

# SENATE BILL 376

E1, D3

8lr0393  
CF HB 456

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By: **Senators Lee, Feldman, King, Madaleno, Ramirez, Robinson, Simonaire, and Smith**

Introduced and read first time: January 25, 2018

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Crimes Involving Computers – Cyber Intrusion and**  
3 **Ransomware**

4 FOR the purpose of adding certain offenses involving computers to the list of offenses on  
5 which a charge of murder in the first degree can be based; prohibiting the creation  
6 of or unauthorized introduction into a computer, computer system, or computer  
7 network software designed to inhibit access or use by an authorized user of a  
8 computer, computer system, or computer network for the purpose of extorting  
9 money, property, or anything of value from another; establishing a certain penalty;  
10 authorizing a victim of a certain offense to bring a civil action for damages against a  
11 certain person; providing for the recovery of certain attorney's fees and court costs  
12 in an action brought under this Act; establishing that a certain criminal conviction  
13 is not a prerequisite for maintenance of an action under this Act; providing for the  
14 application of this Act; defining certain terms; and generally relating to crimes  
15 involving computers.

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Law  
18 Section 2–201(a) and 7–302  
19 Annotated Code of Maryland  
20 (2012 Replacement Volume and 2017 Supplement)

21 BY adding to  
22 Article – Criminal Law  
23 Section 3–709  
24 Annotated Code of Maryland  
25 (2012 Replacement Volume and 2017 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
27 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Criminal Law

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2–201.

(a) A murder is in the first degree if it is:

(1) a deliberate, premeditated, and willful killing;

(2) committed by lying in wait;

(3) committed by poison; or

(4) committed in the perpetration of or an attempt to perpetrate:

(i) arson in the first degree;

(ii) burning a barn, stable, tobacco house, warehouse, or other  
outbuilding that:

1. is not parcel to a dwelling; and

2. contains cattle, goods, wares, merchandise, horses, grain,  
hay, or tobacco;

(iii) burglary in the first, second, or third degree;

(iv) carjacking or armed carjacking;

(v) escape in the first degree from a State correctional facility or a  
local correctional facility;

(vi) kidnapping under § 3–502 or § 3–503(a)(2) of this article;

(vii) mayhem;

(viii) rape;

(ix) robbery under § 3–402 or § 3–403 of this article;

(x) sexual offense in the first or second degree;

(xi) sodomy;

(XII) A VIOLATION OF § 3–709 OF THIS ARTICLE CONCERNING  
CYBER EXTORTION OR RANSOMWARE; or

1 [(xii)] (XIII) a violation of § 4-503 of this article concerning destructive  
2 devices.

3 **3-709.**

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.

6 (2) "ACCESS" MEANS TO INSTRUCT, COMMUNICATE WITH, STORE  
7 DATA IN, RETRIEVE OR INTERCEPT DATA FROM, OR OTHERWISE USE THE  
8 RESOURCES OF A COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER  
9 NETWORK.

10 (3) (I) "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC,  
11 OPTICAL, ORGANIC, OR OTHER DATA PROCESSING DEVICE OR SYSTEM THAT  
12 PERFORMS LOGICAL, ARITHMETIC, MEMORY, OR STORAGE FUNCTIONS.

13 (II) "COMPUTER" INCLUDES PROPERTY, A DATA STORAGE  
14 FACILITY, OR A COMMUNICATIONS FACILITY THAT IS DIRECTLY RELATED TO OR  
15 OPERATED WITH A COMPUTER.

16 (III) "COMPUTER" DOES NOT INCLUDE AN AUTOMATED  
17 TYPEWRITER, A TYPESETTER, OR A PORTABLE CALCULATOR.

18 (4) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF ONE  
19 OR MORE COMPUTERS THROUGH:

20 (I) THE USE OF A SATELLITE, A MICROWAVE, A LINE, OR ANY  
21 OTHER COMMUNICATION MEDIUM; AND

22 (II) TERMINALS OR A COMPLEX CONSISTING OF TWO OR MORE  
23 INTERCONNECTED COMPUTERS REGARDLESS OF WHETHER THE  
24 INTERCONNECTION IS CONTINUOUSLY MAINTAINED.

