

HOUSE BILL 1396

E1

3lr0484

By: **Delegates Conaway, Vallario, Anderson, Cluster, Dumais, Dwyer, Glass, Hough, K. Kelly, McDermott, Mitchell, Rosenberg, and Simmons**

Introduced and read first time: February 14, 2013

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Theft–Related Crimes – Penalties**

3 FOR the purpose of altering certain penalties for a conviction of extortion, malicious
4 destruction of property, obtaining property or services by bad check, credit card
5 fraud, identity fraud, State health plan fraud, and exploitation of a vulnerable
6 adult involving a value at or over a certain amount; making conforming
7 changes; and generally relating to theft–related crimes.

8 BY repealing and reenacting, with amendments,
9 Article – Commercial Law
10 Section 15–803(a)
11 Annotated Code of Maryland
12 (2005 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 3–404, 3–701, 3–702, 6–301, 8–106, 8–206, 8–207, 8–209, 8–301, 8–516,
16 and 8–801
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2012 Supplement)

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

21 **Article – Commercial Law**

22 15–803.

23 (a) A notice of dishonor sent by a holder to a maker or drawer under §
24 15–802 of this subtitle shall substantially comply with the following form:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



“NOTICE OF DISHONORED CHECK

1
2 Date _____
3 Name of Issuer _____
4 Street Address _____
5 City and State _____

6 You are according to law hereby notified that a check or instrument numbered
7 _____ and dated _____, drawn on the _____ bank of _____ in
8 the amount of _____ has been returned unpaid with the notation the payment
9 has been refused because of _____

10 Within 30 days from the mailing of this notice, you must pay or tender to _____

11 _____
12 (Holder)

13 sufficient money to pay such check or instrument in full and a collection fee of
14 \$_____ (not more than \$35). If payment of the above amounts is not made within 30
15 days of the mailing of this notice of dishonor, you shall be liable under § 15–802 of the
16 Commercial Law Article, in addition to the amount of the check or instrument and a
17 collection fee of up to \$35, for an amount up to 2 times the amount of the check or
18 instrument, but not more than \$1,000. In addition, you may be prosecuted under Title
19 8, Subtitle 1 of the Criminal Law Article of Maryland and subject to the following
20 penalties:

21 (1) If the property or services has a value of [~~\$500~~ or more] **AT LEAST \$1,000**
22 **BUT LESS THAN \$10,000**, a fine not exceeding [~~\$1,000~~] **\$10,000** or imprisonment not
23 exceeding [~~15~~] **10** years, or both;

24 **(2) IF THE PROPERTY OR SERVICES HAS A VALUE OF AT LEAST \$10,000 BUT**
25 **LESS THAN \$100,000, A FINE NOT EXCEEDING \$15,000 OR IMPRISONMENT NOT**
26 **EXCEEDING 15 YEARS, OR BOTH;**

27 **(3) IF THE PROPERTY OR SERVICES HAS A VALUE OF \$100,000 OR MORE, A**
28 **FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 25 YEARS,**
29 **OR BOTH;**

30 [~~(2)~~](4) If the property or services has a value of less than [~~\$500~~] **\$1,000**, a fine
31 not exceeding [~~\$100~~] **\$500** or imprisonment not exceeding 18 months, or both.

32 It shall be a complete defense to any action brought by any holder under § 15–802 of
33 the Commercial Law Article that, within 30 days from the mailing of the “Notice of
34 Dishonored Check”, the maker or drawer has paid the holder the full amount of the
35 check or instrument and collection costs of not more than \$35. A holder may not
36 recover any damages if the holder has demanded of, and received from, the maker or
37 drawer collection costs exceeding \$35.

38 It shall be a complete defense to any action brought under § 15–802 of the Commercial
39 Law Article by a holder to whom a dishonored check or other instrument was issued
40 that the dishonor of the check or other instrument was due to a justifiable stop
41 payment order or to the attachment of the account.

1 In any action brought under § 15–802 of the Commercial Law Article by a holder or
2 holder in due course to whom a dishonored check or other instrument was negotiated,
3 the action is subject to all valid defenses that may be raised by the maker or drawer
4 against the holder or holder in due course under Title 3 of the Commercial Law
5 Article.”

6 Article – Criminal Law

7 3–404.

