
By: **Senator Collins (Baltimore County Administration) and Senators
Forehand and Colburn**

Introduced and read first time: February 1, 2002
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 19, 2002

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Fraud - Personal Identifying Information**

3 FOR the purpose of expanding the crime of identity fraud to include possession or
4 aiding another in possessing the personal identifying information of an
5 individual under certain circumstances; altering the penalties for identity fraud;
6 ~~providing certain penalties depending on the value of goods obtained~~
7 ~~fraudulently when using certain personal identifying information; providing a~~
8 ~~penalty when certain personal identifying information is used for certain~~
9 ~~purposes without consent; providing a penalty for using personal identifying~~
10 ~~information to avoid prosecution for a crime under certain circumstances;~~
11 ~~providing statewide jurisdiction for certain law enforcement officers~~
12 ~~investigating and enforcing the crime of fraudulent use of personal identifying~~
13 ~~information; providing certain notifications of investigations or enforcement~~
14 ~~actions to certain law enforcement units; providing immunity and exceptions~~
15 ~~from liability for certain law enforcement officers when acting under the~~
16 ~~statewide jurisdiction of this section; repealing a certain provision that prohibits~~
17 ~~the possession of a credit card number or payment device number of another or~~
18 ~~a holder's signature under certain circumstances; altering the exclusive original~~
19 ~~jurisdiction of the District Court to include felony criminal cases of fraud~~
20 ~~involving personal identifying information repealing a certain prohibition~~
21 ~~against possession of certain credit card numbers, payment device numbers, or~~
22 ~~certain signatures under certain circumstances; establishing certain penalties~~
23 ~~for certain violations committed with intent to fraudulently manufacture,~~
24 ~~distribute, or dispense certain personal identifying information under certain~~
25 ~~circumstances;~~ altering a certain definition; defining a certain term; and
26 generally relating to the crime of fraud involving personal identifying
27 information.

1 BY repealing
 2 Article - Criminal Law
 3 Section 8-215
 4 Annotated Code of Maryland
 5 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
 6 2002)

7 BY repealing and reenacting, with amendments,
 8 Article - Criminal Law
 9 Section 8-301
 10 Annotated Code of Maryland
 11 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
 12 2002)

13 ~~BY repealing and reenacting, with amendments,~~
 14 ~~Article - Courts and Judicial Proceedings~~
 15 ~~Section 4-301(b)(11)~~
 16 ~~Annotated Code of Maryland~~
 17 ~~(1998 Replacement Volume and 2001 Supplement)~~

18 ~~BY repealing and reenacting, without amendments,~~
 19 ~~Article - Courts and Judicial Proceedings~~
 20 ~~Section 4-302~~
 21 ~~Annotated Code of Maryland~~
 22 ~~(1998 Replacement Volume and 2001 Supplement)~~

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

25 **Article - Criminal Law**

26 [8-215.

27 With unlawful or fraudulent intent, a person may not possess:

28 (1) a credit card number or other payment device number belonging to
 29 another; or

30 (2) any holder's signature.]

31 8-301.

32 (a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS
 33 INDICATED.

1 (2) "PAYMENT DEVICE NUMBER" HAS THE MEANING STATED IN § 8-213
2 OF THIS TITLE.

3 (3) "[personal] PERSONAL identifying information" means a name,
4 address, telephone number, driver's license number, Social Security number, place of
5 employment, employee identification number, mother's maiden name, bank or other
6 financial institution account number, date of birth, personal identification number,
7 [or] credit card number, OR OTHER PAYMENT DEVICE NUMBER.

8 (b) A person may not knowingly, willfully, and with fraudulent intent,
9 POSSESS, [obtain] OBTAIN, or help another to POSSESS OR obtain, any personal
10 identifying information of an individual, without the consent of the individual, in
11 order to use, sell, or transfer the information to get a benefit, credit, good, service, or
12 other thing of value in the name of the individual.

13 (c) A person may not knowingly and willfully assume the identity of another:

14 (1) to avoid prosecution for a crime; or

15 (2) with fraudulent intent to:

16 (i) get a benefit, credit, good, service, or other thing of value; or

17 (ii) avoid the payment of debt or other legal obligation.

18 (d) (1) ~~IF A PERSON VIOLATES SUBSECTION (B) OF THIS SECTION UNDER~~
19 ~~CIRCUMSTANCES THAT REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO~~
20 ~~WITH INTENT TO FRAUDULENTLY MANUFACTURE, DISTRIBUTE, OR DISPENSE THE~~
21 ~~PERSONAL IDENTIFYING INFORMATION OF AN INDIVIDUAL WITHOUT THE~~
22 ~~INDIVIDUAL'S CONSENT, THE PERSON IS GUILTY OF A FELONY AND ON CONVICTION~~
23 ~~IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT~~
24 ~~EXCEEDING \$5,000 OR BOTH.~~

25 (2) ~~IF THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER ITEM OF VALUE~~
26 ~~UNDER SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF \$500 OR MORE, A~~
27 ~~PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION~~
28 ~~IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT~~
29 ~~EXCEEDING \$5,000 OR BOTH.~~

30 (3) ~~[A] IF THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER ITEM OF~~
31 ~~VALUE UNDER SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF LESS THAN~~
32 ~~\$500 EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A person who~~
33 ~~violates this section is guilty of a misdemeanor and on conviction is subject to~~
34 ~~imprisonment not exceeding [1 year] 18 MONTHS or a fine not exceeding \$5,000 or~~
35 ~~both.~~

36 (4) ~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PERSON~~
37 ~~WHO VIOLATES SUBSECTION (C)(1) OF THIS SECTION IS GUILTY OF A MISDEMEANOR~~
38 ~~AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS~~
39 ~~OR A FINE NOT EXCEEDING \$5,000 OR BOTH.~~

1 (e) A person who violates this section is subject to § 5-106(b) of the Courts
2 Article.

