SENATE BILL 623

E1, D3

1lr1907
CF HB 425

By: **Senator Lee**
Introduced and read first time: January 29, 2021
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: February 28, 2021

CHAPTER _____

1   AN ACT concerning

2   **Criminal Law – Crimes Involving Computers**

3   FOR the purpose of prohibiting a person from committing a certain prohibited act with the
4   intent to interrupt or impair the functioning of a certain health care facility or a
5   certain public school; prohibiting a person from knowingly possessing certain
6   ransomware with the intent to use the ransomware for a certain purpose; creating a
7   certain exception; altering and establishing certain penalties; authorizing a victim
8   of a certain offense to bring a civil action for damages against a certain person;
9   providing for the recovery of certain attorney's fees and court costs in an action
10   brought under this Act; establishing that a certain criminal conviction is not a
11   prerequisite for maintenance of an action under this Act; providing for the
12   application of this Act; defining a certain term; and generally relating to crimes
13   involving computers.

14   BY repealing and reenacting, with amendments,
15   Article – Criminal Law
16   Section 7–302
17   Annotated Code of Maryland
18   (2012 Replacement Volume and 2020 Supplement)

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

21   **Article – Criminal Law**

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   7–302.

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

3   (2)   "Access" means to instruct, communicate with, store data in, retrieve or
4   intercept data from, or otherwise use the resources of a computer program, computer
5   system, or computer network.

6   (3)   (i)   "Aggregate amount" means a direct loss of property or services
7   incurred by a victim.

8   (ii)   "Aggregate amount" includes:

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

11   2.   any actual reasonable expenditure incurred by the victim
12   to verify whether a computer program, computer, computer system, or computer network
13   was altered, acquired, damaged, deleted, disrupted, or destroyed by access in violation of
14   this section.

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

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

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

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

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

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

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

30   2.   is being produced or has been produced by a computer,
31   computer system, or computer network.

32   (7)   "Computer network" means the interconnection of one or more

1 computers through:

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

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

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

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

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

13   (11)   "Computer system" means one or more connected or unconnected
14 computers, peripheral devices, computer software, data, or computer programs.

15   **(12) "RANSOMWARE" MEANS A COMPUTER OR DATA CONTAMINANT,**
16 **ENCRYPTION, OR LOCK THAT:**

17   **(I)   IS PLACED OR INTRODUCED WITHOUT AUTHORIZATION**
18 **INTO A COMPUTER, A COMPUTER NETWORK, OR A COMPUTER SYSTEM; AND**

19   **(II)   RESTRICTS ACCESS BY AN AUTHORIZED PERSON TO A**
20 **COMPUTER, COMPUTER DATA, A COMPUTER NETWORK, OR A COMPUTER SYSTEM IN**
21 **A MANNER THAT RESULTS IN THE PERSON RESPONSIBLE FOR THE PLACEMENT OR**
22 **INTRODUCTION OF THE CONTAMINANT, ENCRYPTION, OR LOCK DEMANDING**
23 **PAYMENT OF MONEY OR OTHER CONSIDERATION TO REMOVE THE CONTAMINANT,**
24 **ENCRYPTION, OR LOCK.**

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

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

28   (i)   access, attempt to access, cause to be accessed, or exceed the
29 person's authorized access to all or part of a computer network, computer control language,
30 computer, computer software, computer system, computer service, or computer database;
31 or

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

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

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

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

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

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

11   (ii)   publicize or distribute a valid access code to an unauthorized
12   person.

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

15   (i)   the State government;

16   (ii)   a service, device, or system related to the production,
17   transmission, delivery, or storage of electricity or natural gas in the State that is owned,
18   operated, or controlled by a person other than a public service company, as defined in §
19   1–101 of the Public Utilities Article; **[**or**]**

20   (iii)   a service provided in the State by a public service company, as
21   defined in § 1–101 of the Public Utilities Article**;**

22   **(IV)   A HEALTH CARE FACILITY, AS DEFINED IN § 18–338.1 OF**
23   **THE HEALTH – GENERAL ARTICLE; OR**

24   **(V)   A PUBLIC SCHOOL, AS DEFINED IN § 1–101 OF THE**
25   **EDUCATION ARTICLE.**

26   **(5)   (I)   THIS PARAGRAPH DOES NOT APPLY TO** ~~THE USE OF~~
27   ~~RANSOMWARE FOR RESEARCH PURPOSES~~ **A PERSON WHO HAS A BONA FIDE**
28   **SCIENTIFIC, EDUCATIONAL, GOVERNMENTAL,** ~~ARTISTIC~~ **TESTING, NEWS, OR OTHER**
29   **SIMILAR JUSTIFICATION FOR POSSESSING RANSOMWARE.**

30   **(II)   A PERSON MAY NOT KNOWINGLY POSSESS RANSOMWARE**
31   **WITH THE INTENT TO USE THE RANSOMWARE FOR THE PURPOSE OF INTRODUCTION**
32   **INTO THE COMPUTER, COMPUTER NETWORK, OR COMPUTER SYSTEM OF ANOTHER**

1 **PERSON WITHOUT THE AUTHORIZATION OF THE OTHER PERSON.**

2   (d)   (1)   A person who violates subsection (c)(1) of this section is guilty of a
3 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine
4 not exceeding $1,000 or both.

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

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

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

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

13   (i)   if the aggregate amount of the loss is **[**$50,000**]** **$10,000** or more,
14 is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or
15 a fine not exceeding **[**$25,000**]** **$100,000** or both; or

16   (ii)   if the aggregate amount of the loss is less than **[**$50,000**]**
17 **$10,000**, is guilty of a misdemeanor and on conviction is subject to imprisonment not
18 exceeding 5 years or a fine not exceeding $25,000 or both.

19   **(4)**   **A PERSON WHO VIOLATES SUBSECTION (C)(5) OF THIS SECTION IS**
20 **GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**
21 **NOT EXCEEDING 3̶ 2 YEARS OR A FINE NOT EXCEEDING $̶1̶0̶,̶0̶0̶0̶ $5,000 OR BOTH.**

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

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

26   (1)   the defendant performed the act; or

27   (2)   the accessed computer is located.

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

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

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

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

6   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7   October 1, 2021.

Approved:

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                                                         Governor.

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                                         President of the Senate.

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                                  Speaker of the House of Delegates.