

HOUSE BILL 456

E1, D3

8lr3033
CF SB 376

By: **Delegate Barron**

Introduced and read first time: January 25, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Crimes Involving Computers – Cyber Intrusion and**
3 **Ransomware**

4 FOR the purpose of adding certain offenses involving computers to the list of offenses on
5 which a charge of murder in the first degree can be based; prohibiting the creation
6 of or unauthorized introduction into a computer, computer system, or computer
7 network software designed to inhibit access or use by an authorized user of a
8 computer, computer system, or computer network for the purpose of extorting
9 money, property, or anything of value from another; establishing a certain penalty;
10 authorizing a victim of a certain offense to bring a civil action for damages against a
11 certain person; providing for the recovery of certain attorney's fees and court costs
12 in an action brought under this Act; establishing that a certain criminal conviction
13 is not a prerequisite for maintenance of an action under this Act; providing for the
14 application of this Act; defining certain terms; and generally relating to crimes
15 involving computers.

16 BY repealing and reenacting, with amendments,
17 Article – Criminal Law
18 Section 2–201(a) and 7–302
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2017 Supplement)

21 BY adding to
22 Article – Criminal Law
23 Section 3–709
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Criminal Law**

2 2–201.

3 (a) A murder is in the first degree if it is:

4 (1) a deliberate, premeditated, and willful killing;

5 (2) committed by lying in wait;

6 (3) committed by poison; or

7 (4) committed in the perpetration of or an attempt to perpetrate:

8 (i) arson in the first degree;

9 (ii) burning a barn, stable, tobacco house, warehouse, or other
10 outbuilding that:

11 1. is not parcel to a dwelling; and

12 2. contains cattle, goods, wares, merchandise, horses, grain,
13 hay, or tobacco;

14 (iii) burglary in the first, second, or third degree;

15 (iv) carjacking or armed carjacking;

16 (v) escape in the first degree from a State correctional facility or a
17 local correctional facility;

18 (vi) kidnapping under § 3–502 or § 3–503(a)(2) of this article;

19 (vii) mayhem;

20 (viii) rape;

21 (ix) robbery under § 3–402 or § 3–403 of this article;

22 (x) sexual offense in the first or second degree;

23 (xi) sodomy;

24 **(XII) A VIOLATION OF § 3–709 OF THIS ARTICLE CONCERNING**
25 **CYBER EXTORTION OR RANSOMWARE; or**26 **[(xii)] (XIII) a violation of § 4–503 of this article concerning destructive**

1 devices.

2 **3-709.**

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "ACCESS" MEANS TO INSTRUCT, COMMUNICATE WITH, STORE
6 DATA IN, RETRIEVE OR INTERCEPT DATA FROM, OR OTHERWISE USE THE
7 RESOURCES OF A COMPUTER PROGRAM, COMPUTER SYSTEM, OR COMPUTER
8 NETWORK.

9 (3) (I) "COMPUTER" MEANS AN ELECTRONIC, MAGNETIC,
10 OPTICAL, ORGANIC, OR OTHER DATA PROCESSING DEVICE OR SYSTEM THAT
11 PERFORMS LOGICAL, ARITHMETIC, MEMORY, OR STORAGE FUNCTIONS.

12 (II) "COMPUTER" INCLUDES PROPERTY, A DATA STORAGE
13 FACILITY, OR A COMMUNICATIONS FACILITY THAT IS DIRECTLY RELATED TO OR
14 OPERATED WITH A COMPUTER.

15 (III) "COMPUTER" DOES NOT INCLUDE AN AUTOMATED
16 TYPEWRITER, A TYPESETTER, OR A PORTABLE CALCULATOR.

