

# SENATE BILL 278

E1, D4

6lr1559  
CF HB 155

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By: **Senators Lee, Feldman, King, Manno, Nathan-Pulliam, Ramirez, Raskin, and Simonaire**

Introduced and read first time: January 22, 2016

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Law – Stalking ~~and Harassment~~**

3 FOR the purpose of ~~repealing the requirement that certain conduct be malicious in order~~  
4 ~~to be prohibited conduct applicable to crimes related to stalking, harassment, and~~  
5 ~~misuse of electronic communications or interactive computer services~~; prohibiting a  
6 person from engaging in a malicious course of conduct where the person intends to  
7 cause or knows or reasonably should have known that the conduct would cause  
8 serious emotional distress to another; and generally relating to stalking,  
9 ~~harassment, and misuse of electronic communications or interactive computer~~  
10 ~~services~~.

11 BY repealing and reenacting, with amendments,  
12 Article – Criminal Law  
13 Section ~~3–802, 3–803, and 3–805~~  
14 Annotated Code of Maryland  
15 (2012 Replacement Volume and 2015 Supplement)

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

18 **Article – Criminal Law**

19 3–802.

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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 (a) In this section, “stalking” means a ~~malicious~~ course of conduct that includes  
2 approaching or pursuing another where:

3 (1) the person intends to place or knows or reasonably should have known  
4 the conduct would place another in reasonable fear:

5 [(1)] (i) 1. of serious bodily injury;

6 [(ii)] 2. of an assault in any degree;

7 [(iii)] 3. of rape or sexual offense as defined by §§ 3–303 through  
8 3–308 of this title or attempted rape or sexual offense in any degree;

9 [(iv)] 4. of false imprisonment; or

10 [(v)] 5. of death; or

11 [(2)] (II) that a third person likely will suffer any of the acts listed in item  
12 [(1)] (I) of this [subsection] ITEM; OR

13 (2) THE PERSON INTENDS TO CAUSE OR KNOWS OR REASONABLY  
14 SHOULD HAVE KNOWN THAT THE CONDUCT WOULD CAUSE SERIOUS EMOTIONAL  
15 DISTRESS TO ANOTHER.

16 (b) The provisions of this section do not apply to conduct that is:

17 (1) performed to ensure compliance with a court order;

18 (2) performed to carry out a specific lawful commercial purpose; or

19 (3) authorized, required, or protected by local, State, or federal law.

20 (c) A person may not engage in stalking.

21 (d) A person who violates this section is guilty of a misdemeanor and on conviction  
22 is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

23 (e) A sentence imposed under this section may be separate from and consecutive  
24 to or concurrent with a sentence for any other crime based on the acts establishing a  
25 violation of this section.

26 ~~3–803.~~

27 ~~(a) A person may not follow another in or about a public place or [maliciously]~~  
28 ~~engage in a course of conduct that alarms or seriously annoys the other.~~

1           ~~(1) with the intent to harass, alarm, or annoy the other;~~

2           ~~(2) after receiving a reasonable warning or request to stop by or on behalf~~  
3 ~~of the other; and~~

4           ~~(3) without a legal purpose.~~

5           ~~(b) This section does not apply to a peaceable activity intended to express a~~  
6 ~~political view or provide information to others.~~

7           ~~(e) A person who violates this section is guilty of a misdemeanor and on conviction~~  
8 ~~is subject to:~~

9           ~~(1) for a first offense, imprisonment not exceeding 90 days or a fine not~~  
10 ~~exceeding \$500 or both; and~~

11           ~~(2) for a second or subsequent offense, imprisonment not exceeding 180~~  
12 ~~days or a fine not exceeding \$1,000 or both.~~

13 ~~§ 805.~~

14           ~~(a) (1) In this section the following words have the meanings indicated:~~

15           ~~(2) "Electronic communication" means the transmission of information,~~  
16 ~~data, or a communication by the use of a computer or any other electronic means that is~~  
17 ~~sent to a person and that is received by the person.~~

18           ~~(3) "Interactive computer service" means an information service, system,~~  
19 ~~or access software provider that provides or enables computer access by multiple users to~~  
20 ~~a computer server, including a system that provides access to the Internet and cellular~~  
21 ~~phones.~~

22           ~~(b) (1) A person may not [maliciously] engage in a course of conduct, through~~  
23 ~~the use of electronic communication, that alarms or seriously annoys another:~~

24           ~~(i) with the intent to harass, alarm, or annoy the other;~~

25           ~~(ii) after receiving a reasonable warning or request to stop by or on~~  
26 ~~behalf of the other; and~~

27           ~~(iii) without a legal purpose.~~

28           ~~(2) A person may not use an interactive computer service to [maliciously]~~  
29 ~~engage in a course of conduct that inflicts serious emotional distress on a minor or places a~~  
30 ~~minor in reasonable fear of death or serious bodily injury with the intent:~~

1 ~~(i) to kill, injure, harass, or cause serious emotional distress to the~~  
 2 ~~minor; or~~

3 ~~(ii) to place the minor in reasonable fear of death or serious bodily~~  
 4 ~~injury.~~

5 ~~(e) It is not a violation of this section for any of the following persons to provide~~  
 6 ~~information, facilities, or technical assistance to another who is authorized by federal or~~  
 7 ~~State law to intercept or provide electronic communication or to conduct surveillance of~~  
 8 ~~electronic communication, if a court order directs the person to provide the information,~~  
 9 ~~facilities, or technical assistance:~~

10 ~~(1) a provider of electronic communication;~~

11 ~~(2) an officer, employee, agent, landlord, or custodian of a provider of~~  
 12 ~~electronic communication; or~~

13 ~~(3) a person specified in a court order directing the provision of~~  
 14 ~~information, facilities, or technical assistance to another who is authorized by federal or~~  
 15 ~~State law to intercept or provide electronic communication or to conduct surveillance of~~  
 16 ~~electronic communication.~~

17 ~~(d) Subsection (b)(1) of this section does not apply to a peaceable activity intended~~  
 18 ~~to express a political view or provide information to others.~~

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 22 October 1, 2016.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.