

Is Cyberbullying a Crime Under Federal Law?

U.S. FEDERAL LAW | CRIMINAL LAW | ONLINE HARASSMENT

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The Short Answer

There is no federal law in the U.S. that specifically criminalizes cyberbullying as a standalone offense. Congress has never passed a dedicated statute. Prosecutors must rely on existing laws written for other purposes, and whether those laws apply depends entirely on the facts of each situation.

Federal Laws That Can Apply to Cyberbullying

Federal Law	What It Covers	Max Penalty	Key Limitation
18 U.S.C. § 2261A Cyberstalking	Course of conduct via electronic communications causing fear or substantial emotional distress	Up to 5 years (10 yrs if minor victim)	Requires a pattern of conduct, not a single incident
18 U.S.C. § 875(c) Interstate Threats	Transmitting threats to injure another person across state lines	Up to 5 years	Actual threats only; not harassment without a threat
47 U.S.C. § 223 Telecomm. Harassment	Using phone or telecomm device to harass or threaten directly	Up to 2 years	Direct communications only; not public posts or forums
18 U.S.C. § 1030 CFAA	Unauthorized access to computer systems	Varies	Not designed for harassment; courts reluctant to apply it

The Landmark Case: United States v. Drew (2009)

Lori Drew created a fake MySpace account to target 13-year-old Megan Meier, who died by suicide in 2006. Because no cyberbullying statute existed, federal prosecutors charged Drew under the Computer Fraud and Abuse Act, arguing that creating a fake account violated MySpace's terms of service. A jury convicted on misdemeanor counts, but a federal judge overturned the verdict, ruling that criminalizing terms of service violations would make ordinary internet behavior a federal crime. The case was dismissed. Congress introduced the Megan Meier Cyberbullying Prevention Act in response. It never passed.

Why No Federal Law Exists

The First Amendment protects speech, including speech that is offensive or hurtful. A federal cyberbullying law broad enough to cover most online cruelty would likely criminalize constitutionally protected expression. State courts have struck down cyberbullying statutes on exactly these grounds. Drafting a law that is both effective and constitutional has proven difficult enough that Congress has not managed it.

State Laws Fill the Gap

- 48 states have electronic harassment laws explicitly including cyberbullying
- 44 states include criminal sanctions in their cyberbullying laws
- All 50 states have some form of anti-bullying law
- State law is the most practical legal avenue for most victims

What Victims Can Do

Document everything.	Screenshots, dates, usernames, and full records of each incident.
Report to the platform.	Social media companies can suspend accounts and remove content.
Contact local law enforcement.	State harassment and stalking statutes are the most common avenue.
Consult a civil attorney.	Civil claims may be available regardless of criminal thresholds.
File with Dept. of Education OCR.	When harassment involves sex, race, disability in a school setting.

References

- Cornell Law School (LII): 18 U.S.C. § 2261A — law.cornell.edu/uscode/text/18/2261A
- StopBullying.gov: Laws, Policies and Regulations — stopbullying.gov/resources/laws
- Congress.gov: H.R. 1966, Megan Meier Cyberbullying Prevention Act
- Black's Law Dictionary: Cyberstalking, Harassment, Interstate Commerce
- LegalTerms.net Editorial Guidelines — legalterms.net/editorial-guidelines/