8 (a) An indictment, information, warrant, or other charging document for
9 robbery is sufficient if it substantially states:

10 “(name of defendant) on (date) in (county) did feloniously rob (name of victim) of
11 (property/service) (having a value of ~~[\$500]~~ **\$1,000** or more) (with a dangerous
12 weapon) in violation of (section violated) against the peace, government, and dignity of
13 the State.”.

14 (b) If a charging document alleges that the value of the property or service
15 subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, the court shall instruct the jury to
16 determine whether the value of the property or service is less than ~~[\$500]~~ **\$1,000**, or
17 ~~[\$500]~~ **\$1,000** or more.

18 (c) Unless a charging document alleges that the value of the property or
19 service subject to this subtitle is ~~[\$500]~~ **\$1,000** or more, a felony violation of § 7–104
20 of this article is not a lesser included crime of robbery.

21 3–701.

22 (a) This section does not apply to legitimate efforts by employees or their
23 representatives to obtain certain wages, hours, or working conditions.

24 (b) A person may not obtain, attempt to obtain, or conspire to obtain money,
25 property, labor, services, or anything of value from another person with the person’s
26 consent, if the consent is induced by wrongful use of actual or threatened:

27 (1) force or violence;

28 (2) economic injury; or

29 (3) destruction, concealment, removal, confiscation, or possession of
30 any immigration or government identification document with intent to harm the
31 immigration status of another person.

1 (c) (1) If the value of the property, labor, or services is ~~[\$500 or more]~~ **AT**
2 **LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty
3 of the felony of extortion and on conviction is subject to imprisonment not exceeding 10
4 years or a fine not exceeding ~~[\$5,000]~~ **\$10,000** or both.

5 (2) **IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS AT**
6 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**
7 **SECTION IS GUILTY OF THE FELONY OF EXTORTION AND ON CONVICTION IS**
8 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT**
9 **EXCEEDING \$15,000 OR BOTH.**

10 (3) **IF THE VALUE OF THE PROPERTY, LABOR, OR SERVICES IS**
11 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE**
12 **FELONY OF EXTORTION AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**
13 **NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

14 (d) If the value of the property, labor, or services is less than ~~[\$500]~~ **\$1,000**,
15 a person who violates this section is guilty of the misdemeanor of extortion and on
16 conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding
17 ~~[\$500]~~ **\$1,000** or both.

18 (e) A prosecution for a felony under this section shall be instituted within 5
19 years after the crime was committed.

20 3-702.

21 (a) In this section, "political subdivision" includes a:

- 22 (1) county;
- 23 (2) municipal corporation;
- 24 (3) bicounty or multicounty agency;
- 25 (4) county board of education;
- 26 (5) public authority; or
- 27 (6) special taxing district.

28 (b) An officer or employee of the State or of a political subdivision may not
29 wrongfully obtain or attempt to obtain money, property, or anything of value from a
30 person with the person's consent, if the consent is obtained under color or pretense of
31 office, under color of official right, or by wrongful use of actual or threatened force or
32 violence.

1 (c) If the value of the property is **[\$500 or more] AT LEAST \$1,000 BUT**
2 **LESS THAN \$10,000**, a person who violates this section:

3 (1) is guilty of the felony of extortion and on conviction is subject to
4 imprisonment not exceeding 10 years or a fine not exceeding **[\$5,000] \$10,000** or
5 both; and

6 (2) notwithstanding any pardon, shall be barred permanently from
7 employment by the State or by a political subdivision.

8 **(D) IF THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS**
9 **THAN \$100,000, A PERSON WHO VIOLATES THIS SECTION:**

10 **(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON**
11 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A**
12 **FINE NOT EXCEEDING \$15,000 OR BOTH; AND**

13 **(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED**
14 **PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL**
15 **SUBDIVISION.**

16 **(E) IF THE VALUE OF THE PROPERTY IS \$100,000 OR MORE, A PERSON**
17 **WHO VIOLATES THIS SECTION:**

18 **(1) IS GUILTY OF THE FELONY OF EXTORTION AND ON**
19 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A**
20 **FINE NOT EXCEEDING \$25,000 OR BOTH; AND**

21 **(2) NOTWITHSTANDING ANY PARDON, SHALL BE BARRED**
22 **PERMANENTLY FROM EMPLOYMENT BY THE STATE OR BY A POLITICAL**
23 **SUBDIVISION.**

24 **[(d)](F)** If the value of the property is less than **[\$500] \$1,000**, a person
25 who violates this section is guilty of the misdemeanor of extortion and on conviction is
26 subject to imprisonment not exceeding **[6] 18** months or a fine not exceeding \$500 or
27 both.

