

# SENATE BILL 881

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SB 635/20 – JPR

2lr2023

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By: **Senators Waldstreicher, Smith, Lee, Carter, Lam, and Hettleman**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2                   **Criminal Law – False Statements – Emergency or Commission of Crime**  
3                   **(Antiswatting Act of 2022)**

4 FOR the purpose of prohibiting a person from making or causing to be made a false  
5 statement, report, or complaint to a governmental emergency report recipient with  
6 reckless disregard of causing bodily harm; providing that a person who violates this  
7 Act is civilly liable to an individual harmed by the violation; and generally relating  
8 to crimes involving the making of false statements.

9 BY repealing and reenacting, with amendments,  
10                   Article – Courts and Judicial Proceedings  
11                   Section 3–8A–19(d)(3)(i)  
12                   Annotated Code of Maryland  
13                   (2020 Replacement Volume and 2021 Supplement)

14 BY adding to  
15                   Article – Criminal Law  
16                   Section 9–501.1  
17                   Annotated Code of Maryland  
18                   (2021 Replacement Volume and 2021 Supplement)

19 BY repealing and reenacting, with amendments,  
20                   Article – Criminal Law  
21                   Section 10–307  
22                   Annotated Code of Maryland  
23                   (2021 Replacement Volume and 2021 Supplement)

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

26                   **Article – Courts and Judicial Proceedings**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3-8A-19.

2 (d) (3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph,  
3 a child may not be committed to the Department of Juvenile Services for out-of-home  
4 placement if the most serious offense is:

5 1. Possession of marijuana under § 5-601(c)(2)(ii) of the  
6 Criminal Law Article;

7 2. Possession or purchase of a noncontrolled substance under  
8 § 5-618 of the Criminal Law Article;

9 3. Disturbing the peace or disorderly conduct under § 10-201  
10 of the Criminal Law Article;

11 4. Malicious destruction of property under § 6-301 of the  
12 Criminal Law Article;

13 5. An offense involving inhalants under § 5-708 of the  
14 Criminal Law Article;

15 6. An offense involving prostitution under § 11-303, §  
16 11-306, or § 11-307 of the Criminal Law Article;

17 7. Theft under § 7-104(g)(2) or (3) of the Criminal Law  
18 Article; [or]

19 8. Trespass under § 6-402(b)(1) or § 6-403(c)(1) of the  
20 Criminal Law Article; **OR**

21 **9. A FIRST-TIME VIOLATION FOR MAKING A FALSE  
22 STATEMENT, REPORT, OR COMPLAINT OF AN EMERGENCY OR A CRIME UNDER §  
23 9-501.1 OF THE CRIMINAL LAW ARTICLE.**

24 **Article – Criminal Law**

25 **9-501.1.**

26 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.**

28 **(2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14-101 OF  
29 THIS ARTICLE.**

30 **(3) “EMERGENCY” MEANS A CONDITION THAT:**

- (I) POSES AN IMMINENT THREAT TO PUBLIC SAFETY; AND
  - (II) RESULTS IN, OR IS LIKELY TO RESULT IN:
    - 1. THE RESPONSE OF A PUBLIC OFFICIAL; OR
    - 2. THE EVACUATION OF AN AREA, A BUILDING, A VEHICLE, OR ANY OTHER PLACE.

**“GOVERNMENTAL EMERGENCY REPORT RECIPIENT” MEANS:**

  - (I) A PEACE OFFICER;
  - (II) A POLICE AGENCY OF THE STATE OR A UNIT OF LOCAL GOVERNMENT;
  - (III) A PERSON INVOLVED IN THE OPERATION OF A PUBLIC SCAFFOLDING POINT, AS DEFINED IN § 1-301 OF THE PUBLIC SAFETY CODE;
  - (IV) ANY OTHER GOVERNMENT EMPLOYEE OR CONTRACTOR AUTHORIZED TO RECEIVE REPORTS OF A CRIME OR AN EMERGENCY.

A PERSON MAY NOT MAKE, OR CAUSE TO BE MADE, A STATEMENT, COMPLAINT, OR REPORT OF AN EMERGENCY OR ALLEGING THE COMMISSION OF A CRIME OF VIOLENCE IF THE PERSON KNOWS TO BE FALSE AS A WHOLE OR IN MATERIAL PART. A PERSON MAY NOT MAKE, OR CAUSE TO BE MADE, A STATEMENT, COMPLAINT, OR REPORT OF AN EMERGENCY REPORT RECIPIENT WITH RECKLESS DISREGARD FOR THE SAFETY OF AN INDIVIDUAL AS A DIRECT RESULT OF A RESPONSE TO A CRIME OR AN EMERGENCY.

A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS SECTION IF THE PERSON IS A GOVERNMENT EMPLOYEE OR CONTRACTOR MAKING A FALSE STATEMENT, REPORT, OR COMPLAINT ALLEGING THE COMMISSION OF A CRIME OF VIOLENCE IF THE RESULT OF THE STATEMENT, REPORT, OR COMPLAINT IS A RESPONSE FROM LAW ENFORCEMENT AND SERIOUS PHYSICAL HARM TO AN INDIVIDUAL AS A DIRECT RESULT OF A RESPONSE TO A CRIME OR AN EMERGENCY.

