

SENATE BILL 244

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1999 Regular Session
(9r1061)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senators Teitelbaum, Jimeno, Exum, Kelley, Hooper, Della,
Conway, Astle, Dyson, and ~~Frosh~~ Frosh, Forehand, and Stone**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Fraud - Personal Identifying Information Theft**

3 FOR the purpose of prohibiting a person from using another individual's personal
4 identifying information without the authorization of that individual for certain
5 purposes; ~~knowingly, willfully, and with fraudulent intent possessing, obtaining,~~
6 ~~or using an individual's personal identification information for certain purposes~~
7 ~~without the consent of that individual or the individual's agent; establishing~~
8 ~~certain penalties for a violation of this Act; providing for restitution and for~~
9 ~~certain costs under certain circumstances; providing for certain liquidated~~
10 ~~damages for certain costs under certain circumstances; defining a certain term;~~
11 ~~providing for the construction of this Act; and generally relating to using~~
12 ~~personal identifying information of an individual without the consent or~~
13 ~~authorization of the individual under certain circumstances possessing,~~
14 ~~obtaining, or using personal identifying information of an individual without~~
15 ~~consent *certain persons from using an individual's personal identifying*~~
16 ~~*information without the consent of that individual for certain purposes;*~~

1 prohibiting a person from assuming the identity of another for certain purposes
 2 under certain circumstances; establishing certain penalties for a violation of this
 3 Act; providing for certain penalties including restitution; establishing that a
 4 sentence under this Act may be imposed in a certain manner under certain
 5 circumstances; defining a certain term; and generally relating to personal
 6 identifying information theft and assumption of another's identity.

7 BY adding to

8 Article 27 - Crimes and Punishments

9 Section 231 to be under the new subheading "Fraud - Personal Identifying
 10 Information"

11 Annotated Code of Maryland

12 (1996 Replacement Volume and 1998 Supplement)

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

15 **Article 27 - Crimes and Punishments**

16 **FRAUD - PERSONAL IDENTIFYING INFORMATION**

17 231.

18 (A) ~~IN THIS SECTION, "PERSONAL IDENTIFYING INFORMATION" MEANS THE A~~
 19 ~~NAME, ADDRESS, SIGNATURE, TELEPHONE NUMBER, DRIVER'S LICENSE NUMBER,~~
 20 ~~SOCIAL SECURITY NUMBER, PLACE OF EMPLOYMENT, EMPLOYEE IDENTIFICATION~~
 21 ~~NUMBER, MOTHER'S MAIDEN NAME, DEMAND DEPOSIT ACCOUNT NUMBER, SAVINGS~~
 22 ~~OR CHECKING ACCOUNT NUMBER, OR CREDIT CARD NUMBER OF AN INDIVIDUAL.~~

23 (B) ~~THIS SECTION DOES NOT AFFECT THE APPLICABILITY OF ANY OTHER~~
 24 ~~PROVISION OF LAW TO A TRANSACTION THAT VIOLATES THIS SECTION.~~

25 (C) ~~A PERSON MAY NOT INTENTIONALLY USE, ATTEMPT TO USE, OR~~
 26 ~~REPRESENT THAT THE PERSON IS ACTING WITH THE AUTHORIZATION OR CONSENT~~
 27 ~~TO USE ANY PERSONAL IDENTIFYING INFORMATION OR PERSONAL IDENTIFICATION~~
 28 ~~DOCUMENT OF AN INDIVIDUAL TO OBTAIN CREDIT, MONEY, GOODS, SERVICES, OR~~
 29 ~~ANYTHING ELSE OF VALUE WITHOUT THE AUTHORIZATION OR CONSENT OF THE~~
 30 ~~INDIVIDUAL.~~

31 (D) (1) ~~A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A~~
 32 ~~MISDEMEANOR AND ON CONVICTION SHALL BE SUBJECT TO A FINE NOT EXCEEDING~~
 33 ~~\$1,000 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.~~

34 (C) ~~A PERSON MAY NOT KNOWINGLY, WILLFULLY, AND WITH FRAUDULENT~~
 35 ~~INTENT:~~

36 (1) ~~POSSESS PERSONAL IDENTIFYING INFORMATION OF ANOTHER~~
 37 ~~INDIVIDUAL WITHOUT CONSENT OF THAT INDIVIDUAL OR INDIVIDUAL'S AGENT;~~

1 ~~(2) OBTAIN OR AID ANOTHER PERSON IN OBTAINING PERSONAL~~
2 ~~IDENTIFYING INFORMATION OF ANOTHER INDIVIDUAL WITHOUT THE CONSENT OF~~
3 ~~THAT INDIVIDUAL OR INDIVIDUAL'S AGENT, AND SELL, TRANSFER, OR OTHERWISE~~
4 ~~USE THAT INFORMATION TO OBTAIN OR ATTEMPT TO OBTAIN ANY BENEFIT, CREDIT,~~
5 ~~GOODS, SERVICES, OR OTHER THINGS OF VALUE; OR~~

6 ~~(3) OBTAIN OR AID ANOTHER PERSON IN OBTAINING PERSONAL~~
7 ~~IDENTIFYING INFORMATION OF ANOTHER INDIVIDUAL'S AGENT, TO AVOID~~
8 ~~IDENTIFICATION, APPREHENSION, OR PROSECUTION.~~

9 ~~(D) (1) A PERSON WHO VIOLATES SUBSECTION (C)(1) OF THIS SECTION IS~~
10 ~~GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT~~
11 ~~EXCEEDING \$5,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.~~

