

# Legal Study Of Legal Protection For Victims Of Cyberbullying Crimes Based On Law Number 1 Of 2024 Concerning The Second Amendment To Law Number 11 Of 2008 Concerning Electronic Information And Transactions

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## Abstract.

*The purpose of this study is to find out and understand about Legal Protection related to cyberbullying crimes regulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions and Obstacles in law enforcement against victims of cyberbullying. The type of research used is normative legal research. Using a qualitative approach. Discussion Results: 1. Legal Protection related to cyberbullying crimes is regulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. The use of this Law has been felt to be very appropriate by applying the legal principle of *lex specialis derogate legi generali* which means that special regulations can override more general rules. So that the appropriate use in cases of cyberbullying is the use of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. This law specifically regulates crimes that are often committed by perpetrators of crimes in cyberspace. 2. Obstacles in law enforcement against victims of cyberbullying include: No police report by victims of cyberbullying crimes; and Lack of adequate facilities and infrastructure to uncover cyberbullying crimes.*

**Keywords:** Legal Study; Legal Protection; Victims; Criminal Acts and Cyberbullying.

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## I. INTRODUCTION

Technological advances not only provide positive effects for society, but negative effects will also follow. The sophistication and superiority of a technology often cause cybercrime with various types of crimes. This will have an impact on the need for legal protection for society as users of internet sites. Legal protection is certainly expected by society as users of technology and the state is obliged to provide protection for society in terms of using the technology. Education on the use of internet technology has often been carried out by the government and law enforcement to anticipate cybercrime. However, even though education has often been carried out through socialization and legal counseling, it is not guaranteed that the intended crime will not occur. The use of technology is intended to facilitate interaction with various people, the sophistication of this technology has become an arena for committing cybercrime through the internet network. So that its use has violated the rules that should apply to its use. Social media as a form of technological progress, information and communication opens up a new space that is more practical because it can penetrate distance and accelerate the spread of information in all fields. All forms of progress are always accompanied by impacts and consequences, both directly and indirectly. The more advanced the life of society, the more advanced the crime.<sup>1</sup>In addition to direct crimes, indirect crimes such as cyberbullying are currently rampant.

The term cyberbullying is something new in society, but its development is starting to be worrying. Based on the results of research conducted by Dini Marlina, a Lecturer in the Digital Neuropsychology Study Program at Insan Cita Indonesia University (UICI), cyberbullying occurs most often on social media, reaching 71%, followed by chat applications 19%, online games 5%, and YouTube 1%. Dini also cited the results of research from the Center for Digital Society in 2021, out of 3,077 junior high and high school

students, 45.55% of students had been victims and 38.41% of students had carried out cyberbullying. Furthermore, according to Unicef data in 2022, 45% of 2,777 children in Indonesia admitted to having been victims of cyberbullying.<sup>2</sup> Cyberbullying not only limited to ordinary crimes, but also known as a form of violence in cyberspace. Victims of cyberbullying often experience depression, to being treated inhumanely by attacking the victim's soul and mentality.

Victims of cyberbullying clearly experience higher levels of depression compared to victims of physical or verbal crimes. The impact of cyberbullying on victims does not stop at the stage of depression, but has reached a more extreme action, namely suicide. The results of the study revealed the fact that although the suicide rate in the US has decreased by 28.5% in recent years, there is an increasing trend of suicide in children and adolescents aged 10 to 19 years.<sup>3</sup> Cyberbullying is a new type of crime in the cyber world. This type of crime, the target of the attack is aimed at individuals who have certain characteristics or criteria according to the purpose of the attack. The intention of the attack is to bring down someone's mental and psychological state excessively. From the explanation above, the author formulates the problem of how legal protection for victims of cyberbullying is based on Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions and the obstacles in law enforcement against victims of cyberbullying?

## II. METHODS

The type of research used is normative legal research. By using a qualitative approach. Qualitative normative legal research is research that refers to legal norms contained in laws and court decisions as well as norms that live and develop in society.<sup>4</sup> The data used in this study are secondary data, obtained through library research. The secondary data referred to in this study are primary legal materials and secondary legal materials. The primary legal materials used are laws that regulate provisions related to cyberbullying, including: Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE); and the Criminal Code. Secondary legal materials are obtained from books and journals or other reference materials related to this study.

## III. RESULT AND DISCUSSION

### 1. Legal protection for victims of cyberbullying Based on Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions

The legal basis for the utilization or use of information and communication technology in Indonesia currently refers to Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law).

