

SENATE BILL 405

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7lr2262
CF HB 340

By: **Senators Lee, Benson, Kagan, King, Klausmeier, Robinson, Rosapepe, Smith, and Young**

Introduced and read first time: January 27, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Extortion – Unauthorized Software**

3 FOR the purpose of prohibiting the creation of or unauthorized introduction into a
4 computer, computer system, or computer network of software designed to inhibit
5 access or use by an authorized user of a computer, computer system, or computer
6 network for the purpose of extorting money, property, or anything of value from
7 another; establishing a certain penalty; authorizing a victim of a certain offense to
8 bring a civil action for damages against a certain person; providing for the recovery
9 of certain attorney's fees and court costs in an action brought under this Act;
10 establishing that a certain criminal conviction is not a prerequisite for maintenance
11 of an action under this Act; defining certain terms; and generally relating to
12 extortion.

13 BY adding to

14 Article – Criminal Law

15 Section 3–709

16 Annotated Code of Maryland

17 (2012 Replacement Volume and 2016 Supplement)

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

20 **Article – Criminal Law**

21 **3–709.**

22 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
23 INDICATED.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) "ACCESS" MEANS TO INSTRUCT, COMMUNICATE WITH, STORE**
2 **DATA IN, RETRIEVE OR INTERCEPT DATA FROM, OR OTHERWISE USE THE**
3 **RESOURCES OF A COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER**
4 **NETWORK.**

5 **(3) (I) "COMPUTER" MEANS AN ELECTRONIC, A MAGNETIC, AN**
6 **OPTICAL, AN ORGANIC, OR ANY OTHER DATA PROCESSING DEVICE OR SYSTEM THAT**
7 **PERFORMS LOGICAL, ARITHMETIC, MEMORY, OR STORAGE FUNCTIONS.**

8 **(II) "COMPUTER" INCLUDES PROPERTY, A DATA STORAGE**
9 **FACILITY, OR A COMMUNICATIONS FACILITY THAT IS DIRECTLY RELATED TO OR**
10 **OPERATED WITH A COMPUTER.**

11 **(III) "COMPUTER" DOES NOT INCLUDE AN AUTOMATED**
12 **TYPEWRITER, A TYPESETTER, OR A PORTABLE CALCULATOR.**

13 **(4) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF ONE**
14 **OR MORE COMPUTERS THROUGH:**

15 **(I) THE USE OF A SATELLITE, A MICROWAVE, A LINE, OR ANY**
16 **OTHER COMMUNICATION MEDIUM; AND**

17 **(II) TERMINALS OR A COMPLEX CONSISTING OF TWO OR MORE**
18 **INTERCONNECTED COMPUTERS REGARDLESS OF WHETHER THE**
19 **INTERCONNECTION IS CONTINUOUSLY MAINTAINED.**

20 **(5) "COMPUTER PROGRAM" MEANS AN ORDERED SET OF**
21 **INSTRUCTIONS OR STATEMENTS THAT MAY INTERACT WITH RELATED DATA AND,**
22 **WHEN EXECUTED IN A COMPUTER SYSTEM, CAUSES A COMPUTER TO PERFORM**
23 **SPECIFIED FUNCTIONS.**

24 **(6) "COMPUTER SYSTEM" MEANS ONE OR MORE CONNECTED OR**
25 **UNCONNECTED COMPUTERS, PERIPHERAL DEVICES, COMPUTER SOFTWARE, DATA,**
26 **OR COMPUTER PROGRAMS.**

27 **(7) "SOFTWARE" MEANS A COMPUTER PROGRAM, AN INSTRUCTION, A**
28 **PROCEDURE, OR AN ASSOCIATED DOCUMENT REGARDING THE OPERATION OF A**
29 **COMPUTER SYSTEM.**

30 **(B) A PERSON, WITH THE INTENT TO UNLAWFULLY EXTORT MONEY,**
31 **PROPERTY, OR ANYTHING OF VALUE FROM ANOTHER, MAY NOT KNOWINGLY**
32 **CREATE, PLACE, OR INTRODUCE WITHOUT AUTHORIZATION INTO A COMPUTER,**
33 **COMPUTER SYSTEM, OR COMPUTER NETWORK, SOFTWARE THAT IS DESIGNED TO**

1 ENCRYPT, LOCK, OR OTHERWISE RESTRICT ACCESS OR USE IN ANY WAY BY AN
2 AUTHORIZED USER OF THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER
3 NETWORK.

4 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND
5 ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A
6 FINE NOT EXCEEDING \$10,000 OR BOTH.

7 (D) (1) A PERSON WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY
8 BECAUSE OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT
9 OF COMPETENT JURISDICTION.

10 (2) IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY AWARD
11 ACTUAL DAMAGES AND REASONABLE ATTORNEY'S FEES AND COURT COSTS.

12 (3) A CONVICTION FOR AN OFFENSE UNDER THIS SECTION IS NOT A
13 PREREQUISITE FOR MAINTENANCE OF AN ACTION UNDER THIS SUBSECTION.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2017.