12 ~~(2) A PERSON WHO VIOLATES SUBSECTION (C)(2) OR (3) OF THIS SECTION~~
13 ~~IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE NOT~~
14 ~~EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR BOTH.~~

15 ~~(2) (3) IN ADDITION TO THE PENALTY PENALTIES PROVIDED IN~~
16 ~~PARAGRAPH (1) PARAGRAPHS (1) AND (2) OF THIS SUBSECTION, A PERSON WHO~~
17 ~~VIOLATES ANY PROVISION OF THIS SECTION SHALL MAKE RESTITUTION TO THE~~
18 ~~VICTIM WHOSE PERSONAL IDENTIFYING INFORMATION THE PERSON UNLAWFULLY~~
19 ~~SOLD, TRANSFERRED, OR USED, POSSESSED OR OBTAINED IN VIOLATION OF THIS~~
20 ~~SECTION, FOR ANY COSTS INCLUDING ATTORNEY FEES, INCURRED:~~

21 ~~(F) IN CLEARING THE VICTIM'S CREDIT HISTORY OR CREDIT~~
22 ~~RATING; OR~~

23 ~~(H) IN CONNECTION WITH ANY CIVIL OR ADMINISTRATIVE~~
24 ~~PROCEEDING TO SATISFY A DEBT, LIEN, OR OTHER OBLIGATION OF THE VICTIM THAT~~
25 ~~AROSE AS A RESULT OF THE ACTIONS OF THE PERSON.~~

26 ~~(A) IN THIS SECTION, "PERSONAL IDENTIFYING INFORMATION" MEANS THE~~
27 ~~NAME, ADDRESS, TELEPHONE NUMBER, DRIVER'S LICENSE NUMBER, SOCIAL~~
28 ~~SECURITY NUMBER, PLACE OF EMPLOYMENT, EMPLOYEE IDENTIFICATION NUMBER,~~
29 ~~MOTHER'S MAIDEN NAME, BANK OR OTHER FINANCIAL INSTITUTION ACCOUNT~~
30 ~~NUMBER, DATE OF BIRTH, PERSONAL IDENTIFICATION NUMBER, OR CREDIT CARD~~
31 ~~NUMBER OF AN INDIVIDUAL.~~

32 ~~(B) A PERSON MAY NOT KNOWINGLY, WILLFULLY, AND WITH FRAUDULENT~~
33 ~~INTENT OBTAIN OR AID ANOTHER PERSON IN OBTAINING PERSONAL IDENTIFYING~~
34 ~~INFORMATION OF AN INDIVIDUAL, WITHOUT THE CONSENT OF THAT INDIVIDUAL,~~
35 ~~FOR THE PURPOSE OF USING THAT INFORMATION OR SELLING OR TRANSFERRING~~
36 ~~THAT INFORMATION TO OBTAIN ANY BENEFIT, CREDIT, GOODS, SERVICES, OR~~
37 ~~OTHER ITEM OF VALUE IN THE NAME OF THAT INDIVIDUAL.~~

38 ~~(C) A PERSON MAY NOT KNOWINGLY AND WILLFULLY ASSUME THE IDENTITY~~
39 ~~OF ANOTHER:~~

1 (1) WITH FRAUDULENT INTENT TO OBTAIN ANY BENEFIT, CREDIT,
2 GOODS, SERVICES, OR OTHER ITEM OF VALUE;

3 (2) WITH FRAUDULENT INTENT TO AVOID THE PAYMENT OF A DEBT OR
4 OTHER LEGAL OBLIGATION; OR

5 (3) TO AVOID PROSECUTION FOR A CRIME.

6 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
7 AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR
8 IMPRISONMENT IN THE PENITENTIARY NOT EXCEEDING 1 YEAR OR BOTH.

9 (E) IN ADDITION TO THE RESTITUTION PROVIDED UNDER § 807 OF THIS
10 ARTICLE, A COURT MAY ORDER A PERSON WHO PLEADS GUILTY OR NOLO
11 CONTENDERE OR IS FOUND GUILTY UNDER THIS SECTION TO MAKE RESTITUTION
12 TO THE VICTIM FOR REASONABLE COSTS INCURRED, INCLUDING REASONABLE
13 ATTORNEY'S FEES:

14 (1) FOR CLEARING THE VICTIM'S CREDIT HISTORY OR CREDIT RATING;
15 AND

16 (2) IN CONNECTION WITH ANY CIVIL OR ADMINISTRATIVE PROCEEDING
17 TO SATISFY A DEBT, LIEN, JUDGMENT, OR OTHER OBLIGATION OF THE VICTIM THAT
18 AROSE AS A RESULT OF THE VIOLATION OF THIS SECTION.

19 (F) A SENTENCE UNDER THIS SECTION MAY BE IMPOSED SEPARATE FROM
20 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY OFFENSE
21 BASED ON THE ACT OR ACTS ESTABLISHING THE VIOLATION OF THIS SECTION.

22 (3) ~~IN ADDITION TO THE PENALTY PROVIDED IN PARAGRAPH (1) OF THIS~~
23 ~~SUBSECTION, A PERSON WHO VIOLATES THIS SECTION IS ALSO LIABLE TO THE~~
24 ~~VICTIM FOR LIQUIDATED DAMAGES IN AN AMOUNT NOT TO EXCEED 25 PERCENT OF~~
25 ~~THE COSTS ENUMERATED IN PARAGRAPH (2) OF THIS SUBSECTION.~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 1999.