

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1052

(Senator Kittleman)

Judicial Proceedings

Judiciary

Criminal Law - Misuse of Interactive Computer Service (Grace's Law)

This bill prohibits a person from using 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. Violators are guilty of a misdemeanor, punishable by imprisonment for up to one year and/or a \$500 maximum fine.

An “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.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill’s penalty provisions.

Local Effect: Minimal increase in local expenditures due to the bill’s incarceration penalty. Revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: 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 a legal purpose. “Electronic communication” means the transmission of information, data, or a communication by the use of a computer or other electronic means that is sent to a person and that is received by the person. The prohibition does not apply to a peaceable activity intended to express a political view or provide information to others. Violators are guilty of a misdemeanor and subject to maximum penalties of one year imprisonment and/or a \$500 fine.

In addition to the exception for certain peaceable activities, the following persons are authorized to provide information, facilities, or technical assistance to another person who is authorized by federal or State law to intercept or provide electronic communication or to conduct surveillance of electronic communication, if a court order directs the person to provide the information, facilities, or technical assistance: (1) a provider of electronic communication; (2) an officer, employee, agent, landlord, or custodian of a provider of electronic 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 communication or to conduct surveillance of electronic communication.

Background: With the growing use of electronic social media, bullying tactics have shifted from the school yard to cyberspace. According to the U.S. Centers for Disease Control and Prevention’s 2011 Youth Risk Behavior Survey, 16% of high school students reported being electronically bullied in the past year.

The bill is named in honor of Grace McComas, a 15-year-old from Howard County who, after repeated and vicious harassment online by a neighbor, committed suicide in April 2012.

State Revenues: General fund revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to more people being committed to State correctional facilities for convictions in Baltimore City.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Expenditures: Expenditures increase as a result of the bill’s incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Baltimore City and Montgomery County advise that they do not foresee a fiscal impact from the bill in their jurisdictions. Caroline County advises that it cannot determine the number of additional cases that will be generated by the bill, but does anticipate additional costs for its sheriff's office, State's Attorney, and court system.

Additional Information

Prior Introductions: None.

Cross File: HB 396 (Delegate Cardin, *et al.*) - Judiciary.

Information Source(s): Baltimore City, Caroline and Montgomery counties, Judiciary (Administrative Office of the Courts), Office of the Public Defender, Department of Public Safety and Correctional Services, Centers for Disease Control and Prevention, wbal.com, Department of Legislative Services

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