

HOUSE BILL 761

E1

5lr0390

By: **Delegates Jalisi, Pena–Melnyk, Atterbeary, Ebersole, Ghrist, Hayes, Haynes, Korman, Lisanti, McComas, Moon, Smith, Tarlau, and B. Wilson**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Cyberstalking – Penalties**

3 FOR the purpose of prohibiting a person from engaging in conduct that includes installing
4 or causing to be installed certain computer software on another person’s electronic
5 device or computer without that person’s knowledge or consent for certain purposes;
6 prohibiting a person from engaging in certain prohibited conduct with the intent to
7 place another in reasonable fear of certain actions; providing for the application of
8 this Act; providing penalties for a violation of this Act; providing that a sentence
9 imposed under this Act may be separate from and consecutive to or concurrent with
10 a sentence for any other crime based on the acts establishing a violation of this Act;
11 and generally relating to cyberstalking.

12 BY repealing and reenacting, without amendments,
13 Article – Criminal Law
14 Section 3–801
15 Annotated Code of Maryland
16 (2012 Replacement Volume and 2014 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 3–802.1
20 Annotated Code of Maryland
21 (2012 Replacement Volume and 2014 Supplement)

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

24 **Article – Criminal Law**

25 3–801.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 In this subtitle, “course of conduct” means a persistent pattern of conduct, composed
2 of a series of acts over time, that shows a continuity of purpose.

3 **3-802.1.**

4 (A) (1) A PERSON MAY NOT ENGAGE IN A MALICIOUS COURSE OF
5 CONDUCT THAT INCLUDES INSTALLING OR CAUSING TO BE INSTALLED COMPUTER
6 SOFTWARE ON ANOTHER PERSON’S ELECTRONIC DEVICE OR COMPUTER WITHOUT
7 THAT PERSON’S KNOWLEDGE OR CONSENT FOR THE PURPOSE OF:

8 (I) RECORDING ALL OR A MAJORITY OF THE KEYSTROKES
9 MADE ON THE ELECTRONIC DEVICE OR COMPUTER OF THE OTHER PERSON;

10 (II) ALTERING WEB-BROWSER SETTINGS, MONITORING
11 KEYSTROKES, OR DISABLING THE OTHER PERSON’S COMPUTER-SECURITY
12 SOFTWARE; OR

13 (III) MONITORING THE LOCATION OF THE OTHER PERSON.

14 (2) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS
15 SUBSECTION WITH THE INTENT TO PLACE THE OTHER PERSON IN REASONABLE
16 FEAR:

17 (I) 1. OF SERIOUS BODILY INJURY;

18 2. OF AN ASSAULT IN ANY DEGREE;

19 3. OF A SEXUAL CRIME UNDER TITLE 3, SUBTITLE 3 OR
20 § 3-602 OF THIS ARTICLE;

21 4. OF FALSE IMPRISONMENT; OR

22 5. OF DEATH; OR

23 (II) THAT A THIRD PERSON LIKELY WILL SUFFER ANY OF THE
24 ACTS LISTED IN ITEM (I) OF THIS ITEM.

25 (B) THIS SECTION DOES NOT APPLY TO CONDUCT THAT IS:

26 (1) PERFORMED TO ENSURE COMPLIANCE WITH A COURT ORDER;

27 (2) PERFORMED TO CARRY OUT A SPECIFIC LAWFUL COMMERCIAL
28 PURPOSE; OR

1 **(3) AUTHORIZED, REQUIRED, OR PROTECTED BY LOCAL, STATE, OR**
2 **FEDERAL LAW.**

3 **(C) (1) A PERSON WHO VIOLATES SUBSECTION (A)(1) OF THIS SECTION IS**
4 **GUILTY OF THE MISDEMEANOR OF CYBERSTALKING AND ON CONVICTION IS**
5 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE NOT EXCEEDING**
6 **\$2,000 OR BOTH.**

7 **(2) A PERSON WHO VIOLATES SUBSECTION (A)(2) OF THIS SECTION IS**
8 **GUILTY OF THE MISDEMEANOR OF AGGRAVATED CYBERSTALKING AND ON**
9 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE**
10 **NOT EXCEEDING \$5,000 OR BOTH.**

11 **(D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM**
12 **AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OTHER CRIME**
13 **BASED ON THE ACTS ESTABLISHING A VIOLATION OF THIS SECTION.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2015.