25 (5) "COMPUTER PROGRAM" MEANS AN ORDERED SET OF  
26 INSTRUCTIONS OR STATEMENTS THAT MAY INTERACT WITH RELATED DATA AND,  
27 WHEN EXECUTED IN A COMPUTER SYSTEM, CAUSES A COMPUTER TO PERFORM  
28 SPECIFIED FUNCTIONS.

29 (6) "COMPUTER SYSTEM" MEANS ONE OR MORE CONNECTED OR  
30 UNCONNECTED COMPUTERS, PERIPHERAL DEVICES, COMPUTER SOFTWARE, DATA,  
31 OR COMPUTER PROGRAMS.

1           **(7) “SOFTWARE” MEANS A COMPUTER PROGRAM, AN INSTRUCTION, A**  
2 **PROCEDURE, OR AN ASSOCIATED DOCUMENT REGARDING THE OPERATION OF A**  
3 **COMPUTER SYSTEM.**

4           **(B) A PERSON, WITH THE INTENT TO UNLAWFULLY EXTORT MONEY,**  
5 **PROPERTY, OR ANYTHING OF VALUE FROM ANOTHER, MAY NOT KNOWINGLY**  
6 **CREATE, PLACE, OR INTRODUCE WITHOUT AUTHORIZATION INTO A COMPUTER,**  
7 **COMPUTER SYSTEM, OR COMPUTER NETWORK, SOFTWARE THAT IS DESIGNED TO**  
8 **ENCRYPT, LOCK, OR OTHERWISE RESTRICT ACCESS OR USE IN ANY WAY BY AN**  
9 **AUTHORIZED USER OF THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER**  
10 **NETWORK.**

11           **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND**  
12 **ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A**  
13 **FINE NOT EXCEEDING \$10,000 OR BOTH.**

14           **(D) (1) A PERSON WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY**  
15 **BECAUSE OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT**  
16 **OF COMPETENT JURISDICTION.**

17           **(2) IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD**  
18 **ACTUAL DAMAGES AND REASONABLE ATTORNEY’S FEES AND COURT COSTS.**

19           **(3) A CONVICTION FOR AN OFFENSE UNDER THIS SECTION IS NOT A**  
20 **PREREQUISITE FOR MAINTENANCE OF AN ACTION UNDER THIS SUBSECTION.**

21 7–302.

22           (a) (1) In this section the following words have the meanings indicated.

23           (2) “Access” means to instruct, communicate with, store data in, retrieve or  
24 intercept data from, or otherwise use the resources of a computer program, computer  
25 system, or computer network.

26           (3) (i) “Aggregate amount” means a direct loss of property or services  
27 incurred by a victim.

28           (ii) “Aggregate amount” includes:

29                   1. the value of any money, property, or service lost, stolen, or  
30 rendered unrecoverable by the crime; or

31                   2. any actual reasonable expenditure incurred by the victim  
32 to verify whether a computer program, computer, computer system, or computer network  
33 was altered, acquired, damaged, deleted, disrupted, or destroyed by access in violation of

1 this section.

2 (4) (i) "Computer" means an electronic, magnetic, optical, organic, or  
3 other data processing device or system that performs logical, arithmetic, memory, or  
4 storage functions.

5 (ii) "Computer" includes property, a data storage facility, or a  
6 communications facility that is directly related to or operated with a computer.

7 (iii) "Computer" does not include an automated typewriter, a  
8 typesetter, or a portable calculator.

9 (5) "Computer control language" means ordered statements that direct a  
10 computer to perform specific functions.

11 (6) "Computer database" means a representation of information,  
12 knowledge, facts, concepts, or instructions that:

13 (i) is intended for use in a computer, computer system, or computer  
14 network; and

15 (ii) 1. is being prepared or has been prepared in a formalized  
16 manner; or

17 2. is being produced or has been produced by a computer,  
18 computer system, or computer network.

19 (7) "Computer network" means the interconnection of one or more  
20 computers through:

21 (i) the use of a satellite, microwave, line, or other communication  
22 medium; and

23 (ii) terminals or a complex consisting of two or more interconnected  
24 computers regardless of whether the interconnection is continuously maintained.

