

SENATE BILL 881

E1
SB 635/20 – JPR

2lr2023

By: **Senators Waldstreicher, Smith, Lee, Carter, Lam, and Hettleman**

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 8, 2022

CHAPTER _____

1 AN ACT concerning

2 ~~**Criminal Law – False Statements – Emergency or Commission of Crime**~~
3 ~~**(Antiswatting Act of 2022)**~~
4 **Task Force to Study the Practice Known as “Swatting”**

5 FOR the purpose of ~~prohibiting a person from making or causing to be made a false~~
6 ~~statement, report, or complaint to a governmental emergency report recipient with~~
7 ~~reckless disregard of causing bodily harm; providing that a person who violates this~~
8 ~~Act is civilly liable to an individual harmed by the violation; and generally relating~~
9 ~~to crimes involving the making of false statements~~ establishing the Task Force to
10 Study the Practice Known as “Swatting”; and generally relating to the Task Force to
11 Study the Practice Known as “Swatting”.

12 ~~BY repealing and reenacting, with amendments,~~
13 ~~Article – Courts and Judicial Proceedings~~
14 ~~Section 3 – 8A-19(d)(3)(i)~~
15 ~~Annotated Code of Maryland~~
16 ~~(2020 Replacement Volume and 2021 Supplement)~~

17 ~~BY adding to~~
18 ~~Article – Criminal Law~~
19 ~~Section 9 – 501.1~~
20 ~~Annotated Code of Maryland~~
21 ~~(2021 Replacement Volume and 2021 Supplement)~~

22 ~~BY repealing and reenacting, with amendments,~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~Article — Criminal Law~~

~~Section 10-307~~

~~Annotated Code of Maryland~~

~~(2021 Replacement Volume and 2021 Supplement)~~

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

~~**Article — Courts and Judicial Proceedings**~~

~~§ 8A-10.~~

~~(d) (3) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph,
a child may not be committed to the Department of Juvenile Services for out-of-home
placement if the most serious offense is:~~

~~1. Possession of marijuana under § 5-601(e)(2)(ii) of the
Criminal Law Article;~~

~~2. Possession or purchase of a noncontrolled substance under
§ 5-618 of the Criminal Law Article;~~

~~3. Disturbing the peace or disorderly conduct under § 10-201
of the Criminal Law Article;~~

~~4. Malicious destruction of property under § 6-301 of the
Criminal Law Article;~~

~~5. An offense involving inhalants under § 5-708 of the
Criminal Law Article;~~

~~6. An offense involving prostitution under § 11-303, §
11-306, or § 11-307 of the Criminal Law Article;~~

~~7. Theft under § 7-104(g)(2) or (3) of the Criminal Law
Article; [or]~~

~~8. Trespass under § 6-402(b)(1) or § 6-403(e)(1) of the
Criminal Law Article; OR~~

~~9. A FIRST TIME VIOLATION FOR MAKING A FALSE
STATEMENT, REPORT, OR COMPLAINT OF AN EMERGENCY OR A CRIME UNDER §
9-501.1 OF THE CRIMINAL LAW ARTICLE.~~

~~**Article — Criminal Law**~~

~~9-501.1.~~

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

~~(2) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 14-101 OF THIS ARTICLE.~~

~~(3) "EMERGENCY" MEANS A CONDITION THAT:~~

~~(I) POSES AN IMMINENT THREAT TO PUBLIC SAFETY; AND~~

~~(II) RESULTS IN, OR IS LIKELY TO RESULT IN:~~

~~1. THE RESPONSE OF A PUBLIC OFFICIAL; OR~~

~~2. THE EVACUATION OF AN AREA, A BUILDING, A STRUCTURE, A VEHICLE, OR ANY OTHER PLACE.~~

~~(4) "GOVERNMENTAL EMERGENCY REPORT RECIPIENT" MEANS:~~

~~(I) A PEACE OFFICER;~~

~~(II) A POLICE AGENCY OF THE STATE OR A UNIT OF LOCAL GOVERNMENT;~~

~~(III) A PERSON INVOLVED IN THE OPERATION OF A PUBLIC SAFETY ANSWERING POINT, AS DEFINED IN § 1-301 OF THE PUBLIC SAFETY ARTICLE; OR~~

~~(IV) ANY OTHER GOVERNMENT EMPLOYEE OR CONTRACTOR WHO IS AUTHORIZED TO RECEIVE REPORTS OF A CRIME OR AN EMERGENCY.~~

~~(B) (1) A PERSON MAY NOT MAKE, OR CAUSE TO BE MADE, A STATEMENT, REPORT, OR COMPLAINT OF AN EMERGENCY OR ALLEGING THE COMMISSION OF A CRIME THAT THE PERSON KNOWS TO BE FALSE AS A WHOLE OR IN MATERIAL PART TO A GOVERNMENTAL EMERGENCY REPORT RECIPIENT WITH RECKLESS DISREGARD OF CAUSING BODILY HARM TO AN INDIVIDUAL AS A DIRECT RESULT OF A RESPONSE TO THE STATEMENT, REPORT, OR COMPLAINT.~~

~~(2) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS SUBSECTION BY MAKING A FALSE STATEMENT, REPORT, OR COMPLAINT ALLEGING THE COMMISSION OF A CRIME OF VIOLENCE IF THE RESULT OF THE STATEMENT, REPORT, OR COMPLAINT IS A RESPONSE FROM LAW ENFORCEMENT AND SERIOUS~~

