

SENATE BILL 726

E1

8lr1443

By: ~~Senator Zirkin~~ Senators Zirkin, Brochin, Cassilly, Hough, Lee, Norman, Ramirez, Ready, and Smith

Introduced and read first time: February 2, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2018

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Electronic Harassment and Bullying**
3 **(Grace’s Law 2.0)**

4 FOR the purpose of altering prohibited actions relating to electronic harassment of minors;
5 prohibiting a person from maliciously engaging in electronic communication under
6 certain circumstances with a certain intent; prohibiting a person from using an
7 electronic communication to maliciously engage in a certain act or in a course of
8 conduct that, when considered in its entirety, has a certain result; prohibiting a
9 person from using a computer or a computer network to engage in certain activity
10 with the intent to ~~seriously annoy, alarm,~~ intimidate, torment, or harass a minor;
11 prohibiting a person from engaging in certain activity with the intent to ~~seriously~~
12 ~~annoy, alarm,~~ intimidate, torment, or harass a minor or the parent or guardian of a
13 minor; prohibiting a person from violating this Act with the intent to induce a minor
14 to commit suicide; establishing and applying certain penalties for a violation of this
15 Act; making the provisions of this Act severable; defining certain terms; and
16 generally relating to electronic harassment and bullying.

17 BY repealing and reenacting, with amendments,
18 Article – Criminal Law
19 Section 3–805
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2017 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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 That the Laws of Maryland read as follows:

2 **Article – Criminal Law**

3 3–805.

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

5 (2) “Electronic communication” means the transmission of ANY
6 information, data, [or a] SIGN, SIGNAL, WRITING, IMAGE, SOUND, INTELLIGENCE, OR
7 communication by the use of a computer or any other electronic means [that is sent to a
8 person and that is received by the person], INCLUDING A COMMUNICATION THAT
9 INVOLVES THE USE OF E-MAIL, AN INSTANT MESSAGING SERVICE, AN INTERNET
10 WEBSITE, A SOCIAL MEDIA APPLICATION, A NETWORK CALL, A FACSIMILE MACHINE,
11 OR ANY OTHER INTERNET-BASED COMMUNICATION TOOL.

12 [(3) “Interactive computer service” means an information service, system,
13 or access software provider that provides or enables computer access by multiple users to
14 a computer server, including a system that provides access to the Internet and cellular
15 phones.]

16 (3) “INSTANT MESSAGING SERVICE” MEANS A COMPUTER SERVICE
17 ALLOWING TWO OR MORE USERS TO COMMUNICATE WITH EACH OTHER IN REAL
18 TIME.

19 (4) “SOCIAL MEDIA APPLICATION” MEANS ANY COMPUTER SYSTEM,
20 PROGRAM, SOFTWARE, OR WEBSITE THAT ALLOWS A PERSON TO BECOME A
21 REGISTERED USER FOR THE PURPOSE OF ESTABLISHING PERSONAL
22 RELATIONSHIPS WITH ONE OR MORE OTHER USERS THROUGH:

23 (I) DIRECT OR REAL-TIME COMMUNICATION; OR

24 (II) THE CREATION OF WEBSITES OR PROFILES CAPABLE OF
25 BEING VIEWED BY THE PUBLIC OR OTHER USERS.

26 (5) “SOCIAL MEDIA PROFILE” MEANS A WEBSITE OR PROFILE
27 CREATED USING A SOCIAL MEDIA APPLICATION.

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

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

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

1 (iii) without a legal purpose.

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

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

7 (ii) ~~to place the minor in reasonable fear of death or serious bodily~~
 8 ~~injury.]~~

9 ~~(B)~~ ~~(1)~~ **(2) A PERSON MAY NOT MALICIOUSLY ENGAGE IN AN ELECTRONIC**
 10 **COMMUNICATION:**

11 **(I) IF THE CONTENT, MANNER, TIME, OR PLACE, OR THE**
 12 **CONTEXT OF THE ELECTRONIC COMMUNICATION AS PART OF A SERIES OF**
 13 **COMMUNICATIONS, ~~SERIOUSLY ANNOYS, ALARMS,~~ INTIMIDATES, TORMENTS, OR**
 14 **HARASSES ~~ANOTHER~~ A MINOR; AND**

15 **(II) WITH THE INTENT TO ~~SERIOUSLY ANNOY, ALARM,~~**
 16 **INTIMIDATE, TORMENT, OR HARASS THE ~~OTHER~~ MINOR.**

17 ~~(2)~~ **(3) A PERSON MAY NOT USE AN ELECTRONIC COMMUNICATION TO**
 18 **MALICIOUSLY ENGAGE IN A SINGLE SIGNIFICANT ACT OR IN A COURSE OF CONDUCT**
 19 **THAT, WHEN CONSIDERED IN ITS ENTIRETY:**

20 **(I) HAS THE EFFECT OF ~~SERIOUSLY ANNOYING, ALARMING,~~**
 21 **INTIMIDATING, TORMENTING, HARASSING, OR PHYSICALLY HARMING ~~ANOTHER~~ A**
 22 **MINOR;**

