Intro. Res. No. 1509-2010 Laid on Table 4/27/2010
Introduced by Legislators Cooper, Romaine, Barraga, Browning and Gregory

RESOLUTION NO. 665 -2010, ADOPTING LOCAL LAW NO. 37 -2010, A LOCAL LAW PROHIBITING CYBERSTALKING IN SUFFOLK COUNTY

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on April 27, 2010, a proposed local law entitled, "**A LOCAL LAW PROHIBITING CYBERSTALKING IN SUFFOLK COUNTY**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO.37 -2010, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW PROHIBITING CYBERSTALKING IN SUFFOLK COUNTY

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that stalking and harassment are serious crimes that frequently put victims in fear for their physical safety.

This Legislature also finds and determines that, traditionally, crimes of stalking and harassment are committed through the mail, on telephones or in close physical proximity to the victim.

This Legislature further finds and determines that, due to advances in technology, stalking and harassment are increasingly occurring through the use of the internet and perpetrators can obtain increased information regarding the whereabouts and activities of their victims at any given moment.

This Legislature finds that online stalking and harassment behaviors, now known as "cyberstalking", are repeated acts of non-physical harassment against adults which are transmitted by electronic means.

This Legislature also finds that cyberstalking can occur at any time, anywhere and can be perpetrated by individuals far away from the physical location of their victims, as it is perpetrated online and/or through text and picture messages on cellular phones and handheld devices.

This Legislature determines that cyberstalking has shown to cause significant psychological trauma to victims.

This Legislature also finds that cyberstalking behavior frequently escalates into off-line stalking and harassment, with victims frequently enduring harassing and repeated phone calls, threats, obscene mail, vandalism, trespassing and physical assault.

This Legislature further finds that the victims of cyberstalking suffer real and serious harm, including, but not limited to, anxiety, hyper-vigilance, nightmares, changed eating and sleeping habits, and fear for their safety.

This Legislature also determines that a few states have enacted laws criminalizing cyberstalking, but, to date, the New York State Legislature has failed to address this problem.

This Legislature further determines that Suffolk County should do everything in its power to protect its residents from such dangerous behavior which provides a gateway for the commission of further crimes.

Therefore, the purpose of this law is to prohibit the cyberstalking of adults in the County of Suffolk.

Section 2. Definitions.

As used in this law, the following terms shall have the meanings indicated:

"ADULT" shall mean any natural person or individual age nineteen (19) or over.

"CYBERSTALKING" shall mean engaging in a course of conduct or repeatedly committing acts of abusive behavior over a period of time, with the intent to coerce, intimidate, harass or cause substantial emotional distress to a person, and which serve no legitimate purpose, by communication or causing a communication to be sent by mechanical or electronic means, posting statements on the internet or through a computer network. Acts of abusive behavior shall include, but not be limited to, threatening; intimidating; tormenting; humiliating; disseminating embarrassing or sexually explicit photographs, either actual or modified, of a person without their permission; or disseminating the private, personal or sexual information of a person without their permission.

"PERSON" shall mean any natural person or individual.

Section 3. Prohibitions.

No person shall engage in cyberstalking against an adult in the County of Suffolk.

Section 4. Penalties.

Any person who knowingly violates the provisions of this article shall be guilty of an unclassified misdemeanor punishable by a fine of up to $1,000 and/or up to one year's imprisonment.

Section 5. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 6. Reverse Preemption.

This law shall be null and void on the day that statewide or federal legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this article, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

Section 7. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 8. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 9. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

DATED: June 22, 2010

APPROVED BY:

County Executive of Suffolk County

Date: 7-14-10

After a public hearing duly held on July 6, 2010
Filed with the Secretary of State on August 4, 2010

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY

This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on June 22, 2010 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1249 Res. No. 1105 June 22, 2010

Motion:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
Romaine, Schneiderman, Browning, Muratore, Losquadro
Eddington, Montano, Cilmi, Lindsay, Viloria-Fisher, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	✓				
2	Jay H. SCHNEIDERMAN				✓	
3	Kate M. BROWNING	✓				
4	Thomas MURATORE	✓				
6	Daniel P. LOSQUADRO	✓				
7	Jack EDDINGTON	✓				
9	Ricardo MONTANO	✓				
10	Thomas CILMI	✓				
11	Thomas F. BARRAGA	✓				
12	John M. KENNEDY, JR.	✓				
13	Lynne C. NOWICK	✓				
14	Wayne R. HORSLEY	✓				
15	DuWayne GREGORY	✓				
16	Steven H. STERN	✓				
17	Lou D'AMARO	✓				
18	Jon COOPER				✓	
5	Vivian VILORIA-FISHER, D.P.O.	✓				
8	William J. LINDSAY, P.O.	✓				
	Totals	16	—	—	2	—

MOTION
X Approve
____ Table: _____
____ Send To Committee
____ Table Subject To Call
____ Lay On The Table
____ Discharge
____ Take Out of Order
____ Reconsider
____ Waive Rule ____
____ Override Veto
____ Close
____ Recess
APPROVED X FAILED ____
No Motion ____ No Second ____

RESOLUTION DECLARED
X ADOPTED
____ NOT ADOPTED

Roll Call ____ Voice Vote X

Tim Laube
Tim Laube, Clerk of the Legislature