*Cyberbullying* categorized as verbal bullying, and can also be called cyberbullying, where the action is done to mock, ridicule, insult, criticize, and even threaten the victim or other social media users. Various types of cyberbullying are mentioned by Wiliard and Kimberly L. Mason, which consist of:<sup>5</sup>

- Flaming: the substance of the text of the message sent contains sentences or words that are angry and sudden.
- Harassment: very annoying messages or notifications sent via text messages or social media and done repeatedly without stopping.
- Denigration: the act of airing other people's bad things on social media with the aim of destroying the good name and reputation of others.
- Impersonation: a crime involving pretending to be another party and sending bad statuses or information.
- Outing: a crime involving leaking other people's secrets in the form of photos, and so on.

- Trickery: a crime that involves seducing another person with various attempts to possess the other party's secrets.
- Exclusion: the deliberate act of removing someone from a social media group.
- Cyberstalking: the act of continuously disturbing another person's identity, resulting in the person experiencing extreme fear.

In the ITE Law, several provisions of articles relating to cyberbullying and the threat of criminal sanctions can be seen as follows:

1. Law No. 11 of 2008 concerning transaction and electronic information, contains the following provisions:
  - ChapterArticle 27 (1)  
*"Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain content that violates morality." With the threat of criminal penalties according to Article 45 (1) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - ChapterArticle 27 (3)  
*"Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation." With the threat of criminal penalties according to Article 45 (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - ChapterArticle 27 (4)  
*"Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain blackmail and/or threats." With the threat of criminal penalties according to Article 45 (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - Article 28 (2)  
*"Any person who intentionally and without right disseminates information aimed at causing hatred or hostility towards individuals and/or certain community groups based on ethnicity, religion, race and inter-group (SARA)." With the threat of criminal penalties according to Article 45 (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - Article 29  
*"Any person who intentionally and without authority sends Electronic Information and/or Electronic Documents containing threats of violence or intimidation that are directed personally."With the threat of criminal law according toArticle 45 (3)shall be punished with a maximum imprisonment of 12 (twelve) years and/or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).*
2. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions contains the following provisions:
  - Chapter27 (1)  
*"intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that contain content that violates morality." With the threat of criminal penalties according toArticle 45 (1) is punishable by imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - ChapterArticle 27 (3)  
*"intentionally and without authorization distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation." With the threat of criminal sanctions according to Article 45 (3) shall be punished with a maximum prison*

- sentence of 4 (four) years and/or a maximum fine of IDR 750,000,000.00 (seven hundred and fifty million rupiah). rupiah).*
- Chapter Article 27 (4)  
*"intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that contain blackmail and/or threats." With the threat of criminal penalties according to Article 45 (4) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).*
  - Article 28 (2)  
*"intentionally and without right to disseminate information intended to cause hatred or hostility towards individuals and/or certain community groups based on ethnicity, religion, race and inter-group (SARA)." With the threat of criminal penalties according to Article 45 A (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000.00 (one billion rupiah).*
  - Article 29  
*"intentionally and without authority sending Electronic Information and/or Electronic Documents containing threats of violence or intimidation directed personally." With the threat of criminal law according to Article 45B shall be punished with imprisonment for a maximum of 4 (four) years and/or a maximum fine of IDR 750,000,000.00 (seven hundred and fifty million rupiah).*
3. Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions contains the following provisions:
4. Chapter 27 (1)  
*"intentionally and without permission broadcasts, displays, distributes, transmits and/or makes accessible electronic information and/or electronic documents that contain content that violates morality for public knowledge." With the threat of criminal law according to Article 45(1) shall be punished with a maximum imprisonment of 6 (six) years and/or a fine maximum Rp1,000,000,000.00 (one billion rupiah).*
- Article 27A  
*"Any person who intentionally attacks the honor or good name of another person by accusing them of something, with the intention that this matter becomes public knowledge in the form of Electronic Information and/or Electronic Documents carried out through an Electronic System." With the threat of criminal law according to Article 45(4) with a maximum prison sentence of 2 (two) years and/or a maximum fine of IDR 400,000,000.00 (four hundred million rupiah). Article 45(5) The provisions as referred to in paragraph (4) constitute a complaint-based criminal act which can only be prosecuted based on a complaint from the victim or person affected by the crime and not by a legal entity.*
  - Article 28 (2)  
*"Any person who intentionally and without authority distributes and/or transmits Electronic Information and/or Electronic Documents that are inciting, inviting, or influencing others so as to give rise to feelings of hatred or hostility towards individuals and/or certain community groups based on race, nationality, ethnicity, skin color, religion, belief, gender, mental disability, or physical disability." With the threat of criminal law according to Article 45A(2) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah)."*
  - Article 29  
*"Any person who intentionally and without the right sends Electronic Information and/or Electronic Documents directly to the victim containing threats of violence and/or intimidation." With the threat of criminal law according to Article 45B shall be punished with imprisonment for a maximum of 4 (four) years and/or a maximum fine of IDR 750,000,000.00 (seven hundred and fifty million rupiah).*