17 (4) "COMPUTER NETWORK" MEANS THE INTERCONNECTION OF ONE
18 OR MORE COMPUTERS THROUGH:

19 (I) THE USE OF A SATELLITE, A MICROWAVE, A LINE, OR ANY
20 OTHER COMMUNICATION MEDIUM; AND

21 (II) TERMINALS OR A COMPLEX CONSISTING OF TWO OR MORE
22 INTERCONNECTED COMPUTERS REGARDLESS OF WHETHER THE
23 INTERCONNECTION IS CONTINUOUSLY MAINTAINED.

24 (5) "COMPUTER PROGRAM" MEANS AN ORDERED SET OF
25 INSTRUCTIONS OR STATEMENTS THAT MAY INTERACT WITH RELATED DATA AND,
26 WHEN EXECUTED IN A COMPUTER SYSTEM, CAUSES A COMPUTER TO PERFORM
27 SPECIFIED FUNCTIONS.

28 (6) "COMPUTER SYSTEM" MEANS ONE OR MORE CONNECTED OR
29 UNCONNECTED COMPUTERS, PERIPHERAL DEVICES, COMPUTER SOFTWARE, DATA,
30 OR COMPUTER PROGRAMS.

31 (7) "SOFTWARE" MEANS A COMPUTER PROGRAM, AN INSTRUCTION, A

1 PROCEDURE, OR AN ASSOCIATED DOCUMENT REGARDING THE OPERATION OF A
2 COMPUTER SYSTEM.

3 (B) A PERSON, WITH THE INTENT TO UNLAWFULLY EXTORT MONEY,
4 PROPERTY, OR ANYTHING OF VALUE FROM ANOTHER, MAY NOT KNOWINGLY
5 CREATE, PLACE, OR INTRODUCE WITHOUT AUTHORIZATION INTO A COMPUTER,
6 COMPUTER SYSTEM, OR COMPUTER NETWORK, SOFTWARE THAT IS DESIGNED TO
7 ENCRYPT, LOCK, OR OTHERWISE RESTRICT ACCESS OR USE IN ANY WAY BY AN
8 AUTHORIZED USER OF THE COMPUTER, COMPUTER SYSTEM, OR COMPUTER
9 NETWORK.

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

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

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

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

20 7-302.

21 (a) (1) In this section the following words have the meanings indicated.

22 (2) "Access" means to instruct, communicate with, store data in, retrieve or
23 intercept data from, or otherwise use the resources of a computer program, computer
24 system, or computer network.

25 (3) (i) "Aggregate amount" means a direct loss of property or services
26 incurred by a victim.

27 (ii) "Aggregate amount" includes:

28 1. the value of any money, property, or service lost, stolen, or
29 rendered unrecoverable by the crime; or

30 2. any actual reasonable expenditure incurred by the victim
31 to verify whether a computer program, computer, computer system, or computer network
32 was altered, acquired, damaged, deleted, disrupted, or destroyed by access in violation of
33 this section.

1 (4) (i) “Computer” means an electronic, magnetic, optical, organic, or
2 other data processing device or system that performs logical, arithmetic, memory, or
3 storage functions.

4 (ii) “Computer” includes property, a data storage facility, or a
5 communications facility that is directly related to or operated with a computer.

6 (iii) “Computer” does not include an automated typewriter, a
7 typesetter, or a portable calculator.

8 (5) “Computer control language” means ordered statements that direct a
9 computer to perform specific functions.

10 (6) “Computer database” means a representation of information,
11 knowledge, facts, concepts, or instructions that:

12 (i) is intended for use in a computer, computer system, or computer
13 network; and

14 (ii) 1. is being prepared or has been prepared in a formalized
15 manner; or

16 2. is being produced or has been produced by a computer,
17 computer system, or computer network.

18 (7) “Computer network” means the interconnection of one or more
19 computers through:

20 (i) the use of a satellite, microwave, line, or other communication
21 medium; and

22 (ii) terminals or a complex consisting of two or more interconnected
23 computers regardless of whether the interconnection is continuously maintained.

