

SENATE BILL 194

E1

9lr0557

By: **Senators Kelley, Conway, Forehand, Harrington, Jacobs, Kasemeyer, and Stone**

Introduced and read first time: January 22, 2009

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Electronic Harassment of a Minor**

3 FOR the purpose of prohibiting a person from making a certain electronic
4 communication with the intent to terrify, intimidate, or harass a minor, or
5 threaten to inflict injury or physical harm to a minor or property of the minor;
6 providing that a violation of this Act is a misdemeanor; establishing certain
7 penalties; providing for the application of this Act; providing that this Act may
8 not be construed to have an effect on the lawfulness of certain policies of
9 electronic mail service providers; defining certain terms; and generally relating
10 to the electronic harassment of a minor.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 3–805.1(a)(1) and (4)
14 Annotated Code of Maryland
15 (2002 Volume and 2008 Supplement)

16 BY adding to
17 Article – Criminal Law
18 Section 3–805.2
19 Annotated Code of Maryland
20 (2002 Volume and 2008 Supplement)

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

23 **Article – Criminal Law**

24 3–805.1.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (4) “Electronic mail service provider” means any person, including an
3 Internet service provider, that is an intermediary in sending and receiving electronic
4 mail and that provides to the public the ability to send or receive electronic mail to or
5 from an electronic mail account or on-line user account.

6 **3-805.2.**

7 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
8 MEANINGS INDICATED.

9 (2) “ELECTRONIC COMMUNICATION” MEANS A COMMUNICATION
10 TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE.

11 (3) “ELECTRONIC DEVICE” INCLUDES A FIXED-LINE TELEPHONE,
12 MOBILE CELLULAR LINE TELEPHONE, COMPUTER, PERSONAL DIGITAL
13 ASSISTANT, PAGER, OR FACSIMILE MACHINE.

14 (4) “ELECTRONIC MAIL SERVICE PROVIDER” HAS THE MEANING
15 STATED IN § 3-805.1 OF THIS SUBTITLE.

16 (B) A PERSON MAY NOT MAKE AN ELECTRONIC COMMUNICATION WITH
17 THE INTENT TO TERRIFY, INTIMIDATE, OR HARASS A MINOR, OR THREATEN TO
18 INFLICT INJURY OR PHYSICAL HARM TO A MINOR OR PROPERTY OF THE MINOR.

19 (C) THIS SECTION DOES NOT APPLY TO A PEACEABLE ACTIVITY
20 INTENDED TO EXPRESS A POLITICAL VIEW OR PROVIDE INFORMATION TO
21 OTHERS.

22 (D) THIS SECTION MAY NOT BE CONSTRUED TO HAVE ANY EFFECT ON
23 THE LAWFULNESS OF THE ADOPTION, IMPLEMENTATION, OR ENFORCEMENT BY
24 AN ELECTRONIC MAIL SERVICE PROVIDER OF A POLICY OF DECLINING TO
25 TRANSMIT, ROUTE, RELAY, HANDLE, OR STORE CERTAIN TYPES OF ELECTRONIC
26 COMMUNICATION UNDER ANY OTHER PROVISION OF LAW.

27 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
28 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
29 EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 2009.