

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 555
Judiciary

(Delegate A. Johnson, *et al.*)

**Criminal Law - Unauthorized Dissemination of Personal Identifying Information
- Prohibition**

This bill prohibits a person from disseminating the personal identifying information of another person or the other person’s immediate family member or household member (1) without permission; (2) with the intent to threaten, intimidate, abuse, harass or frighten the person; and (3) in a manner that knowingly or recklessly places the person in reasonable fear of physical injury to themselves or to an immediate family member or household member. The bill establishes penalties for violations, including increased penalties if physical injury or death result from a violation of this prohibition. The bill also establishes a civil cause of action for a victim against the person who committed the unauthorized dissemination of information. The bill’s provisions may not be construed to impose liability on specified telecommunications service providers.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues from fines imposed in the District Court. Potential minimal increase in general fund incarceration expenditures. The Judiciary can implement the bill with existing budgeted resources.

Local Effect: Potential minimal increase in revenues from fines imposed in the circuit courts. Potential minimal increase in local incarceration expenditures. The bill is not expected to materially affect circuit court caseloads or workloads.

Small Business Effect: None.

Analysis

Bill Summary:

Penalties

In general, a violator is guilty of a misdemeanor punishable by imprisonment for not less than 90 days and up to 12 months and/or a \$500 maximum fine. A violation that results in physical injury to the person whose personal identifying information was disseminated (the victim) or an immediate family member or household member of the victim is a felony punishable by imprisonment for at least one year and up to five years and/or a fine between \$1,000 and \$10,000, inclusive. A violation that results in serious physical injury to the victim or an immediate family member or household member of the victim is a felony punishable by imprisonment for at least 5 years and up to 10 years and/or a fine between \$1,000 and \$10,000, inclusive. A violation that results in the death of the victim or an immediate family member or household member of the victim is a felony punishable by imprisonment for at least 10 years and up to 20 years and/or a fine between \$1,000 and \$10,000, inclusive.

Civil Actions

A victim, or their parent or guardian if the victim is a minor, can bring a civil action in a court of competent jurisdiction against the person who violated the bill's prohibition. The court may (1) issue an injunction to prevent or restrain an act that would constitute a violation of the prohibited act; (2) award damages; and (3) award reasonable attorney's fees and costs to a prevailing plaintiff. These provisions do not affect any legal or equitable right or remedy otherwise provided by law.

Definitions

“Disseminate” means to electronically publish, post, or otherwise disclose information to a public internet site or on a public forum.

“Household member” means an individual who regularly resides in the household or who regularly resided in the household within six months preceding the violation.

“Immediate family member” means a parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, or grandchild.

“Personal identifying information” includes a (1) name; (2) address; (3) telephone number; (4) driver's license number; (5) Social Security number; (6) place of employment or

employee identification number; (7) health insurance or other medical identification number; (8) mother's maiden name; (9) bank or other financial institution account number; (10) date of birth; (11) personal identification number; (12) unique biometric data, including fingerprint, voice print, retina or iris image, or other unique physical representation; (13) digital signature; or (14) credit card or other payment device number.

Current Law:

Identity Fraud – § 8-301 of the Criminal Law Article

Among other things, the identity fraud statute prohibits a person from maliciously using an interactive computer service to disclose or assist another person to disclose specified types of personal information of an individual in order to annoy, threaten, embarrass, or harass the individual.

“Interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones.

Misuse of Electronic Communication or Interactive Computer Service – § 3-805 of the Criminal Law Article

A person may not maliciously engage in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another (1) with the intent to harass, alarm, or annoy the other; (2) after receiving a reasonable warning or request to stop by or on behalf of the other; and (3) without legal purpose.

A person may not use an interactive computer service to maliciously engage in a course of conduct that inflicts serious emotional distress on a minor or places a minor in reasonable fear of death or serious bodily injury with the intent (1) to kill, injure, harass, or cause serious emotional distress to the minor or (2) to place the minor in reasonable fear of death or serious bodily injury.

A person may not maliciously engage in an electronic communication if (1) the electronic communication is part of a series of communications and has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor and (2) the person engaging in the electronic communication intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor.

A person may not maliciously engage in a single significant act or course of conduct using an electronic communication if:

- the person’s conduct, when considered in its entirety, has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor;
- the person intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor; and
- in the case of a single significant act, the communication (1) is made after receiving a reasonable warning or request to stop; (2) is sent with a reasonable expectation that the recipient would share the communication with a third party; or (3) shocks the conscience.

A person may not maliciously engage in electronic conduct if (1) the act of electronic conduct has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor and (2) the person intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor.

The above prohibitions do not apply to a peaceable activity intended to express a political view or provide information to others or conducted for a lawful purpose.

A person convicted of violating one of the aforementioned crimes is guilty of a misdemeanor and subject to imprisonment of up to three years and/or a maximum fine of \$10,000.

A person may not violate these provisions with the intent to induce a minor to commit suicide. Such violators are guilty of a misdemeanor and subject to maximum penalties of 10 years’ imprisonment and/or a \$10,000 fine.

Under these provisions, “electronic communication” means the act of transmitting any information, data, writing, image, or communication by the use of a computer or any other electronic means, including a communication that involves the use of email, an instant messaging service, an Internet website, a social media application, a network call, a facsimile machine, or any other Internet-based communication tool.

State Expenditures: While it does not cite any specific data or projections, the Office of the Public Defender (OPD) advises that the bill requires one additional attorney to handle any potential litigation arising from this new offense. The Department of Legislative Services advises that this bill alone should not necessitate the need for additional OPD personnel. However, should actual OPD workloads require additional personnel, OPD may request those resources through the annual budget process.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced during the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford County; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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