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Malicious online impersonation should be a crime

JOE SIMITIAN

Maybe you think it would be fun to jab a celebrity. Someone on Twitter impersonated St. Louis Cardinals Manager Tony LaRussa and made him appear to mock the deaths of two Cardinals players.

Maybe you want to stir up some domestic trouble. "Someone created an account under my name," lamented one commenter on a law-help website posting on custody issues, "even one saying that I was going to take my son out of state."

Or maybe your intentions are far more despicable. In Texas, someone impersonated two locally prominent college football players to send obscene messages to underage girls.

On the Internet, it's easy to be someone else. You can set up a fake page on Facebook or MySpace; you can assume an identity on Twitter; you can appropriate someone else's name when you create an e-mail account.

As the Internet provides new opportunities for mischief, or worse, state law must provide new protections. I have introduced Senate Bill 1411 to make it a misdemeanor to impersonate someone on the Internet if the

intention is to harm, intimidate, threaten or deceive them. In addition, victims would gain the right to sue their tormenters.

Some social networking and e-mail sites will take down pages or cancel accounts if they are shown to be fraudulent. But the process can be time-consuming, and by the time the information is erased, the damage is done. Merely being blacked out or shut down is not a sufficient deterrent for wrongdoers. They should know that their actions are illegal and that they will be punished, and they should be liable for damages.

The state's current law on "false personation," as it is called, was written in 1872 and refers only to signing "any written instrument" or causing someone to become liable to prosecution or to have to pay money. This doesn't begin to cover the havoc that impersonation on the Internet can create. Vendettas in bitter divorces. Revenge by disgruntled employees impersonating their former bosses. Students angry at teachers or other students. Political dirty tricks.

State law must establish that all of this is not just unethical because it is hurtful, intimidating and deceitful, but also that it is illegal, and that consequences will follow.

While seeking to punish malevolent speech, my bill protects freedom of speech. Creators of satire or parody would be in no danger. A "Barack Obama" Facebook page on a political website, to take one example, is clearly not intended to fool people into thinking it is written by the president. My bill applies only to impersonation "for purposes of harming, intimidating, threatening or defrauding another person."

For all the extraordinary good it can do, there is no doubt that the Internet has coarsened civic life. In e-mails, blogs, and the comments sections of websites, people say things, often anonymously, they would never say in person. Legislation cannot usher in a new age of good manners. But lines must be drawn.

Anonymous vitriol may be vile, but when, through impersonation, it becomes in addition a fraud, a lie put in the mouth of the very person at whom it is aimed, the victims deserve the weight of the state behind them as they look to regain their reputations.

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Editorials

California should outlaw online impersonation

Impersonating someone with the intent to harm, intimidate, threaten or defraud is illegal in California — except when it's done online. Existing state law, written in 1872, didn't anticipate the existence of Facebook, MySpace or a host of other Internet sites that unintentionally created new ways to harm innocent victims.

State Sen. Joe Simitian has a solution. His SB 1411 would make it a misdemeanor to maliciously impersonate another person online. The Legislature should pass the Palo Alto Democrat's bill, and Gov. Arnold Schwarzenegger should sign into law legal protections against online abuse.

It's sad that Simitian's law

is necessary. But online abuses are a growing problem for students, teachers, businesspeople, politicians and people of all ages who are in relationships that have gone amiss.

Facebook and MySpace accounts can be shut down when a problem arises. But when they are created with the intent to do damage, there should be a price. Simitian's law, which includes provisions to protect legitimate forms of free speech, would carry up to a \$1,000 fine and/or up to a year in jail.

Sacramento can't legislate good behavior. But it can and should protect Californians from being further damaged by impersonators who are up to no good.

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New California law bans 'e-personation'

By Kurtis Alexander

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Once just a cruel joke, assuming another person's identity on the Internet and fabricating an e-mail or Facebook account, is no longer a laughing matter.

A state law effective Saturday, authored by Sen. Joe Simitian, D-Palo Alto, makes online impersonation, when it seeks to harm someone, illegal.

"As a Silicon Valley legislator, I'm nothing but enthusiastic about technology. But the question is, is the technology used wisely and appropriately?" Simitian said this week. "This ('e-personation') is one area where some constraint appeared necessary."

Falsely sourced e-mails, tweets and Web posts have become ubiquitous online, and it's not uncommon for someone to create a Facebook or MySpace account in someone else's name. If this is done to "harm, intimidate, threaten or defraud," according to Senate Bill 1411, it will be a misdemeanor punishable by up to a \$1,000 fine and a year in jail.

One of the highest profile stories of using false pretenses on the Internet has been the case of Lori Drew. The Missouri mom was accused in a California court,

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*Sen. Joe Simitian,
author of bill*

though later acquitted, of setting up a MySpace profile of a fictitious teenage boy in order to taunt a 13-year-old friend of her daughter. The friend later hung herself.

With social media so new and its legal framework budding, Simitian's office acknowledges that what exactly constitutes criminal e-personation remains to be seen.

His law allows district attorneys to prosecute if they think a crime has been committed. It also allows victims to sue. "The goal here really is to try to change behavior (not test the law in court)," Simitian said.

A primary driver of the new law was a colleague's tale of impersonation.

Carl Guardino, CEO of Silicon Valley Leadership Group, approached Simitian after an e-mail went out falsely in his name, purporting an apology for something "ugly" that he didn't do.

"People who knew me knew it wasn't me. But thousands of people who don't know me received this, too," Guardino explained. "Somebody was out to harm me. I went to the police, and they said, 'Terrible? Yes. Scandalous? Yes. But there's nothing we can do about it.'"

Simitian's law banning online impersonation piggybacks on a 19th century California law that prohibits signing documents in another person's name.

"Folks in 1872 obviously didn't face the problems we're dealing with today," Simitian said.

A handful of Internet free-speech advocates initially expressed concerns about Simitian's law. Their chief fear was that such a measure would prevent spoofs or political satire.

The final legislation holds that the person who is impersonated has to be "real" and "credible," meaning there's leeway for parody, and Abraham Lincoln and Santa Claus can still legally have Twitter accounts.