

Concerns block Plymouth ordinance to deter bullying

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(Photo: Steve Perez / Detroit News file)

Plymouth Township — A proposed anti-bullying ordinance has been shelved after concerns about its constitutionality, but township officials said the idea isn't dead.

Township Supervisor Shannon Price anticipates setting up a citizen roundtable — perhaps even including a member of the American Civil Liberties Union — “so we can discuss ordinance language that no one finds objectionable.”

It was the rights group's objections that prompted a review of the “malicious communications ordinance” that opponents said was too broad and too vague. Michael J. Steinberg, legal director of the ACLU of Michigan, warned trustees that “while Plymouth Township ... might want to punish all people who are annoying, the Constitution simply doesn't allow turning people who are annoying into criminals.”

Price said the matter has been temporarily set aside due to the concerns.

“I have talked to some residents who expressed concerns, like what if the ordinance is somehow abused by officials to target and go after those who don't agree with them?” Price said. “I think we can find a way to tweak it and make everyone, or most everyone, happy.”

He said he has amended some of the wording in question, such as references to communications that might be “annoying or shocking.”

“I got emails all the time that are annoying and shocking,” he said.

The proposed ordinance is a copy of one in neighboring Canton Township that has not drawn similar opposition.

Canton attorney Kristen Bricker Kolb said the township amended its ordinance in August to add references to social media because the original version, from 2000, did not include using new technology as a form of communication.

The Plymouth Township ordinance would have made it a crime to annoy, terrorize, threaten, harass or attempt to intimidate anyone either in face-to-face confrontations or in writing, by telephone, texting or the use of computers. The offense would be a misdemeanor punishable by up to 30 days in jail and fines.

The first reading before the trustees of the proposed ordinance drew enough questions from the public that trustees could not agree on its wording, even after some amendments were added. It was withdrawn before a second reading.

Matt Bach, spokesman for the Michigan Municipal League, said he had no knowledge of any of its 520 municipal members seeking guidance to adopt malicious communications ordinances.

Catherine Mullhaupt, director of membership services for the Michigan Townships Association, said she wasn't aware of any moves by local governments to regulate speech.

“This is the first time I have ever heard of such a thing,” said Mullhaupt, whose association represents 1,229 townships.

Steinberg noted the proposed Plymouth Township speech code would make it a crime to make a phone call or send a text message with the intent to “annoy any other person” by, among other things, “using vulgar, indecent ... or offensive language.”

Trustee Bob Doroshewitz doesn't believe an ordinance is needed. He said the Plymouth-Canton schools are doing a “great job” against bullying, thanks to a “zero tolerance” policy that covers phone and Internet abuse.

He said he just hopes the matter “dies a quick death.”

Doroshewitz said the township is “politically charged” and several bloggers who criticize elected officials feared such an ordinance would be used to criminalize their actions.

"Ours might have been inspired by Canton but really came out of nowhere at one of our meetings," Doroshewitz said. "It was preceded by the supervisor showing a brief video of teenagers talking of being bullied and later committing suicide." Social media has been blamed in some incidents.

Doroshewitz said he thought the video was intense but if the ordinance is designed to prevent suicides, "it should be strictly constructed."

"Some teenager getting bullied is a bit different than two adults sending off messages to each other," he said. "It lacked definition of what is vulgar language. What is offensive to one person might not be to someone else."

But that is exactly the point, stressed Steinberg, who noted the ACLU has challenged many attacks on free speech, including the case of a cussing canoeist. The boater, who had fallen out of his canoe into the Rifle River in 1998, was charged with the state crime of using "any indecent, immoral, obscene, vulgar or insulting language" in the presence of women or children. The Michigan Court of Appeals, in a unanimous decision, struck down the law as unconstitutionally vague.

"Schools have more leeway to regulate speech that disrupts the school environment but in a free society, the government cannot make it a crime to simply engage in 'offensive' or 'annoying' speech," Steinberg said.

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