

A022 - 0809

10 AN ACT CONCERNING

20 **Crimes – Harassment – Electronic Communication**

30 FOR the purpose of altering an existing prohibition against using electronic mail with the intent to harass;
40 prohibiting a person from making an electronic communication with the intent to harass a person or the
50 person’s child, sibling, spouse, parent, or dependent; defining certain terms; making certain confirming
60 changes; and establishing certain penalties for harassment through electronic communication.

70 BY repealing and reenacting, with amendments,

80 Article – Criminal Law

90 Section 3-805

100 Annotated Code of Maryland

110 **SECTION 1.** BE IT ENACTED BY THE MARYLAND STUDENT LEGISLATURE, That the laws of
120 Maryland read as follows:

130 Article – Criminal Law

140 § 3-805

150 (a) (1) In this section, ~~“electronic mail”~~ THE FOLLOWING WORDS HAVE THE MEANINGS
160 INDICATED

170 (2) “ELECTRONIC COMMUNICATION” means ~~the~~ A POSTING OR transmission of
180 information or a communication by the use of a computer or other electronic means ~~that~~
190 ~~is sent to a person identified by a unique address and that is received by the person.~~

200 (3) “HARASS” MEANS TO:

210 (I) PLACE A PERSON IN REASONABLE APPREHENSION OF IMMEDIATE
220 OR FUTURE BODILY HARM, SEXUAL ASSAULT, CONFINEMENT, OR
230 RESTRAINT OF THE PERSON, OR THE PERSON’S CHILD, SIBLING,
240 SPOUSE, PARENT, OR DEPENDENT; OR

250 (II) FRIGHTEN, INTIMIDATE, OR CAUSE EMOTIONAL DISTRESS

260 (b) (1) A person may not ~~use~~ MAKE AN electronic ~~mail~~ COMMUNICATION with the intent to
270 harass: A PERSON, OR THE PERSON’S CHILD, SIBLING, SPOUSE, PARENT, OR
280 DEPENDENT; OR

290 (2) MAKE AN ELECTRONIC COMMUNICATION WITH ANOTHER PERSON WHO
300 IS, OR WHO PURPORTS TO BE A MINOR AND IN SO DOING AND WITHOUT
310 GOOD CAUSE FRIGHTENS, INTIMIDATES, OR CAUSES EMOTIONAL
320 DISTRESS TO SUCH OTHER PERSON; OR

330 (3) MAKE AN ELECTRONIC COMMUNICATION WITH ANOTHER PERSON IN
340 VIOLATION OF AN ORDER OF PROTECTION, CONDITION OF PROBATION,
350 PAROLE, PRETRIAL RELEASE, OR RELEASE ON BOND PENDING APPEAL
360 AFTER HAVING RECEIVED ACTUAL NOTICE OF SUCH AN ORDER; OR

370 (4) KNOWINGLY MAKE REPEATED UNWANTED ELECTRONIC
380 COMMUNICATION TO ANOTHER PERSON

390 ~~(1) one or more persons; or~~

400 ~~(2) by sending lewd, lascivious, or obscene material.~~

410 (c) It is not a violation of this section for any of the following persons to provide information,
420 facilities, or technical assistance to another who is authorized by federal or State law to intercept
430 or provide electronic ~~mail~~ COMMUNICATIONS or to conduct surveillance of electronic ~~mail~~
440 COMMUNICATIONS, if a court order directs the person to provide the information, facilities, or
450 technical assistance:

460 (1) a provider of electronic ~~mail~~ COMMUNICATIONS;

470 (2) an officer, employee, agent, landlord, or custodian of a provider of electronic ~~mail~~
480 COMMUNICATION SERVICES; or

490 (3) a person specified in a court order directing the provision of information, facilities, or
500 technical assistance to another who is authorized by federal or State law to intercept or
510 provide electronic ~~mail~~ COMMUNICATIONS or to conduct surveillance of electronic
520 mail.

530 (d) This section does not apply to a peaceable activity intended to express a political view or provide
540 information to others.

550 (e) A person who violates this section is guilty of a misdemeanor and on conviction is subject to
560 imprisonment not exceeding ~~4~~ 4 year YEARS or a fine not exceeding ~~\$500~~ \$10,000 or both.

570 **SECTION 2.** AND BE IT FURTHER ENACTED, That if any provision of this Act or the application
580 thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the
590 invalidity does not affect other provisions or any other application of this Act which can be given effect
600 without the invalid provision or application, and for provisions of this Act are declared severable.

610 **SECTION 3.** AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

620 **MANDATES:** Martin O'Malley, Governor of Maryland
630 Doug F. Gansler, Attorney General of Maryland
640 Gary D. Maynard, Secretary of Public Safety and Correctional Services
650 Thomas V. Mike Miller, President of the Maryland Senate
660 Michael E. Busch, Speaker of the Maryland House of Delegates
670 Delores E. Kelley, Maryland Senator
680 J. Lowell Stoltzfus, Maryland Senator
690 Nicolaus R. Kipke, Maryland Delegate

SPONSOR:
Shawn Jester
DCP, Salisbury University
sj56448@salisbury.edu

CO-SPONSOR:
Andy Horn
St. Mary's College of Maryland