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February 4, 2022

The Honorable William Smith & Members of the Senate Judicial Proceedings Committee
Chairperson, Senate Judicial Proceedings Committee
11 Bladen Street
Annapolis, MD 21401

Dear Chairperson Smith and JPR Committee Members:

I write in support of SB328, Criminal Law—Stalking—Definition. I am the Chief of the Special Victims Division for the Montgomery County State's Attorney's Office and I chair the Montgomery County Domestic Violence Coordinating Council. I am a member of the Governor's Family Violence Council and chair of the Maryland State's Attorneys' Association's Domestic Violence Subcommittee, which includes representatives from jurisdictions across the state.

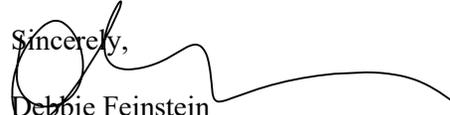
Section 3-802 of the Criminal Law Article currently criminalizes stalking, a malicious course of conduct that includes approaching or pursuing another where the person intends to place or knows or reasonably should have known the conduct would place another person in reasonable fear of: serious bodily injury, assault, rape or sexual offense, false imprisonment, death, or that a third person will suffer any of these acts. The law also criminalizes stalking when the person intends to cause or knows or reasonably should have known that the conduct would cause serious emotional distress to another. The crime of stalking is currently a misdemeanor and carries a maximum penalty of 5 years or \$5,000.

The current statute does not include specific examples of conduct. SB328 specifies that stalking includes conduct that occurs in person, by electronic communication, or by use of a tracking device. By delineating specific conduct, the public is on clear notice that stalking includes social media, electronic mail, instant messaging, and the many other forms of communication that exist in 2022. Moreover, our police department has noticed an uptick in the use of air tags and tiles for the purpose of tracking the whereabouts of another individual. These types of small tags can be easily dropped into a bag or purse, a car, or any other item that might facilitate tracking. As technology and communication evolve, so must the law.

To be clear, the definition of conduct in SB328 is not meant to be all inclusive. Stalking may also include letter-writing, phone calls, or other means. In addition, unlike harassment (section 3-803) and electronic communications harassment (section 3-805), stalking does not require a warning to stop communication or activity. Engagement with a stalker, particularly in the context of intimate partner violence, may raise the level of danger for the victim.

I urge the House Judiciary Committee to issue a favorable report on SB328.

Sincerely,


Debbie Feinstein
Chief, Special Victims Division
Senior Assistant State's Attorney