28 **[(e)](G)** A prosecution for a felony under this section shall be instituted
29 within 5 years after the crime was committed.

30 6-301.

31 (a) A person may not willfully and maliciously destroy, injure, or deface the
32 real or personal property of another.

1 (b) A person who, in violation of this section, causes damage of at least
2 **[\$500] \$1,000** to the property is guilty of a misdemeanor and on conviction is subject
3 to imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

4 (c) A person who, in violation of this section, causes damage of less than
5 **[\$500] \$1,000** to the property is guilty of a misdemeanor and on conviction is subject
6 to imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

7 (d) (1) For purposes of this subsection, an act of “graffiti” means a
8 permanent drawing, permanent painting, or a permanent mark or inscription on the
9 property of another without the permission of the owner of the property.

10 (2) In addition to the penalties set forth in subsections (b) and (c) of
11 this section, the court shall order a person convicted of causing malicious destruction
12 by an act of graffiti to pay restitution or perform community service or both.

13 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
14 order of restitution under this subsection.

15 (e) (1) Except as provided in paragraph (2) of this subsection, to
16 determine a penalty, the court may consider as one crime the aggregate value of
17 damage to each property resulting from one scheme or continuing course of conduct.

18 (2) If separate acts resulting in damage to the properties of one or
19 more owners are set forth by separate counts in one or more charging documents, the
20 separate counts may not be merged for sentencing.

21 (f) (1) The value of damage is not a substantive element of a crime under
22 this section and need not be stated in the charging document.

23 (2) The value of damage shall be based on the evidence and that value
24 shall be applied for the purpose of imposing the penalties established in this section.

25 (3) If it cannot be determined from the evidence whether the value of
26 the damage to the property is more or less than **[\$500] \$1,000**, the value is deemed to
27 be less than **[\$500] \$1,000**.

28 8–106.

29 (a) (1) A person who obtains property or services with a value of **[\$500 or**
30 **more] AT LEAST \$1,000 BUT LESS THAN \$10,000** by issuing or passing a check in
31 violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to
32 imprisonment not exceeding **[15] 10** years or a fine not exceeding **[\$1,000] \$10,000** or
33 both.

1 (2) A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A
2 VALUE OF AT LEAST \$10,000 BUT LESS THAN \$100,000 BY ISSUING OR PASSING
3 A CHECK IN VIOLATION OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY
4 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS
5 OR A FINE NOT EXCEEDING \$15,000 OR BOTH.

6 (3) A PERSON WHO OBTAINS PROPERTY OR SERVICES WITH A
7 VALUE OF \$100,000 OR MORE BY ISSUING OR PASSING A CHECK IN VIOLATION
8 OF § 8–103 OF THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS
9 SUBJECT TO IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT
10 EXCEEDING \$25,000 OR BOTH.

11 (b) A person who obtains property or services by issuing or passing more
12 than one check in violation of § 8–103 of this subtitle is guilty of a felony and on
13 conviction is subject to imprisonment not exceeding [15] 10 years or a fine not
14 exceeding [\$1,000] \$10,000 or both if:

15 (1) each check that is issued is for less than [\$500] \$1,000 and is
16 issued to the same person within a 30–day period; and

17 (2) the cumulative value of the property or services is [\$500] \$1,000
18 or more.

19 (c) Except as provided in subsections (b) and (d) of this section, a person who
20 obtains property or services with a value of less than [\$500] \$1,000 by issuing or
21 passing a check in violation of § 8–103 of this subtitle is guilty of a misdemeanor and
22 on conviction is subject to imprisonment not exceeding 18 months or a fine not
23 exceeding [\$100] \$500 or both.

24 (d) (1) A person who obtains property or services with a value of less than
25 \$100 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a
26 misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a
27 fine not exceeding \$500 or both.

28 (2) It is not a defense to the crime of obtaining property or services
29 with a value of less than \$100 by issuing or passing a check in violation of § 8–103 of
30 this subtitle that the value of the property or services at issue is \$100 or more.

