

HOUSE BILL 942

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CF SB 624

By: **Delegate Lee (Commission on Maryland Cybersecurity Innovation and Excellence) and Delegates Arora, Conaway, DeBoy, Dumais, Glenn, Hough, McComas, McDonough, Mitchell, B. Robinson, Stocksdale, Stukes, Tarrant, F. Turner, Valderrama, Valentino-Smith, and Zucker**

Introduced and read first time: February 7, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud – Medical Records**

3 FOR the purpose of prohibiting a person from knowingly, willfully, and with
4 fraudulent intent, possessing, obtaining, or helping another to possess or obtain
5 personal identifying information to access medical information or services;
6 prohibiting a person from knowingly and willfully assuming the identity of a
7 natural or a fictitious person with fraudulent intent to access medical
8 information or services; prohibiting a person from using a certain device
9 knowingly, willfully, and with fraudulent intent to access medical information
10 or services; providing penalties for a violation of this Act; authorizing a court to
11 order a certain person to make restitution for clearing the medical history or
12 records of a victim; altering a certain definition; and generally relating to
13 identity fraud.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 8–301(a) through (d), (g), and (i)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Criminal Law
21 Section 8–301(e), (f), (h), and (j)
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2012 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

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8–301.

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

(2) “Payment device number” has the meaning stated in § 8–213 of this title.

(3) **(I)** “Personal identifying information” includes a name, address, telephone number, driver’s license number, Social Security number, place of employment, employee identification number, **HEALTH INSURANCE IDENTIFICATION NUMBER, MEDICAL IDENTIFICATION NUMBER,** mother’s maiden name, bank or other financial institution account number, date of birth, personal identification number, **UNIQUE BIOMETRIC DATA, INCLUDING FINGERPRINT, VOICE PRINT, RETINA OR IRIS IMAGE OR OTHER UNIQUE PHYSICAL REPRESENTATION, DIGITAL SIGNATURE,** credit card number, or other payment device number.

(II) “PERSONAL IDENTIFYING INFORMATION” MAY BE DERIVED FROM ANY ELEMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO IDENTIFY A SPECIFIC NATURAL OR FICTITIOUS INDIVIDUAL.

(4) “Re–encoder” means an electronic device that places encoded personal identifying information or a payment device number from the magnetic strip or stripe of a credit card onto the magnetic strip or stripe of a different credit card or any electronic medium that allows such a transaction to occur.

(5) “Skimming device” means a scanner, skimmer, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, personal identifying information or a payment device number encoded on the magnetic strip or stripe of a credit card.

(b) A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any personal identifying information of an individual, without the consent of the individual, in order to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value **OR TO ACCESS MEDICAL INFORMATION OR SERVICES** in the name of the individual.

(c) A person may not knowingly and willfully assume the identity of another, including a fictitious person:

(1) to avoid identification, apprehension, or prosecution for a crime; or

- 1 (2) with fraudulent intent to:
- 2 (i) get a benefit, credit, good, service, or other thing of value;
- 3 [or]
- 4 (ii) **ACCESS MEDICAL INFORMATION OR SERVICES; OR**
- 5 **(III)** avoid the payment of debt or other legal obligation.

6 (d) A person may not knowingly, willfully, and with fraudulent intent to
7 obtain a benefit, credit, good, service, or other thing of value **OR TO ACCESS MEDICAL**
8 **INFORMATION OR SERVICES**, use:

9 (1) a re–encoder to place information encoded on the magnetic strip or
10 stripe of a credit card onto the magnetic strip or stripe of a different credit card or use
11 any other electronic medium that allows such a transaction to occur without the
12 consent of the individual authorized to use the credit card from which the personal
13 identifying information or payment device number is being re–encoded; or

14 (2) a skimming device to access, read, scan, obtain, memorize, or store
15 personal identifying information or a payment device number on the magnetic strip or
16 stripe of a credit card without the consent of the individual authorized to use the
17 credit card.

18 (e) A person may not knowingly, willfully, and with fraudulent intent
19 possess, obtain, or help another possess or obtain a re–encoder device or a skimming
20 device for the unauthorized use, sale, or transfer of personal identifying information or
21 a payment device number.

22 (f) A person may not knowingly and willfully claim to represent another
23 person without the knowledge and consent of that person, with the intent to solicit,
24 request, or take any other action to otherwise induce another person to provide
25 personal identifying information or a payment device number.

26 (g) (1) A person who violates this section where the benefit, credit, good,
27 service, **MEDICAL INFORMATION OR SERVICES**, or other thing of value that is the
28 subject of subsection (b), (c), or (d) of this section has a value of \$500 or greater is
29 guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years
30 or a fine not exceeding \$25,000 or both.

31 (2) A person who violates this section where the benefit, credit, good,
32 service, **MEDICAL INFORMATION OR SERVICES**, or other thing of value that is the
33 subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty
34 of a misdemeanor and on conviction is subject to imprisonment not exceeding 18
35 months or a fine not exceeding \$5,000 or both.

1 (3) A person who violates this section under circumstances that
2 reasonably indicate that the person's intent was to manufacture, distribute, or
3 dispense another individual's personal identifying information without that
4 individual's consent is guilty of a felony and on conviction is subject to imprisonment
5 not exceeding 15 years or a fine not exceeding \$25,000 or both.

6 (4) A person who violates subsection (c)(1), (e), or (f) of this section is
7 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18
8 months or a fine not exceeding \$5,000 or both.

9 (5) When the violation of this section is pursuant to one scheme or
10 continuing course of conduct, whether from the same or several sources, the conduct
11 may be considered as one violation and the value of the benefit, credit, good, service, or
12 other thing of value may be aggregated in determining whether the violation is a
13 felony or misdemeanor.

14 (h) A person described in subsection (g)(2) or (4) of this section is subject to §
15 5-106(b) of the Courts Article.

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

20 (1) for clearing the victim's credit history or credit rating; [and]

21 (2) **FOR CLEARING THE VICTIM'S MEDICAL HISTORY OR RECORDS;**
22 **AND**

23 **(3)** in connection with a civil or administrative proceeding to satisfy a
24 debt, lien, judgment, or other obligation of the victim that arose because of the
25 violation.

26 (j) A sentence under this section may be imposed separate from and
27 consecutive to or concurrent with a sentence for any crime based on the act or acts
28 establishing the violation of this section.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2013.