

SENATE BILL 107

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2lr1166

By: **Senators Brochin and Peters**

Introduced and read first time: January 18, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Electronic Harassment – Penalties**

3 FOR the purpose of prohibiting a person from making a certain electronic
4 communication with the intent to terrify, intimidate, or harass another person,
5 or place another person in reasonable fear of injury or physical harm to that
6 person or the property of that person; establishing certain penalties for a
7 violation of this Act; providing for the application of this Act; providing that this
8 Act does not have any effect on the lawfulness of certain policies of electronic
9 mail service providers; defining certain terms; and generally relating to
10 electronic harassment.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 3–805.1(a)(1) and (4)
14 Annotated Code of Maryland
15 (2002 Volume and 2011 Supplement)

16 BY adding to
17 Article – Criminal Law
18 Section 3–805.2
19 Annotated Code of Maryland
20 (2002 Volume and 2011 Supplement)

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

23 **Article – Criminal Law**

24 3–805.1.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) “Electronic mail service provider” means any person, including an
2 Internet service provider, that is an intermediary in sending and receiving electronic
3 mail and that provides to the public the ability to send or receive electronic mail to or
4 from an electronic mail account or online user account.

5 **3-805.2.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
7 MEANINGS INDICATED.

8 (2) “ELECTRONIC COMMUNICATION” MEANS A COMMUNICATION
9 TRANSMITTED BY MEANS OF AN ELECTRONIC DEVICE.

10 (3) “ELECTRONIC DEVICE” INCLUDES A FIXED-LINE TELEPHONE,
11 CELLULAR TELEPHONE, COMPUTER, PERSONAL DIGITAL ASSISTANT, PAGER, OR
12 FACSIMILE MACHINE.

13 (4) “ELECTRONIC MAIL SERVICE PROVIDER” HAS THE MEANING
14 STATED IN § 3-805.1 OF THIS SUBTITLE.

15 (B) A PERSON MAY NOT MAKE AN ELECTRONIC COMMUNICATION WITH
16 THE INTENT TO:

17 (1) TERRIFY, INTIMIDATE, OR HARASS ANOTHER PERSON; OR

18 (2) PLACE ANOTHER PERSON IN REASONABLE FEAR OF INJURY
19 OR PHYSICAL HARM TO THAT PERSON OR THE PROPERTY OF THAT PERSON.

20 (C) THIS SECTION DOES NOT APPLY TO A PEACEABLE ACTIVITY
21 INTENDED TO EXPRESS A POLITICAL VIEW OR PROVIDE INFORMATION TO
22 OTHERS.

23 (D) THIS SECTION DOES NOT HAVE ANY EFFECT ON THE LAWFULNESS
24 OF THE ADOPTION, IMPLEMENTATION, OR ENFORCEMENT BY AN ELECTRONIC
25 MAIL SERVICE PROVIDER OF A POLICY OF DECLINING TO TRANSMIT, ROUTE,
26 RELAY, HANDLE, OR STORE CERTAIN TYPES OF ELECTRONIC COMMUNICATION
27 UNDER ANY OTHER PROVISION OF LAW.

28 (E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A
29 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
30 EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2012.