The scope of cyberbullying contained in Law No. 1 of 2024 is considered to have completed the shortcomings in Law No. 19 of 2016 and Law No. 11 of 2008 concerning Electronic Information and Transactions. The term distributing and/or transmitting and/or making accessible electronic information that has content that violates morality, insults and/or defamation, blackmail and/or threats, information intended to cause hatred appears in the explanation of the Law. As a comparison, in Article 27 paragraphs (1), (3), and (4), Article 28 paragraph (2), and Article 29 of Law No. 11 of 2008 which are not accompanied by an explanation of prohibited acts. Furthermore, in Law No. 19 of 2016 and Law No. 1 of 2024 we can find the terms "distributing", "transmitting", and "making accessible" there are explanations included in Article 27 paragraphs (1) (3) and (4). Even according to Article 27 paragraphs (3) and (4) it is stated that the provisions in these two paragraphs refer to the provisions on defamation and/or slander regulated in the Criminal Code (KUHP), namely Articles 310, 317, and 433. Article 310 of the Criminal Code states: "defamation is an act of intentionally attacking someone's honor or good name. The perpetrator can be subject to a maximum of 9 months in prison or a maximum fine of Rp4.5 million." Furthermore, Article 317 states: "defamation that is slanderous with a complaint." And Article 433 states: "an act that attacks someone's honor or good name so that it becomes publicly known. The perpetrator can be subject to a maximum of four years in prison and/or a maximum fine of Rp750 million."

## **2. Barriers to law enforcement against victims of cyberbullying**

The large number of victims resulting from cyberbullying has become a concern for the government and law enforcement, this is not an ordinary crime, but an extraordinary crime because this crime is committed by electronic media using the internet network. The perpetrators of the crime are very adept at using this technology. Cyberbullying can disturb a person's soul and mentality when their privacy is disturbed by irresponsible people. The perpetrators distribute and/or transmit and/or make accessible electronic information that has content that violates morality, insults and/or defamation, blackmail and/or threats, information intended to cause hatred towards the victim. So that the victim feels threatened. Almost not many victims of this cyberbullying crime survive. Some even prefer to end their lives/commit suicide because they feel that their honor and good name have been tarnished by the perpetrator.

Some obstacles in law enforcement against victims of cyberbullying among others:

### **1. No police report by victims of cyberbullying;**

This is the main factor that hinders law enforcement against victims of cyberbullying. Law enforcers will not know that a cyberbullying crime has occurred against the victim, if the victim concerned does not report it. The reason the victim does not report it is because of a feeling of shame because his honor and good name have been destroyed because it was distributed to the public through the internet network and spread to all internet users.

### **2. Lack of adequate facilities and infrastructure to uncover cyberbullying crimes;**

Facilities and infrastructure are supporting factors in uncovering cyberbullying crimes. Facilities and infrastructure are very helpful in overcoming problems related to cyberbullying. Facilities and infrastructure in the form of containers or systems or sophisticated equipment are needed to help resolve cyberbullying crime cases. The sophistication of the tools and systems used is only available in a few places in Indonesia. While the scope of crimes in various regions is very broad, it becomes an obstacle for law enforcement in uncovering cyberbullying crimes.

## **IV. CONCLUSION**

1. Legal protection related to cyberbullying crimes is regulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. The use of this law has been deemed very appropriate by applying the legal principle of *lex specialis derogate legi generali* which means that special regulations can override more general rules. So the appropriate use in cases of cyberbullying is the use of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. This law specifically regulates crimes that are often committed by perpetrators of cybercrime.



2. Obstacles in law enforcement against victims of cyberbullying include: The absence of police reports by victims of cyberbullying crimes; and Lack of adequate facilities and infrastructure to uncover cyberbullying crimes.

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