

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 403
(Delegate Cardin)
Judiciary

Juvenile Law - Electronic Harassment and Bullying - Inquiry by Intake Officer

This bill requires a Department of Juvenile Services (DJS) intake officer to forward a complaint that alleges a violation involving the misuse of an electronic communication or interactive computer service to the State's Attorney for review if the intake officer denies authorization to file a petition or proposes an informal adjustment.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law:

Juvenile Intake Procedures

In general, juvenile intake officers receive (1) complaints from a person or agency having knowledge of facts which cause a person to be subject to the jurisdiction of the juvenile court and (2) citations issued by police officers. Generally, within 25 days of receiving a complaint, an intake officer must make an inquiry as to whether the juvenile court has jurisdiction and whether judicial action is in the best interests of the public or the child. After the inquiry and within 25 days of receiving the complaint, the intake officer may, in

accordance with statutory provisions (1) authorize the filing of a petition or a peace order request or both; (2) propose an informal adjustment on the matter; or (3) refuse authorization to file a petition or a peace order request or both.

Under current law (and subject to limited exception for circumstances involving a felony), if a complaint is filed that alleges the commission of an act which would be a felony if committed by an adult or alleges a violation of § 4-203 (Wearing, Carrying, or Transporting a Handgun) or § 4-204 (Use of Firearm in Commission of Crime) of the Criminal Law Article *and* the intake officer denies authorization to file a petition or proposes an informal adjustment, the intake officer must immediately forward the complaint and a copy of the entire intake case file, as specified, to the State's Attorney. The bill adds a violation of § 3-805 of the Criminal Law Article to this provision.

Under current law (and unchanged by the bill), the State's Attorney must then make a preliminary review as to whether the court has jurisdiction and whether judicial action is in the best interests of the public or the child, as specified. After the preliminary review, the State's Attorney must, within 30 days of receiving the complaint (unless the court extends the time) file a petition and/or a peace order request, refer the complaint to DJS for informal disposition, or dismiss the complaint.

Criminal Law Article – § 3-805

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 legal purpose.

A person may not use 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.

A person may not maliciously engage in an electronic communication if (1) the electronic communication is part of a series of communications and has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor and (2) the person engaging in the electronic communication intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor.

A person may not maliciously engage in a single significant act or course of conduct using an electronic communication if:

- the person's conduct, when considered in its entirety, has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor;
- the person intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor; and
- in the case of a single significant act, the communication (1) is made after receiving a reasonable warning or request to stop; (2) is sent with a reasonable expectation that the recipient would share the communication with a third party; or (3) shocks the conscience.

A person may not maliciously engage in electronic conduct if (1) the act of electronic conduct has the effect of intimidating or harassing a minor and causing physical injury or serious emotional distress to a minor and (2) the person intends to intimidate or harass the minor and cause physical injury or serious emotional distress to the minor.

The above prohibitions do not apply to a peaceable activity intended to express a political view or provide information to others or conducted for a lawful purpose.

A person convicted of violating one of the aforementioned crimes is guilty of a misdemeanor and subject to imprisonment of up to three years and/or a maximum fine of \$10,000.

A person may not violate these provisions with the intent to induce a minor to commit suicide. Such violators are guilty of a misdemeanor and subject to maximum penalties of 10 years' imprisonment and/or a \$10,000 fine.

Under these provisions, "electronic communication" means the act of transmitting any information, data, writing, image, or communication by the use of a computer or any other electronic means, including a communication that involves the use of e-mail, an instant messaging service, an Internet website, a social media application, a network call, a facsimile machine, or any other Internet-based communication tool.

"Interactive computer service" means an information service, system, or access software 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.

State Expenditures: The Office of the Public Defender (OPD) advises that the bill could result in new cases, with estimated expenditures of over \$134,000 annually for costs associated with hiring an additional public defender. While acknowledging that the bill may result in additional cases to be handled by OPD, the Department of Legislative Services advises that any potential expenditures solely attributable to the bill are likely to be minimal and not materially affect State finances.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Juvenile Services; Department of Legislative Services

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