~~PHYSICAL INJURY OR SEVERE EMOTIONAL DISTRESS TO A PERSON AS A PROXIMATE
RESULT OF LAWFUL CONDUCT ARISING OUT OF THE RESPONSE.~~

~~(3) A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS
SUBSECTION BY MAKING A FALSE STATEMENT, REPORT, OR COMPLAINT ALLEGING
THE COMMISSION OF A CRIME OF VIOLENCE IF THE RESULT OF THE STATEMENT,
REPORT, OR COMPLAINT IS A RESPONSE FROM LAW ENFORCEMENT AND THE DEATH
OF A PERSON AS A PROXIMATE RESULT OF LAWFUL CONDUCT ARISING OUT OF THE
RESPONSE.~~

~~(c) (1) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A
PERSON WHO VIOLATES SUBSECTION (B)(1) OF THIS SECTION IS GUILTY OF A
MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT
EXCEEDING 6 MONTHS OR A FINE NOT EXCEEDING \$500 OR BOTH.~~

~~(2) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A
PERSON WHO VIOLATES SUBSECTION (B)(2) OF THIS SECTION IS GUILTY OF A
FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5
YEARS OR A FINE NOT EXCEEDING \$10,000.~~

~~(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, A
PERSON WHO VIOLATES SUBSECTION (B)(3) OF THIS SECTION IS GUILTY OF A
FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10
YEARS OR A FINE NOT EXCEEDING \$20,000.~~

~~(4) A PERSON UNDER THE AGE OF 18 YEARS WHO VIOLATES THIS
SECTION FOR THE FIRST TIME IS GUILTY OF A CIVIL OFFENSE AND IS SUBJECT TO
THE PROCEDURES AND DISPOSITIONS PROVIDED IN TITLE 3, SUBTITLE 8A OF THE
COURTS ARTICLE.~~

~~(5) IN ADDITION TO ANY OTHER PENALTY PROVIDED IN THIS
SUBSECTION, A COURT, IN IMPOSING A SENTENCE ON A PERSON CONVICTED OF
VIOLATING THIS SECTION, MAY ORDER THE PERSON TO REIMBURSE ANY
INDIVIDUAL WHO INCURS DAMAGES AS A PROXIMATE RESULT OF LAWFUL CONDUCT
ARISING OUT OF THE RESPONSE TO THE STATEMENT, REPORT, OR COMPLAINT.~~

~~(d) A PERSON WHO VIOLATES THIS SECTION MAY BE PROSECUTED,
INDICTED, TRIED, AND CONVICTED IN:~~

~~(1) THE COUNTY WHERE THE DEFENDANT MADE THE FALSE
STATEMENT, REPORT, OR COMPLAINT;~~

~~(2) THE COUNTY IN WHICH THE STATEMENT, REPORT, OR COMPLAINT
WAS RECEIVED BY A GOVERNMENTAL EMERGENCY REPORT RECIPIENT; OR~~

~~(3) THE COUNTY IN WHICH A GOVERNMENTAL EMERGENCY REPORT
RECIPIENT RESPONDED TO THE STATEMENT, REPORT, OR COMPLAINT.~~

~~(E) IN ADDITION TO ANY PENALTIES UNDER SUBSECTION (C) OF THIS
SECTION, A PERSON WHO VIOLATES THIS SECTION IS CIVILLY LIABLE TO ANY
INDIVIDUAL WHO IS INJURED AS A RESULT OF THE VIOLATION.~~

~~(F) THIS SECTION MAY NOT BE CONSTRUED TO CONFLICT WITH 47 U.S.C. §
230 OR 42 U.S.C. § 1983.~~

~~10-307.~~

~~(A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A
sentence imposed under this subtitle may be separate from and consecutive to or concurrent
with a sentence for any crime based on the act establishing the violation of this subtitle.~~

~~(B) IF A PERSON IS CONVICTED OF A VIOLATION OF § 10-304(1)(i) OF THIS
SUBTITLE BASED ON A VIOLATION OF § 9-501.1 OF THIS ARTICLE, A SENTENCE
IMPOSED UNDER THIS SUBTITLE SHALL BE CONCURRENT WITH A SENTENCE
IMPOSED UNDER § 9-501.1 OF THIS ARTICLE.~~

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

~~SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2022.~~

(a) There is a Task Force to Study the Practice Known as "Swatting".

(b) The Task Force consists of the following members:

(1) three members of the Senate of Maryland, appointed by the President
of the Senate;

(2) three members of the House of Delegates, appointed by the Speaker of
the House;

(3) the Public Defender, or the Public Defender's designee;

(4) the Chair of the Anti-Defamation League, or the Chair's designee;

(5) the Executive Director of the Maryland Chiefs of Police Association, or the Executive Director's designee;

(6) the Executive Director of the Maryland Sheriffs' Association, or the Executive Director's designee;

(7) the President of the Maryland State's Attorneys' Association, or the President's designee; and

(8) the President of the Maryland Conference of the National Association for the Advancement of Colored People, or the President's designee.

(c) The Task Force shall designate the chair of the Task Force.

(d) The Office of the Attorney General shall provide staff for the Task Force.

(e) A member of the Task Force:

(1) may not receive compensation as a member of the Task Force; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Task Force shall:

(1) study the laws applicable to, and otherwise relating to, the practice known as "swatting"; and

(2) make recommendations relating to legislative changes to prohibit the practice known as "swatting".

(g) On or before June 1, 2023, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2022. It shall remain effective for a period of 1 year and 9 months and, at the end of February 28, 2023, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.