A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS SECTION IF THE PERSON IS A GOVERNMENT EMPLOYEE OR CONTRACTOR MAKING A FALSE STATEMENT, REPORT, OR COMPLAINT ALLEGING THE COMMISSION OF A CRIME OF VIOLENCE IF THE RESULT OF THE STATEMENT, REPORT, OR COMPLAINT IS A RESPONSE FROM LAW ENFORCEMENT AND THE DEATH OR SERIOUS EMOTIONAL DISTRESS TO A PERSON AS A PROXIMATE RESULT OF UNLAWFUL CONDUCT ARISING OUT OF THE RESPONSE.

A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS SECTION IF THE PERSON IS A GOVERNMENT EMPLOYEE OR CONTRACTOR MAKING A FALSE STATEMENT, REPORT, OR COMPLAINT ALLEGING THE COMMISSION OF A CRIME OF VIOLENCE IF THE RESULT OF THE STATEMENT, REPORT, OR COMPLAINT IS A RESPONSE FROM LAW ENFORCEMENT AND THE DEATH OR SERIOUS EMOTIONAL DISTRESS TO A PERSON AS A PROXIMATE RESULT OF UNLAWFUL CONDUCT ARISING OUT OF THE RESPONSE.

1   **RESPONSE.**

2           **(C) (1)** EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A  
3 PERSON WHO VIOLATES SUBSECTION (B)(1) OF THIS SECTION IS GUILTY OF A  
4 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT  
5 EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH.

6           **(2)** EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A  
7 PERSON WHO VIOLATES SUBSECTION (B)(2) OF THIS SECTION IS GUILTY OF A  
8 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5  
9 YEARS OR A FINE NOT EXCEEDING \$10,000.

10           **(3)** EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A  
11 PERSON WHO VIOLATES SUBSECTION (B)(3) OF THIS SECTION IS GUILTY OF A  
12 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10  
13 YEARS OR A FINE NOT EXCEEDING \$20,000.

14           **(4)** A PERSON UNDER THE AGE OF 18 YEARS WHO VIOLATES THIS  
15 SECTION FOR THE FIRST TIME IS GUILTY OF A CIVIL OFFENSE AND IS SUBJECT TO  
16 THE PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE  
17 COURTS ARTICLE.

18           **(5)** IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS  
19 SUBSECTION, A COURT, IN IMPOSING A SENTENCE ON A PERSON CONVICTED OF  
20 VIOLATING THIS SECTION, MAY ORDER THE PERSON TO REIMBURSE ANY  
21 INDIVIDUAL WHO INCURS DAMAGES AS A PROXIMATE RESULT OF LAWFUL CONDUCT  
22 ARISING OUT OF THE RESPONSE TO THE STATEMENT, REPORT, OR COMPLAINT.

23           **(D)** A PERSON WHO VIOLATES THIS SECTION MAY BE PROSECUTED,  
24 INDICTED, TRIED, AND CONVICTED IN:

25           **(1)** THE COUNTY WHERE THE DEFENDANT MADE THE FALSE  
26 STATEMENT, REPORT, OR COMPLAINT;

27           **(2)** THE COUNTY IN WHICH THE STATEMENT, REPORT, OR COMPLAINT  
28 WAS RECEIVED BY A GOVERNMENTAL EMERGENCY REPORT RECIPIENT; OR

29           **(3)** THE COUNTY IN WHICH A GOVERNMENTAL EMERGENCY REPORT  
30 RECIPIENT RESPONDED TO THE STATEMENT, REPORT, OR COMPLAINT.

31           **(E)** IN ADDITION TO ANY PENALTIES UNDER SUBSECTION (C) OF THIS  
32 SECTION, A PERSON WHO VIOLATES THIS SECTION IS CIVILLY LIABLE TO ANY  
33 INDIVIDUAL WHO IS INJURED AS A RESULT OF THE VIOLATION.

1           **(F) THIS SECTION MAY NOT BE CONSTRUED TO CONFLICT WITH 47 U.S.C. §**  
2   **230 OR 42 U.S.C. § 1983.**

3   10–307.

4           **(A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**  
5   **sentence imposed under this subtitle may be separate from and consecutive to or concurrent**  
6   **with a sentence for any crime based on the act establishing the violation of this subtitle.**

7           **(B) IF A PERSON IS CONVICTED OF A VIOLATION OF § 10–304(1)(I) OF THIS**  
8   **SUBTITLE BASED ON A VIOLATION OF § 9–501.1 OF THIS ARTICLE, A SENTENCE**  
9   **IMPOSED UNDER THIS SUBTITLE SHALL BE CONCURRENT WITH A SENTENCE**  
10   **IMPOSED UNDER § 9–501.1 OF THIS ARTICLE.**

11           SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
12   the application thereof to any person or circumstance is held invalid for any reason in a  
13   court of competent jurisdiction, the invalidity does not affect other provisions or any other  
14   application of this Act that can be given effect without the invalid provision or application,  
15   and for this purpose the provisions of this Act are declared severable.

16           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17   October 1, 2022.