Theft.

It is a Class G felony to knowingly use certain "identifying information" belonging to another person with the intent to represent to be that person for certain fraudulent purposes. It is a Class F felony if the victim suffers an arrest. Trafficking "identifying information" is a Class E felony.

G.S. 14-458.1. Cyber-bullying.

Using a computer or computer network to take certain harassing actions directed at a minor was prohibited by statute. In State v. Bishop¹ the North Carolina Supreme Court ruled that 14-458.1(a)(1)(d) violated the First Amendment and was unconstitutional. This provision stated that it was "unlawful for any person to use a computer or computer network" to "post or encourage others to post on the Internet private, personal, or sexual information pertaining to a minor ... with the intent to intimidate or torment a minor."

BILL ANALYSIS: House Bill 341 would create a new crime and civil action for online impersonation.

The bill would make it a Class H felony for a person to knowingly and without consent impersonate another person on a Web site or through other electronic means for the purposes of harming, intimidating, threatening, or defrauding another person.

The bill would also create a civil action for a person harmed, intimidated, threatened, or defrauded by an imposter. The plaintiff in the civil case could recover the following:

- Actual damages, but not less than liquidated damages, computed at the rate of \$1,000 a day for each day of the violation or \$10,000, whichever is higher.
- Punitive damages.
- Reasonable attorneys' fees and other litigation costs.

¹ 368 N.C. 869 (2016)

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Law enforcement officers and individuals licensed as Private Protective Services are exempt from the requirements of the bill if they are engaged in the discharge of their professional duties and are not engaged in improper activities.

EFFECTIVE DATE: House Bill 341 would become effective December 1, 2021, and would apply to acts committed on or after that date.

BACKGROUND: The second edition of House Bill 341 is very similar to the Second Edition of House Bill 794- Protection from Online Personation (2015 Regular Session) which passed second and third readings in the House of Representatives on April 29, 2015.

Brad Krehely, Staff Attorney for the Legislative Analysis Division, contributed substantially to the drafting of this summary.