3 (f) In addition to restitution under Title 11, Subtitle 6 of the Criminal
4 Procedure Article, a court may order a person who pleads guilty or nolo contendere or
5 who is found guilty under this section to make restitution to the victim for reasonable
6 costs, including reasonable attorney's fees, incurred:

7 (1) for clearing the victim's credit history or credit rating; and

8 (2) in connection with a civil or administrative proceeding to satisfy a
9 debt, lien, judgment, or other obligation of the victim that arose because of the
10 violation.

11 (g) A sentence under this section may be imposed separate from and
12 consecutive to or concurrent with a sentence for any crime based on the act or acts
13 establishing the violation of this section.

14 ~~(H) NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF STATE
15 POLICE MAY INITIATE INVESTIGATIONS AND ENFORCE THIS SECTION THROUGHOUT
16 THE STATE WITHOUT REGARD TO ANY LIMITATION OTHERWISE APPLICABLE TO
17 THAT DEPARTMENT'S ACTIVITIES IN A MUNICIPAL CORPORATION OR OTHER
18 POLITICAL SUBDIVISION.~~

19 ~~(I) (1) NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT
20 OFFICER OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE, THE MARYLAND
21 PORT ADMINISTRATION POLICE, OR A MUNICIPAL CORPORATION OR COUNTY MAY
22 INVESTIGATE AND OTHERWISE ENFORCE THIS SECTION THROUGHOUT THE STATE
23 WITHOUT ANY LIMITATION AS TO JURISDICTION AND TO THE SAME EXTENT AS A
24 LAW ENFORCEMENT OFFICER OF THE DEPARTMENT OF STATE POLICE.~~

25 ~~(2) THE AUTHORITY GRANTED IN PARAGRAPH (1) OF THIS SUBSECTION
26 MAY BE EXERCISED ONLY IN ACCORDANCE WITH REGULATIONS THAT THE
27 SECRETARY OF THE STATE POLICE ADOPTS.~~

28 ~~(3) THE REGULATIONS ARE NOT SUBJECT TO TITLE 10, SUBTITLE 1 OF
29 THE STATE GOVERNMENT ARTICLE.~~

30 ~~(J) IF ACTION IS TAKEN UNDER THE AUTHORITY GRANTED IN SUBSECTION
31 (H) OR (I) OF THIS SECTION, NOTIFICATION OF AN INVESTIGATION OR ENFORCEMENT
32 ACTION SHALL BE MADE:~~

33 ~~(1) IN A MUNICIPAL CORPORATION, TO THE CHIEF OF POLICE OR
34 DESIGNEE OF THE CHIEF OF POLICE;~~

35 ~~(2) IN A COUNTY THAT HAS A COUNTY POLICE DEPARTMENT, TO THE
36 CHIEF OF POLICE OR DESIGNEE OF THE CHIEF OF POLICE;~~

37 ~~(3) IN A COUNTY WITHOUT A POLICE DEPARTMENT, TO THE SHERIFF OR
38 DESIGNEE OF THE SHERIFF;~~

1 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
2 (10), (11), (12), (13), (14), (15), and (16) of this subtitle.

3 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
4 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
5 § 287 of the Code.

6 (ii) A circuit court does have jurisdiction to try a case charging a
7 violation of Article 27, § 287 of the Code if the defendant:

8 1. Properly demands a jury trial;

9 2. Appeals as provided by law from a final judgment entered
10 in the District Court; or

11 3. Is charged with another offense arising out of the same
12 circumstances that is within a circuit court's jurisdiction.

13 (e) (1) The District Court is deprived of jurisdiction if a defendant is entitled
14 to and demands a jury trial at any time prior to trial in the District Court.

15 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
16 unless the penalty for the offense with which the defendant is charged permits
17 imprisonment for a period in excess of 90 days, a defendant is not entitled to a jury
18 trial in a criminal case.

19 (ii) Notwithstanding the provisions of subparagraph (i) of this
20 paragraph, the presiding judge of the District Court may deny a defendant a jury trial
21 if:

22 1. The prosecutor recommends in open court that the judge
23 not impose a penalty of imprisonment for a period in excess of 90 days, regardless of
24 the permissible statutory or common law maximum;

25 2. The judge agrees not to impose a penalty of imprisonment
26 for a period in excess of 90 days; and

27 3. The judge agrees not to increase the defendant's bond if an
28 appeal is noted.

29 (iii) The State may not demand a jury trial.

30 (f) (1) Except as provided in Title 4, Subtitle 5 of the Family Law Article,
31 the District Court does not have jurisdiction of an offense otherwise within the
32 District Court's jurisdiction if a person is charged:

33 (i) With another offense arising out of the same circumstances but
34 not within the District Court's jurisdiction; or

1 (ii) In the circuit court with an offense arising out of the same
2 circumstances and within the concurrent jurisdictions of the District Court and the
3 circuit court described under subsection (d) of this section.

4 (2) In the cases described under paragraph (1) of this subsection, the
5 circuit court for the county has exclusive original jurisdiction over all the offenses.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2002.