23 **(II) CAUSES ~~ANOTHER~~ A MINOR TO EXPERIENCE SUBSTANTIAL**
 24 **EMOTIONAL DISTRESS;**

25 **(III) RESULTS IN DAMAGE TO ~~ANOTHER'S~~ A MINOR'S PROPERTY;**
 26 **OR**

27 **(IV) PLACES ~~ANOTHER~~ A MINOR IN REASONABLE FEAR OF HARM**
 28 **TO THE PHYSICAL SAFETY OF THE ~~OTHER'S~~ MINOR'S:**

29 **1. PARENT OR GUARDIAN;**

30 **2. SIBLING;**

1 3. SPOUSE; OR

2 4. CHILD.

3 ~~(3)~~ (4) A PERSON MAY NOT, WITH THE INTENT TO ~~SERIOUSLY ANNOY,~~
4 ~~ALARM,~~ INTIMIDATE, TORMENT, OR HARASS A MINOR, USE A COMPUTER OR A
5 COMPUTER NETWORK TO:

6 (I) BUILD A FAKE SOCIAL MEDIA PROFILE;

7 (II) POSE AS ANOTHER, INCLUDING A FICTITIOUS PERSON, IN AN
8 ELECTRONIC COMMUNICATION;

9 (III) FOLLOW A MINOR ONLINE OR USING AN INSTANT
10 MESSAGING SERVICE; OR

11 (IV) DISSEMINATE OR ENCOURAGE OTHERS TO DISSEMINATE
12 ~~PRIVATE, PERSONAL, OR~~ SEXUAL INFORMATION, WHETHER TRUE OR FALSE,
13 PERTAINING TO THE MINOR.

14 ~~(4)~~ (5) A PERSON MAY NOT, WITH THE INTENT TO ~~SERIOUSLY ANNOY,~~
15 ~~ALARM,~~ INTIMIDATE, TORMENT, OR HARASS A MINOR OR THE PARENT OR GUARDIAN
16 OF A MINOR, USE A COMPUTER OR A COMPUTER NETWORK TO:

17 (I) DISSEMINATE A REAL OR DOCTORED IMAGE OF THE MINOR;

18 (II) ACCESS, ALTER, OR ERASE ANY COMPUTER NETWORK,
19 COMPUTER DATA, COMPUTER PROGRAM, OR COMPUTER SOFTWARE BELONGING TO
20 OR LICENSED FOR USE BY THE MINOR WITHOUT AUTHORIZATION;

21 (III) ENGAGE OR ENCOURAGE OTHERS TO ENGAGE IN THE
22 REPEATED, CONTINUING, OR SUSTAINED USE OF ELECTRONIC COMMUNICATION TO
23 CONTACT THE MINOR;

24 (IV) MAKE ANY STATEMENT, WHETHER TRUE OR FALSE,
25 INTENDED TO IMMEDIATELY PROVOKE, OR THAT IS LIKELY TO PROVOKE, ANY THIRD
26 PARTY TO STALK OR HARASS A MINOR;

27 (V) ENGAGE IN OR CAUSE THE UNAUTHORIZED COPYING AND
28 DISSEMINATION OF ANY IMAGE, DATA, OR INFORMATION, WHETHER OR NOT IN
29 PRINT OR ELECTRONIC FORM, PERTAINING TO THE MINOR;

30 (VI) SUBSCRIBE THE MINOR TO A PORNOGRAPHIC WEBSITE; OR

1 (VII) SUBSCRIBE THE MINOR TO A MAILING LIST OR TO RECEIVE
2 ONE OR MORE ELECTRONIC COMMUNICATIONS, AND CAUSE INTIMIDATION OR
3 TORMENT TO THE MINOR.

4 ~~(5)~~ (6) A PERSON MAY NOT VIOLATE THIS SECTION WITH THE INTENT TO
5 INDUCE A MINOR TO COMMIT SUICIDE.

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

11 (1) a provider of electronic communication;

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

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

18 (d) Subsection (b)(1) THROUGH (5) of this section does not apply to a peaceable
19 activity intended to express a political view or provide information to others.

20 (e) (1) A person who violates **SUBSECTION (B)(1) THROUGH ~~(4)~~ (5)** OF this
21 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
22 exceeding [1 year] **3 YEARS** or a fine not exceeding [\$500] **\$10,000** or both.

23 (2) **A PERSON WHO VIOLATES SUBSECTION ~~(B)(5)~~ (B)(6) OF THIS**
24 **SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**
25 **IMPRISONMENT NOT EXCEEDING ~~5~~ 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**
26 **BOTH.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
28 the application thereof to any person or circumstance is held invalid for any reason in a
29 court of competent jurisdiction, the invalidity does not affect other provisions or any other
30 application of this Act that can be given effect without the invalid provision or application,
31 and for this purpose the provisions of this Act are declared severable.

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