24 (8) “Computer program” means an ordered set of instructions or
25 statements that may interact with related data and, when executed in a computer system,
26 causes a computer to perform specified functions.

27 (9) “Computer services” includes computer time, data processing, and
28 storage functions.

29 (10) “Computer software” means a computer program, instruction,
30 procedure, or associated document regarding the operation of a computer system.

31 (11) “Computer system” means one or more connected or unconnected
32 computers, peripheral devices, computer software, data, or computer programs.

1 (b) This section does not preclude the applicability of any other provision of this
2 Code.

3 (c) (1) A person may not intentionally, willfully, and without authorization:

4 (i) access, attempt to access, cause to be accessed, or exceed the
5 person's authorized access to all or part of a computer network, computer control language,
6 computer, computer software, computer system, computer service, or computer database;
7 or

8 (ii) copy, attempt to copy, possess, or attempt to possess the contents
9 of all or part of a computer database accessed in violation of item (i) of this paragraph.

10 (2) A person may not commit an act prohibited by paragraph (1) of this
11 subsection with the intent to:

12 (i) cause the malfunction or interrupt the operation of all or any part
13 of a computer, computer network, computer control language, computer software, computer
14 system, computer service, or computer data; or

15 (ii) alter, damage, or destroy all or any part of data or a computer
16 program stored, maintained, or produced by a computer, computer network, computer
17 software, computer system, computer service, or computer database.

18 (3) A person may not intentionally, willfully, and without authorization:

19 (i) possess, identify, or attempt to identify a valid access code; or

20 (ii) publicize or distribute a valid access code to an unauthorized
21 person.

22 (4) A person may not commit an act prohibited under this subsection with
23 the intent to interrupt or impair the functioning of:

24 (i) the State government;

25 (ii) a service, device, or system related to the production,
26 transmission, delivery, or storage of electricity or natural gas in the State that is owned,
27 operated, or controlled by a person other than a public service company, as defined in §
28 1–101 of the Public Utilities Article; or

29 (iii) a service provided in the State by a public service company, as
30 defined in § 1–101 of the Public Utilities Article.

31 (d) (1) A person who violates subsection (c)(1) of this section is guilty of a
32 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine

1 not exceeding \$1,000 or both.

2 (2) A person who violates subsection (c)(2) or (3) of this section:

3 (i) if the aggregate amount of the loss is \$10,000 or more, is guilty
4 of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not
5 exceeding \$10,000 or both; or

6 (ii) if the aggregate amount of the loss is less than \$10,000, is guilty
7 of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a
8 fine not exceeding \$5,000 or both.

9 (3) A person who violates subsection (c)(4) of this section:

10 (i) if the aggregate amount of the loss is \$50,000 or more, is guilty
11 of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not
12 exceeding \$25,000 or both; or

13 (ii) if the aggregate amount of the loss is less than \$50,000, is guilty
14 of a misdemeanor and on conviction is subject to imprisonment not exceeding 5 years or a
15 fine not exceeding \$25,000 or both.

16 (e) Access achieved in violation of this section under a single scheme or a
17 continuing course of conduct may be considered as one violation.

18 (f) A court of competent jurisdiction may try a person prosecuted under this
19 section in any county in this State where:

20 (1) the defendant performed the act; or

21 (2) the accessed computer is located.

22 **(G) (1) A PERSON WHO HAS SUFFERED A SPECIFIC AND DIRECT INJURY**
23 **BECAUSE OF A VIOLATION OF THIS SECTION MAY BRING A CIVIL ACTION IN A COURT**
24 **OF COMPETENT JURISDICTION.**

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

27 **(3) A CONVICTION FOR AN OFFENSE UNDER THIS SECTION IS NOT A**
28 **PREREQUISITE FOR MAINTENANCE OF AN ACTION UNDER THIS SUBSECTION.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
30 apply only prospectively and may not be applied or interpreted to have any effect on or
31 application to any cause of action arising before the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.