

HOUSE BILL 396

E1

3lr0889
CF SB 1052

By: Delegates Cardin, Afzali, DeBoy, Gilchrist, Jameson, Luedtke, W. Miller,
Mitchell, Morhaim, Olszewski, Rosenberg, Stein, Stocksdale, and
Walker

Introduced and read first time: January 25, 2013
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – ~~Electronic Harassment of a Minor~~ Misuse of Interactive**
3 **Computer Service**
4 **(Grace’s Law)**

5 FOR the purpose of prohibiting a person from using ~~a computer or computer network~~
6 ~~to cause a minor or another person to reasonably fear for the safety of the minor~~
7 ~~under certain circumstances; prohibiting a person from using a computer or~~
8 ~~computer network to engage in conduct which would constitute sexual~~
9 ~~harassment of a minor; prohibiting a person from using a computer or computer~~
10 ~~network to disseminate certain data with the malicious intent to psychologically~~
11 ~~torment or harass a minor; prohibiting a person from using a computer or~~
12 ~~computer network to make any statement intended to provoke or likely to~~
13 ~~provoke a third party to stalk or harass a minor~~ an interactive computer service
14 to maliciously engage in a certain course of conduct that inflicts serious
15 emotional distress on a minor or places a minor in reasonable fear of death or
16 serious bodily injury under certain circumstances; defining a certain ~~terms~~
17 term; establishing a certain penalty for a violation of this Act; and generally
18 relating to electronic harassment.

19 ~~BY renumbering~~
20 ~~Article – Criminal Law~~
21 ~~Section 3 – 805.1~~
22 ~~to be Section 3 – 805.2~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Annotated Code of Maryland~~
 2 ~~(2012 Replacement Volume and 2012 Supplement)~~

3 BY ~~adding to~~ repealing and reenacting, with amendments,
 4 Article – Criminal Law
 5 Section ~~3-805.1~~ 3-805
 6 Annotated Code of Maryland
 7 (2012 Replacement Volume and 2012 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 9 MARYLAND, ~~That Section(s) 3-805.1 of Article – Criminal Law of the Annotated~~
 10 ~~Code of Maryland be renumbered to be Section(s) 3-805.2.~~

11 ~~SECTION 2. AND BE IT FURTHER ENACTED,~~ That the Laws of Maryland
 12 read as follows:

13 Article – Criminal Law

14 ~~3-805.1.~~

15 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
 16 ~~MEANINGS INDICATED.~~

17 ~~(2) “ELECTRONIC CHAT ROOM” MEANS A COMPUTER SERVICE~~
 18 ~~ALLOWING TWO OR MORE USERS TO COMMUNICATE WITH EACH OTHER IN REAL~~
 19 ~~TIME.~~

20 ~~(3) “PROFILE” MEANS:~~

21 ~~(I) A CONFIGURATION OF USER DATA REQUIRED TO BE~~
 22 ~~ENTERED INTO A COMPUTER SO THAT THE USER MAY ACCESS PROGRAMS OR~~
 23 ~~SERVICES AND HAVE THE DESIRED FUNCTIONALITY ON THAT COMPUTER; OR~~

24 ~~(II) A WEB SITE USER’S PERSONAL PAGE OR SECTION OF A~~
 25 ~~PAGE MADE UP OF DATA, IN TEXT OR GRAPHICAL FORM, WHICH DISPLAYS~~
 26 ~~SIGNIFICANT, UNIQUE, OR IDENTIFYING INFORMATION, INCLUDING LISTING~~
 27 ~~ACQUAINTANCES, INTERESTS, ASSOCIATIONS, ACTIVITIES, OR PERSONAL~~
 28 ~~STATEMENTS.~~

29 ~~(B) A PERSON MAY NOT USE A COMPUTER OR COMPUTER NETWORK TO:~~

30 ~~(1) CAUSE A MINOR OR ANOTHER PERSON TO REASONABLY FEAR~~
 31 ~~FOR THE SAFETY OF THE MINOR BY:~~

32 ~~(I) BUILDING A FAKE PROFILE OR WEB SITE;~~

1 ~~(H) POSING AS THE MINOR IN:~~

2 ~~1. AN ELECTRONIC CHAT ROOM;~~

3 ~~2. AN ELECTRONIC MAIL MESSAGE; OR~~

4 ~~3. AN INSTANT MESSAGE; OR~~

5 ~~(H) REPEATEDLY FOLLOWING THE MINOR ONLINE OR INTO~~
6 ~~AN ELECTRONIC CHAT ROOM;~~

7 ~~(2) ENGAGE IN CONDUCT WHICH WOULD CONSTITUTE SEXUAL~~
8 ~~HARASSMENT OF A MINOR, INCLUDING:~~

9 ~~(I) POSTING OR ENCOURAGING OTHERS TO POST PRIVATE,~~
10 ~~PERSONAL, OR SEXUAL INFORMATION PERTAINING TO THE MINOR ON THE~~
11 ~~INTERNET;~~