31 8–206.

32 (a) A person may not for the purpose of obtaining money, goods, services, or
33 anything of value, and with the intent to defraud another, use:

34 (1) a credit card obtained or retained in violation of § 8–204 or § 8–205
35 of this subtitle; or

1 (2) a credit card that the person knows is counterfeit.

2 (b) A person may not, with the intent to defraud another, obtain money,
3 goods, services, or anything of value by representing:

4 (1) without the consent of the cardholder, that the person is the holder
5 of a specified credit card; or

6 (2) that the person is the holder of a credit card when the credit card
7 had not been issued.

8 (c) (1) (I) If the value of all money, goods, services, and other things of
9 value obtained in violation of this section [~~exceeds \$500~~] **IS AT LEAST \$1,000 BUT**
10 **LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on
11 conviction is subject to imprisonment not exceeding [~~15~~]**10** years or a fine not
12 exceeding [~~\$1,000~~] **\$10,000** or both.

13 (II) **IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
14 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT**
15 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**
16 **SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
17 **IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000**
18 **OR BOTH.**

19 (III) **IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
20 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS**
21 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
22 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
23 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

24 (2) Except as provided in paragraph (3) of this subsection, if the value
25 of all money, goods, services, and other things of value obtained in violation of this
26 section [~~does not exceed \$500~~] **IS LESS THAN \$1,000**, a person who violates this
27 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
28 exceeding 18 months or a fine not exceeding \$500 or both.

29 (3) If the value of all money, goods, services, and other things of value
30 obtained in violation of this section does not exceed \$100, a person who violates this
31 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
32 exceeding 90 days or a fine not exceeding \$500 or both.

33 8-207.

34 (a) If a person is authorized by an issuer to furnish money, goods, services, or
35 anything of value on presentation of a credit card by the cardholder, the person or an

1 agent or employee of the person may not, with the intent to defraud the issuer or
2 cardholder:

3 (1) furnish money, goods, services, or anything of value on
4 presentation of:

5 (i) a credit card obtained or retained in violation of § 8–204 or §
6 8–205 of this subtitle; or

7 (ii) a credit card that the person knows is counterfeit; or

8 (2) fail to furnish money, goods, services, or anything of value that the
9 person represents in writing to the issuer that the person has furnished.

10 (b) (1) **(I)** If the value of all money, goods, services, and other things of
11 value furnished or not furnished in violation of this section [exceeds \$500] **IS AT**
12 **LEAST \$1,000 BUT LESS THAN \$10,000**, a person who violates this section is guilty
13 of a felony and on conviction is subject to imprisonment not exceeding [15]**10** years or
14 a fine not exceeding [\$1,000] **\$10,000** or both.

15 **(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
16 **OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF**
17 **THIS SECTION IS AT LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO**
18 **VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS**
19 **SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT**
20 **EXCEEDING \$15,000 OR BOTH.**

21 **(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
22 **OTHER THINGS OF VALUE FURNISHED OR NOT FURNISHED IN VIOLATION OF**
23 **THIS SECTION IS \$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS**
24 **GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**
25 **EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

26 (2) Except as provided in paragraph (3) of this subsection, if the value
27 of all money, goods, services, and other things of value furnished or not furnished in
28 violation of this section [does not exceed \$500] **IS LESS THAN \$1,000**, a person who
29 violates this section is guilty of a misdemeanor and on conviction is subject to
30 imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

31 (3) If the value of all money, goods, services, and other things of value
32 furnished or not furnished in violation of this section does not exceed \$100, a person
33 who violates this section is guilty of a misdemeanor and on conviction is subject to
34 imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

35 8–209.

1 (a) A person may not receive money, goods, services, or anything of value if
2 the person knows or believes that the money, goods, services, or other thing of value
3 was obtained in violation of § 8–206 of this subtitle.

4 (b) (1) **(I)** If the value of all money, goods, services, and other things of
5 value obtained in violation of this section [~~exceeds \$500~~] **IS AT LEAST \$1,000 BUT**
6 **LESS THAN \$10,000**, a person who violates this section is guilty of a felony and on
7 conviction is subject to imprisonment not exceeding [~~15~~] **10** years or a fine not
8 exceeding [~~\$1,000~~] **\$10,000** or both.