25 (8) "Computer program" means an ordered set of instructions or  
26 statements that may interact with related data and, when executed in a computer system,  
27 causes a computer to perform specified functions.

28 (9) "Computer services" includes computer time, data processing, and  
29 storage functions.

30 (10) "Computer software" means a computer program, instruction,  
31 procedure, or associated document regarding the operation of a computer system.

32 (11) "Computer system" means one or more connected or unconnected

1 computers, peripheral devices, computer software, data, or computer programs.

2 (b) This section does not preclude the applicability of any other provision of this  
3 Code.

4 (c) (1) A person may not intentionally, willfully, and without authorization:

5 (i) access, attempt to access, cause to be accessed, or exceed the  
6 person's authorized access to all or part of a computer network, computer control language,  
7 computer, computer software, computer system, computer service, or computer database;  
8 or

9 (ii) copy, attempt to copy, possess, or attempt to possess the contents  
10 of all or part of a computer database accessed in violation of item (i) of this paragraph.

11 (2) A person may not commit an act prohibited by paragraph (1) of this  
12 subsection with the intent to:

13 (i) cause the malfunction or interrupt the operation of all or any part  
14 of a computer, computer network, computer control language, computer software, computer  
15 system, computer service, or computer data; or

16 (ii) alter, damage, or destroy all or any part of data or a computer  
17 program stored, maintained, or produced by a computer, computer network, computer  
18 software, computer system, computer service, or computer database.

19 (3) A person may not intentionally, willfully, and without authorization:

20 (i) possess, identify, or attempt to identify a valid access code; or

21 (ii) publicize or distribute a valid access code to an unauthorized  
22 person.

23 (4) A person may not commit an act prohibited under this subsection with  
24 the intent to interrupt or impair the functioning of:

25 (i) the State government;

26 (ii) a service, device, or system related to the production,  
27 transmission, delivery, or storage of electricity or natural gas in the State that is owned,  
28 operated, or controlled by a person other than a public service company, as defined in §  
29 1–101 of the Public Utilities Article; or

30 (iii) a service provided in the State by a public service company, as  
31 defined in § 1–101 of the Public Utilities Article.

32 (d) (1) A person who violates subsection (c)(1) of this section is guilty of a

1 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine  
2 not exceeding \$1,000 or both.

3 (2) A person who violates subsection (c)(2) or (3) of this section:

4 (i) if the aggregate amount of the loss is \$10,000 or more, is guilty  
5 of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not  
6 exceeding \$10,000 or both; or

7 (ii) if the aggregate amount of the loss is less than \$10,000, is guilty  
8 of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a  
9 fine not exceeding \$5,000 or both.

10 (3) A person who violates subsection (c)(4) of this section:

11 (i) if the aggregate amount of the loss is \$50,000 or more, is guilty  
12 of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not  
13 exceeding \$25,000 or both; or

14 (ii) if the aggregate amount of the loss is less than \$50,000, is guilty  
15 of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a  
16 fine not exceeding \$25,000 or both.

17 (e) Access achieved in violation of this section under a single scheme or a  
18 continuing course of conduct may be considered as one violation.

19 (f) A court of competent jurisdiction may try a person prosecuted under this  
20 section in any county in this State where:

21 (1) the defendant performed the act; or

22 (2) the accessed computer is located.

23 **(G) (1) A PERSON WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY**  
24 **BECAUSE OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT**  
25 **OF COMPETENT JURISDICTION.**

26 **(2) IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD**  
27 **ACTUAL DAMAGES AND REASONABLE ATTORNEY'S FEES AND COURT COSTS.**

28 **(3) A CONVICTION FOR AN OFFENSE UNDER THIS SECTION IS NOT A**  
29 **PREREQUISITE FOR MAINTENANCE OF AN ACTION UNDER THIS SUBSECTION.**

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
31 apply only prospectively and may not be applied or interpreted to have any effect on or  
32 application to any cause of action arising before the effective date of this Act.

1           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2018.