

Chapter 42

(Senate Bill 175)

AN ACT concerning

Crimes – Electronic Communication – Harassment

FOR the purpose of altering the prohibition against using electronic mail with the intent to harass to prohibit ~~engaging in electronic communication with the intent to harass~~ maliciously engaging in a course of conduct, through the use of electronic communication, that alarms or seriously annoys another under certain circumstances; altering a certain definition; ~~establishing penalties for a second or subsequent violation of this Act~~; and generally relating to prohibitions of harassment.

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 3–805

Annotated Code of Maryland

(2002 Volume and 2011 Supplement)

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

Article – Criminal Law

3–805.

(a) In this section, “electronic [mail] COMMUNICATION” means the transmission of information, DATA, or a communication by the use of a computer or ANY other electronic means that is sent to a person [identified by a unique address] and that is received by the person.

(b) A person may not [use] MALICIOUSLY ENGAGE IN A COURSE OF CONDUCT, THROUGH THE USE OF electronic [mail] COMMUNICATION ~~with the intent to harass~~, 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 A LEGAL PURPOSE.

- ~~(1) one or more persons; or~~
- ~~(2) by sending lewd, lascivious, or obscene material.~~

(c) It is not a violation of this section for any of the following persons to provide information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic [mail] **COMMUNICATION** or to conduct surveillance of electronic [mail] **COMMUNICATION**, if a court order directs the person to provide the information, facilities, or technical assistance:

- (1) a provider of electronic [mail] **COMMUNICATION**;
- (2) an officer, employee, agent, landlord, or custodian of a provider of electronic [mail] **COMMUNICATION**; or
- (3) a person specified in a court order directing the provision of information, facilities, or technical assistance to another who is authorized by federal or State law to intercept or provide electronic [mail] **COMMUNICATION** or to conduct surveillance of electronic [mail] **COMMUNICATION**.

(d) This section does not apply to a peaceable activity intended to express a political view or provide information to others.

(e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

~~(1) FOR A FIRST OFFENSE, imprisonment not exceeding 1 year or a fine not exceeding \$500 or both; OR~~

~~(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$1,000 OR BOTH.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, April 10, 2012.