9 **(II) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
10 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS AT**
11 **LEAST \$10,000 BUT LESS THAN \$100,000, A PERSON WHO VIOLATES THIS**
12 **SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
13 **IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$15,000**
14 **OR BOTH.**

15 **(III) IF THE VALUE OF ALL MONEY, GOODS, SERVICES, AND**
16 **OTHER THINGS OF VALUE OBTAINED IN VIOLATION OF THIS SECTION IS**
17 **\$100,000 OR MORE, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
18 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
19 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH.**

20 (2) Except as provided in paragraph (3) of this subsection, if the value
21 of all money, goods, services, and other things of value obtained in violation of this
22 section [~~does not exceed \$500~~] **IS LESS THAN \$1,000**, a person who violates this
23 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
24 exceeding 18 months or a fine not exceeding \$500 or both.

25 (3) If the value of all money, goods, services, and other things of value
26 obtained in violation of this section does not exceed \$100, a person who violates this
27 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
28 exceeding 90 days or a fine not exceeding \$500 or both.

29 8–301.

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

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

33 (3) “Personal identifying information” includes a name, address,
34 telephone number, driver’s license number, Social Security number, place of
35 employment, employee identification number, mother’s maiden name, bank or other

1 financial institution account number, date of birth, personal identification number,
2 credit card number, or other payment device number.

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

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

11 (b) A person may not knowingly, willfully, and with fraudulent intent
12 possess, obtain, or help another to possess or obtain any personal identifying
13 information of an individual, without the consent of the individual, in order to use,
14 sell, or transfer the information to get a benefit, credit, good, service, or other thing of
15 value in the name of the individual.

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

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

19 (2) with fraudulent intent to:

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

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

22 (d) A person may not knowingly, willfully, and with fraudulent intent to
23 obtain a benefit, credit, good, service, or other thing of value, use:

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

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

33 (e) A person may not knowingly, willfully, and with fraudulent intent
34 possess, obtain, or help another possess or obtain a re–encoder device or a skimming

1 device for the unauthorized use, sale, or transfer of personal identifying information or
2 a payment device number.

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

7 (g) (1) (I) A person who violates this section where the benefit, credit,
8 good, service, or other thing of value that is the subject of subsection (b), (c), or (d) of
9 this section has a value of [~~\$500 or greater~~] **AT LEAST \$1,000 BUT LESS THAN**
10 **\$10,000** is guilty of a felony and on conviction is subject to imprisonment not
11 exceeding [~~15~~] **10** years or a fine not exceeding [~~\$25,000~~] **\$10,000** or both.

12 (II) **A PERSON WHO VIOLATES THIS SECTION WHERE THE**
13 **BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER THING OF VALUE THAT IS THE**
14 **SUBJECT OF SUBSECTION (B), (C), OR (D) OF THIS SECTION HAS A VALUE OF AT**
15 **LEAST \$10,000 BUT LESS THAN \$100,000 IS GUILTY OF A FELONY AND ON**
16 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A**
17 **FINE NOT EXCEEDING \$15,000 OR BOTH.**

18 (III) **A PERSON WHO VIOLATES THIS SECTION WHERE THE**
19 **BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER THING OF VALUE THAT IS THE**
20 **SUBJECT OF SUBSECTION (B), (C), OR (D) OF THIS SECTION HAS A VALUE OF**
21 **\$100,000 OR MORE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
22 **IMPRISONMENT NOT EXCEEDING 25 YEARS OR A FINE NOT EXCEEDING \$25,000**
23 **OR BOTH.**

24 (2) A person who violates this section where the benefit, credit, good,
25 service, or other thing of value that is the subject of subsection (b), (c), or (d) of this
26 section has a value of less than [~~\$500~~] **\$1,000** is guilty of a misdemeanor and on
27 conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding
28 [~~\$5,000~~] **\$500** or both.

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

34 (4) A person who violates subsection (c)(1), (e), or (f) of this section is
35 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 18
36 months or a fine not exceeding [~~\$5,000~~] **\$500** or both.

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

6 (h) A person described in subsection (g)(2) or (4) of this section is subject to §
7 5–106(b) of the Courts Article.

