SB 405

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 405 (Senator Kagan, *et al.*)
Judicial Proceedings

Criminal Law – Public Safety – Interference With a Public Safety Answering Point – Penalties

This bill prohibits a person from committing a violation of § 7-302 of the Criminal Law Article (unauthorized access to computers and related material) (1) with the intent to interrupt or impair the functioning of a "public safety answering point" (PSAP) or (2) that interrupts or impairs the functioning of a PSAP. The bill imposes specified penalties for these PSAP-related violations.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: A person who commits an act prohibited under § 7-302 of the Criminal Law Article with the intent to interrupt or impair the functioning of a PSAP is guilty of a felony, punishable by imprisonment for up to 5 years and/or a maximum fine of $25,000. A person who commits an act prohibited under § 7-302 of the Criminal Law Article that interrupts or impairs the functioning of a PSAP is guilty of a felony, punishable by imprisonment for up to 10 years and/or a maximum fine of $50,000.

Current Law: The State's 9-1-1 system operates primarily through PSAPs. A PSAP is a communications facility that (1) is operated on a 24-hour basis; (2) first receives 9-1-1 requests for emergency services in a 9-1-1 service area; and (3) as appropriate, dispatches public safety services directly, transfers 9-1-1 requests for emergency services, or transmits incident data.

Computer-related Offenses

Under § 7-302 of the Criminal Law Article, a person may not intentionally, willfully, and without authorization, access or attempt to access, cause to be accessed, or exceed the person's authorized access to all or part of a computer, computer network, computer control language, computer software, computer system, computer service, or computer database. A person may not intentionally, willfully, and without authorization, copy, attempt to copy, possess, or attempt to possess the contents of all or part of a computer database that was unlawfully accessed. Violators are guilty of a misdemeanor and are subject to imprisonment for up to three years and/or a maximum fine of $1,000.

A person may not commit the prohibited acts described above with the intent to (1) cause the malfunction or interruption of all or any part of a computer, computer network, computer control language, computer software, computer system, computer service, or computer data or (2) alter, damage, or destroy all or any part of data or a computer program stored, maintained, or produced by a computer, computer network, computer software, computer system, computer service, or computer database. A person is also prohibited from intentionally, willfully, and without authorization (1) possessing, identifying, or attempting to identify a valid access code or (2) publicizing or distributing a valid access code to an unauthorized person. If the aggregate amount of the loss is $10,000 or more, a violator is guilty of a felony, punishable by imprisonment for up to 10 years and/or a maximum fine of $10,000. If the aggregate amount of the loss is less than $10,000, a violator is guilty of a misdemeanor, punishable by imprisonment for up to 5 years and/or a maximum fine of $5,000.

A person may not commit any of these computer-related offenses with the intent to interrupt or impair the functioning of (1) the State government; (2) a natural gas or electric service, device, or system owned, operated, or controlled in the State by a person other than a public service company; (3) a service provided in the State by a public service company; (4) a health care facility; or (5) a public school. If the aggregate amount of the loss associated with a violation of this prohibition is $10,000 or more, a violator is guilty of a felony, punishable by imprisonment for up to 10 years and/or a maximum fine of $100,000. If the aggregate amount of the loss is less than $10,000, a violator is guilty of a misdemeanor, punishable by imprisonment for up to 5 years and/or a maximum fine of $25,000.

Except for a person who has a *bona fide* scientific, educational, governmental, testing, news, or other similar justification for possessing ransomware, a person may not knowingly possess ransomware with the intent to use the ransomware for the purpose of introduction into the computer, computer network, or computer system of another person without the authorization of the other person. Violators are guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a maximum fine of $5,000.

Prohibited access under a single scheme or a continuing course of conduct may be considered one violation. A defendant may be tried in any county in Maryland where the act was performed or the accessed computer was located.

A person who has suffered a specific and direct injury as a result of any prohibited act may bring a civil action in a court of competent jurisdiction, and maintaining a civil action is not dependent upon a criminal conviction against the defendant. A court may award actual damages and reasonable attorney's fees and court costs.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 83 of 2022; SB 101 of 2021; and SB 837 and HB 1024 of 2020.

Designated Cross File: HB 744 (Delegate Hill, *et al.*) - Judiciary.

Information Source(s): Maryland Municipal League; 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 Public Safety and Correctional Services; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2023
km/aad

Analysis by: Brandon M. Stouffer

Direct Inquiries to:
(410) 946-5510
(301) 970-5510