12 ~~(H) POSTING A REAL OR DOCTORED IMAGE OF THE MINOR~~
13 ~~ON THE INTERNET; OR~~

14 ~~(H) SIGNING UP THE MINOR FOR A PORNOGRAPHIC~~
15 ~~INTERNET SITE;~~

16 ~~(3) DISSEMINATE UNAUTHORIZED DATA PERTAINING TO THE~~
17 ~~MINOR WITH THE MALICIOUS INTENT TO PSYCHOLOGICALLY TORMENT OR~~
18 ~~HARASS THE MINOR; OR~~

19 ~~(4) MAKE ANY STATEMENT, WHETHER TRUE OR FALSE,~~
20 ~~INTENDING TO IMMEDIATELY PROVOKE, AND THAT IS LIKELY TO PROVOKE, ANY~~
21 ~~THIRD PARTY TO STALK OR HARASS A MINOR.~~

22 ~~(C) THIS SECTION DOES NOT APPLY TO A PEACEABLE ACTIVITY~~
23 ~~INTENDED TO EXPRESS A POLITICAL VIEW OR PROVIDE INFORMATION TO~~
24 ~~OTHERS.~~

25 ~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
26 ~~MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT~~
27 ~~EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING \$500 OR BOTH.~~

28 3-805.

29 (a) (1) In this section[, “electronic] THE FOLLOWING WORDS HAVE THE
30 MEANINGS INDICATED.

1 **(2)** “ELECTRONIC communication” means the transmission of
 2 information, data, or a communication by the use of a computer or any other electronic
 3 means that is sent to a person and that is received by the person.

4 **(3)** “INTERACTIVE COMPUTER SERVICE” MEANS AN
 5 INFORMATION SERVICE, SYSTEM, OR ACCESS SOFTWARE PROVIDER THAT
 6 PROVIDES OR ENABLES COMPUTER ACCESS BY MULTIPLE USERS TO A
 7 COMPUTER SERVER, INCLUDING A SYSTEM THAT PROVIDES ACCESS TO THE
 8 INTERNET AND CELLULAR PHONES.

9 **(b)** **(1)** A person may not maliciously engage in a course of conduct,
 10 through the use of electronic communication, that alarms or seriously annoys another:

11 **[(1)] (I)** with the intent to harass, alarm, or annoy the other;

12 **[(2)] (II)** after receiving a reasonable warning or request to stop by or
 13 on behalf of the other; and

14 **[(3)] (III)** without a legal purpose.

15 **(2)** A PERSON MAY NOT USE AN INTERACTIVE COMPUTER
 16 SERVICE TO MALICIOUSLY ENGAGE IN A COURSE OF CONDUCT THAT INFLICTS
 17 SERIOUS EMOTIONAL DISTRESS ON A MINOR OR PLACES A MINOR IN
 18 REASONABLE FEAR OF DEATH OR SERIOUS BODILY INJURY WITH THE INTENT:

19 **(I)** TO KILL, INJURE, HARASS, OR CAUSE SERIOUS
 20 EMOTIONAL DISTRESS TO THE MINOR; OR

21 **(II)** TO PLACE THE MINOR IN REASONABLE FEAR OF DEATH
 22 OR SERIOUS BODILY INJURY.

23 **(c)** It is not a violation of this section for any of the following persons to
 24 provide information, facilities, or technical assistance to another who is authorized by
 25 federal or State law to intercept or provide electronic communication or to conduct
 26 surveillance of electronic communication, if a court order directs the person to provide
 27 the information, facilities, or technical assistance:

28 **(1)** a provider of electronic communication;

29 **(2)** an officer, employee, agent, landlord, or custodian of a provider of
 30 electronic communication; or

31 **(3)** a person specified in a court order directing the provision of
 32 information, facilities, or technical assistance to another who is authorized by federal

1 or State law to intercept or provide electronic communication or to conduct
2 surveillance of electronic communication.

3 (d) [This] SUBSECTION (B)(1) OF THIS section does not apply to a
4 peaceable activity intended to express a political view or provide information to others.

5 (e) A person who violates this section is guilty of a misdemeanor and on
6 conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$500
7 or both.

8 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.