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

12 (1) for clearing the victim’s credit history or credit rating; and

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

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

19 (k) Notwithstanding any other law, the Department of State Police may
20 initiate investigations and enforce this section throughout the State without regard to
21 any limitation otherwise applicable to the Department’s activities in a municipal
22 corporation or other political subdivision.

23 (l) (1) Notwithstanding any other law, a law enforcement officer of the
24 Maryland Transportation Authority Police, the Maryland Port Administration Police,
25 the Park Police of the Maryland–National Capital Park and Planning Commission, or
26 a municipal corporation or county may investigate violations of this section throughout
27 the State without any limitation as to jurisdiction and to the same extent as a law
28 enforcement officer of the Department of State Police.

29 (2) The authority granted in paragraph (1) of this subsection may be
30 exercised only in accordance with regulations that the Department of State Police
31 adopts.

32 (3) The regulations are not subject to Title 10, Subtitle 1 of the State
33 Government Article.

34 (4) The authority granted in paragraph (1) of this subsection may be
35 exercised only if an act related to the crime was committed in the investigating law
36 enforcement agency’s jurisdiction or if the complaining witness resides in the
37 investigating law enforcement agency’s jurisdiction.

1 (m) If action is taken under the authority granted in subsection (l) of this
2 section, notification of an investigation:

3 (1) in a municipal corporation, shall be made to the chief of police or
4 designee of the chief of police;

5 (2) in a county that has a county police department, shall be made to
6 the chief of police or designee of the chief of police;

7 (3) in a county without a police department, shall be made to the
8 sheriff or designee of the sheriff;

9 (4) in Baltimore City, shall be made to the Police Commissioner or the
10 Police Commissioner's designee;

11 (5) on property owned, leased, or operated by or under the control of
12 the Maryland Transportation Authority, the Maryland Aviation Administration, or the
13 Maryland Port Administration, shall be made to the respective chief of police or the
14 chief's designee; and

15 (6) on property owned, leased, or operated by or under the control of
16 the Maryland-National Capital Park and Planning Commission, to the chief of police
17 of the Maryland-National Capital Park and Planning Commission for the county in
18 which the property is located.

19 (n) When acting under the authority granted in subsection (k) or (l) of this
20 section, a law enforcement officer:

21 (1) in addition to any other immunities and exemptions to which the
22 officer may be entitled, has the immunities from liability and exemptions accorded to a
23 law enforcement officer of the Department of State Police; but

24 (2) remains an employee of the officer's employing agency.

25 (o) (1) A State's Attorney or the Attorney General may investigate and
26 prosecute a violation of this section or a violation of any crime based on the act
27 establishing a violation of this section.

28 (2) If the Attorney General exercises authority under paragraph (1) of
29 this subsection, the Attorney General has all the powers and duties of a State's
30 Attorney, including the use of a grand jury in any county or Baltimore City, to
31 investigate and prosecute the violation.

32 (p) Notwithstanding any other provision of law, the prosecution of a violation
33 of this section or for a violation of any crime based on the act establishing a violation
34 of this section may be commenced in any county in which:

1 (1) an element of the crime occurred; or

2 (2) the victim resides.

3 8–516.

4 (a) If a violation of this part results in the death of an individual, a person
5 who violates a provision of this part is guilty of a felony and on conviction is subject to
6 imprisonment not exceeding life or a fine not exceeding \$200,000 or both.

7 (b) If a violation of this part results in serious injury to an individual, a
8 person who violates a provision of this part is guilty of a felony and on conviction is
9 subject to imprisonment not exceeding 20 years or a fine not exceeding \$100,000 or
10 both.

11 (c) If the value of the money, health care services, or other goods or services
12 involved is [~~\$500~~] **\$1,000** or more in the aggregate, a person who violates a provision
13 of this part is guilty of a felony and on conviction is subject to imprisonment not
14 exceeding 5 years or a fine not exceeding \$100,000 or both.

15 (d) A person who violates any other provision of this part is guilty of a
16 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a
17 fine not exceeding \$50,000 or both.

18 (e) (1) In this subsection, “business entity” includes an association, firm,
19 institution, partnership, and corporation.

20 (2) A business entity that violates a provision of this part is subject to
21 a fine not exceeding:

22 (i) \$250,000 for each felony; and

23 (ii) \$100,000 for each misdemeanor.

24 8–801.

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

26 (2) “Deception” has the meaning stated in § 7–101 of this article.

