
By: **Delegates Petzold, Barve, Brinkley, Pendergrass, and Sher**
Introduced and read first time: February 5, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of expanding a certain definition of personal identifying information
4 to include payment device numbers; expanding the crime of fraud and personal
5 identifying information to include possession or aiding another in possessing the
6 personal identifying information of an individual; increasing the criminal
7 penalty for fraud involving personal identifying information; repealing certain
8 provisions of law that prohibit the possession of a credit card number or
9 payment device number of another person and grant the District Court certain
10 exclusive original jurisdiction in certain criminal cases; expanding the exclusive
11 original jurisdiction of the District Court to include felony criminal cases of
12 fraud involving personal identifying information; defining a certain term; and
13 generally relating to the crime of fraud involving personal identifying
14 information.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 231
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2000 Supplement)

20 BY repealing
21 Article - Commercial Law
22 Section 14-1403
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Courts and Judicial Proceedings
27 Section 4-301
28 Annotated Code of Maryland
29 (1998 Replacement Volume and 2000 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Courts and Judicial Proceedings
3 Section 4-302
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2000 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 231.

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

12 (2) "PAYMENT DEVICE NUMBER" HAS THE MEANING STATED IN § 14-401
13 OF THE COMMERCIAL LAW ARTICLE.

14 (3) "[personal] PERSONAL identifying information" means the name,
15 address, telephone number, driver's license number, Social Security number, place of
16 employment, employee identification number, mother's maiden name, bank or other
17 financial institution account number, date of birth, personal identification number,
18 [or] credit card number, OR OTHER PAYMENT DEVICE NUMBER of an individual.

19 (b) A person may not knowingly, willfully, and with fraudulent intent TO
20 POSSESS,[obtain] OBTAIN, or aid another person in POSSESSING OR obtaining
21 personal identifying information of an individual, without the consent of that
22 individual, for the purpose of using that information or selling or transferring that
23 information to obtain any benefit, credit, goods, services, or other item of value in the
24 name of that individual.

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

26 (1) With fraudulent intent to obtain any benefit, credit, goods, services,
27 or other item of value;

28 (2) With fraudulent intent to avoid the payment of a debt or other legal
29 obligation; or

30 (3) To avoid prosecution for a crime.

31 (d) A person who violates this section is guilty of a [misdemeanor] FELONY
32 and on conviction is subject to a fine not exceeding \$5,000 or imprisonment in the
33 penitentiary not exceeding [1 year] 15 YEARS or both.

34 (e) In addition to the restitution provided under § 807 of this article, a court
35 may order a person who pleads guilty or nolo contendere or is found guilty under this

1 section to make restitution to the victim for reasonable costs incurred, including
2 reasonable attorney's fees:

3 (1) For clearing the victim's credit history or credit rating; and

4 (2) In connection with any civil or administrative proceeding to satisfy a
5 debt, lien, judgment, or other obligation of the victim that arose as a result of the
6 violation of this section.

7 (f) A sentence under this section may be imposed separate from and
8 consecutive to or concurrent with a sentence for any offense based on the act or acts
9 establishing the violation of this section.

10 **Article - Commercial Law**

11 [14-1403.

12 A person may not possess, with unlawful or fraudulent intent, any credit card
13 number or other payment device number belonging to another person or any holder's
14 signature.]

15 **Article - Courts and Judicial Proceedings**

16 4-301.

17 (a) Except as provided in § 4-302 and § 3-804, the District Court has
18 exclusive original jurisdiction in a criminal case in which a person at least 16 years
19 old or a corporation is charged with violation of the vehicle laws, or the State Boat
20 Act, or rules and regulations adopted pursuant to it.

21 (b) Except as provided in § 4-302 of this subtitle, the District Court also has
22 exclusive original jurisdiction in a criminal case in which a person at least 18 years
23 old or a corporation is charged with:

24 (1) Commission of a common-law or statutory misdemeanor regardless
25 of the amount of money or value of the property involved;

26 (2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a
27 felony or a misdemeanor;

28 (3) Violation of a county, municipal, or other ordinance, if the violation is
29 not a felony;

30 (4) Criminal violation of a State, county, or municipal rule or regulation,
31 if the violation is not a felony;

32 (5) Doing or omitting to do any act made punishable by a fine,
33 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
34 regulation defining the violation if the violation is not a felony;

- 1 (6) Violation of Article 27, § 141 of this Code, whether a felony or a
2 misdemeanor;
- 3 (7) Violation of Article 27, § 145 of this Code, whether a felony or
4 misdemeanor;
- 5 (8) Violation of Article 27, § 44 of the Code;
- 6 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
7 felony or a misdemeanor;
- 8 (10) Violation of § 9-1106 of the Labor and Employment Article;
- 9 (11) Violation of [§ 14-1403 of the Commercial Law Article] ARTICLE 27, §
10 231 OF THE CODE;
- 11 (12) Violation of Article 27, § 388 of the Code;
- 12 (13) Violation of Article 27, § 388A of the Code; or
- 13 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article.

14 4-302.

15 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
16 and (14) of this subtitle, the District Court does not have jurisdiction to try a criminal
17 case charging the commission of a felony.

18 (b) Except as provided in § 4-303 of this subtitle, the District Court does not
19 have criminal jurisdiction to try a case in which a juvenile court has exclusive original
20 jurisdiction.

21 (c) The jurisdiction of the District Court is concurrent with that of the juvenile
22 court in any criminal case arising under the compulsory public school attendance
23 laws of this State.

24 (d) (1) Except as provided in paragraph (2) of this subsection, the
25 jurisdiction of the District Court is concurrent with that of the circuit court in a
26 criminal case:

27 (i) In which the penalty may be confinement for three years or
28 more or a fine of \$2,500 or more; or

29 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
30 (10), (11), (12), (13), and (14) of this subtitle.

31 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
32 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
33 § 287 of the Code.

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

- 3 1. Properly demands a jury trial;
- 4 2. Appeals as provided by law from a final judgment entered
5 in the District Court; or
- 6 3. Is charged with another offense arising out of the same
7 circumstances that is within a circuit court's jurisdiction.

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

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

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

- 17 1. The prosecutor recommends in open court that the judge
18 not impose a penalty of imprisonment for a period in excess of 90 days, regardless of
19 the permissible statutory or common law maximum;
- 20 2. The judge agrees not to impose a penalty of imprisonment
21 for a period in excess of 90 days; and
- 22 3. The judge agrees not to increase the defendant's bond if an
23 appeal is noted.

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

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

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

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

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 2001.

