Chapter 5

State-Level Cyberbullying Policy: Variations in Containing a Digital Problem

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ABSTRACT

Cyberbullying is the use of information technology to deliberately hurt, taunt, threaten or intimidate someone. Currently, there are no federal statutes in the United States which directly address this problem. The response of the states has varied from attempting to use existing anti-bullying laws to limit cyberbullying to passing new laws that specifically target cyberbullying behavior. An important question is, “why are some states taking a lead in combating this cybercrime through new laws while others are relying on existing laws?” The literature on policy adoption suggests politics, resources and public need are important factors in predicting why certain states are more likely to enact government policies. This chapter analyzes the impact of these factors and others on policy adoption by exploring the level of legislative action to update existing cyberbullying laws for 2009 through 2014.

INTRODUCTION

Cybercrimes are on the rise. In 2013, the Internet Crime Complaint Center (IC3), a partnership including the Bureau of Justice Assistance (BJA), the National White Collar Crime Center (NW3C) and the Federal Bureau of Investigations (FBI), received 262,813 consumer complaints from victims of Internet crimes (p.3). Although the non-delivery of payment or merchandise was the most reported offense, cybercrimes ranged from spam, identify theft, cyber-stalking to software piracy. The age group found least likely
to be a victim of cybercrimes was those under the age of 20; this group constituted only 3.4% of the complaints received by the IC3 in 2013 (IC3, 2013, p.6). Nevertheless, there is reason to be concerned about online usage of both youth and teens. A 2012 study found that those between the ages of 18 to 29 years lead all other age groups in the use of social network sites (SNS) such as Facebook, Twitter, Instagram, and Tumblr (Pew Internet & American Life Project, 2013, p. 2). Furthermore, youth under the age of 13 are also taking part in social networking even though this involves falsifying their age to participate in networking activities (Federal Trade Commission, 2007). Through the increased use of social media, teens and youth open themselves up to a number of cybercrimes including cyberbullying.

Bullying is defined as unwanted, repetitive, aggressive behavior among children and adolescents that involves a real or perceived power imbalance. Bullying includes actions such as making threats, spreading rumors, attacking someone physically or verbally, and excluding someone from a group on purpose. Cyberbullying is a specific form of bullying that takes place online (U.S. Department of Health & Human Services, 2015). A 2014 study by the Pew Research Center found that about 65% of young adults, between the ages of 18 and 29, who use the Internet, have been subject to some degree of on-line harassment. For those who are between the ages of 18-24, the proportion rises to 70% (Pew Research Center, 2014, p. 3).

The issue of cyberbullying gained national attention on October 17th, 2006, when 13 year old Megan Meier, a victim of cyberbullying, committed suicide. She had hanged herself the day before, following constant bullying about her weight. Shortly before her death, Megan had created a MySpace account and began correspondence with an individual posing as a “Josh Evans,” a teenage boy. Josh’s messages initially were friendly, but subsequently took a darker turn. In his last message on October 16th, the day Megan killed herself, he wrote, “This world would be a better place without you.” As it turns out “Josh Evans” never existed. One of Megan’s friends and her friend’s mother, Lori Drew, created a fake MySpace account and posed as “Josh Evans.” Lori Drew was convicted of three misdemeanors related to online harassment which were subsequently dismissed (Frankel, 2012). This was not the first tragedy resulting from cyberbullying but the involvement of an adult perpetrator helped to draw media attention to the severity and potential fatal outcome of cyberbullying.

The death of Megan Meier was not the last event to draw national attention to the issue of bullying and cyberbullying. On January 14th, 2010, 15 year-old Phoebe Price, a high school student in the state of Massachusetts, hanged herself after enduring 3 months of nonstop bullying and cyberbullying from fellow classmates. Six students (between the ages of 16 and 18) were charged with a variety of crimes in connection with her death including statutory rape, violation of civil rights with bodily injury, harassment, stalking and disturbing a school assembly. While it was the action of an adult that drew attention to the death of Megan Meir, it was the inaction of adults that drew attention to the death of Phoebe Price. Most of the bullying Price endured took place on school grounds and while school was in session. Furthermore, a number of teachers, administrators and staff were aware of her situation but did nothing to intervene. At that time, Massachusetts did not have an anti-bullying law and inaction of school personnel was not considered illegal (Eckholm & Zezima, 2010). In response to her death and a similar suicide of an 11 year boy from Springfield, Massachusetts, the state legislature passed and the governor signed an anti-bullying law with language that included cyberbullying on May, 3, 2010 (Eckholm & Zezima, 2010; Hinduja & Patchin, 2015a).