27 (3) “Deprive” has the meaning stated in § 7–101 of this article.

28 (4) “Obtain” has the meaning stated in § 7–101 of this article.

29 (5) “Property” has the meaning stated in § 7–101 of this article.

1 (6) (i) "Undue influence" means domination and influence
2 amounting to force and coercion exercised by another person to such an extent that a
3 vulnerable adult or an individual at least 68 years old was prevented from exercising
4 free judgment and choice.

5 (ii) "Undue influence" does not include the normal influence
6 that one member of a family has over another member of the family.

7 (7) "Value" has the meaning stated in § 7-103 of this article.

8 (8) "Vulnerable adult" has the meaning stated in § 3-604 of this
9 article.

10 (b) (1) A person may not knowingly and willfully obtain by deception,
11 intimidation, or undue influence the property of an individual that the person knows
12 or reasonably should know is a vulnerable adult with intent to deprive the vulnerable
13 adult of the vulnerable adult's property.

14 (2) A person may not knowingly and willfully obtain by deception,
15 intimidation, or undue influence the property of an individual that the person knows
16 or reasonably should know is at least 68 years old, with intent to deprive the
17 individual of the individual's property.

18 (c) (1) (I) A person convicted of a violation of this section when the
19 value of the property is [~~\$500 or more~~] **AT LEAST \$1,000 BUT LESS THAN \$10,000** is
20 guilty of a felony and:

21 [(i)] 1. is subject to imprisonment not exceeding [~~15~~]**10** years
22 or a fine not exceeding \$10,000 or both; and

23 [(ii)] 2. shall restore the property taken or its value to the
24 owner, or, if the owner is deceased, restore the property or its value to the owner's
25 estate.

26 (II) **A PERSON CONVICTED OF A VIOLATION OF THIS**
27 **SECTION WHEN THE VALUE OF THE PROPERTY IS AT LEAST \$10,000 BUT LESS**
28 **THAN \$100,000 IS GUILTY OF A FELONY AND:**

29 1. **IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
30 **15 YEARS OR A FINE NOT EXCEEDING \$15,000 OR BOTH; AND**

31 2. **SHALL RESTORE THE PROPERTY TAKEN OR ITS**
32 **VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE**
33 **PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.**

1 **(III) A PERSON CONVICTED OF A VIOLATION OF THIS**
2 **SECTION WHEN THE VALUE OF THE PROPERTY IS \$100,000 OR MORE IS GUILTY**
3 **OF A FELONY AND:**

4 **1. IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
5 **25 YEARS OR A FINE NOT EXCEEDING \$25,000 OR BOTH; AND**

6 **2. SHALL RESTORE THE PROPERTY TAKEN OR ITS**
7 **VALUE TO THE OWNER, OR, IF THE OWNER IS DECEASED, RESTORE THE**
8 **PROPERTY OR ITS VALUE TO THE OWNER'S ESTATE.**

9 (2) A person convicted of a violation of this section when the value of
10 the property is less than [~~\$500~~] **\$1,000** is guilty of a misdemeanor and:

11 (i) is subject to imprisonment not exceeding 18 months or a fine
12 not exceeding \$500 or both; and

13 (ii) shall restore the property taken or its value to the owner, or,
14 if the owner is deceased, restore the property or its value to the owner's estate.

15 (d) A sentence imposed under this section may be separate from and
16 consecutive to or concurrent with a sentence for any crime based on the act or acts
17 establishing the violation of this section.

18 (e) (1) If a defendant fails to restore fully the property taken or its value
19 as ordered under subsection (c) of this section, the defendant is disqualified, to the
20 extent of the defendant's failure to restore the property or its value, from inheriting,
21 taking, enjoying, receiving, or otherwise benefiting from the estate, insurance
22 proceeds, or property of the victim of the offense, whether by operation of law or
23 pursuant to a legal document executed or entered into by the victim before the
24 defendant shall have been convicted under this section.

25 (2) The defendant has the burden of proof with respect to establishing
26 under paragraph (1) of this subsection that the defendant has fully restored the
27 property taken or its value.

28 (f) This section may not be construed to impose criminal liability on a person
29 who, at the request of the victim of the offense, the victim's family, or the court
30 appointed guardian of the victim, has made a good faith effort to assist the victim in
31 the management of or transfer of the victim's property.

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