

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL NO. 559

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike in their entirety lines 3 through 27, inclusive, and substitute:

“FOR the purpose of expanding a certain definition of personal identifying information to include payment device numbers; expanding the crime of fraud involving personal identifying information to include possession or aiding another in possessing the personal identifying information of an individual under certain circumstances; prohibiting a person from creating a false identification with a certain intent; altering the penalties for fraud involving personal identifying information; providing certain penalties depending on the value of goods obtained fraudulently when using a certain person's personal identifying information; providing a penalty when the personal identifying information of a certain individual is used for certain purposes without that person's consent; providing a penalty when the personal identifying information is used to avoid prosecution for certain crimes; providing statewide jurisdiction for certain law enforcement officers of the Department of State Police investigating and enforcing the crime of fraudulent use of personal identifying information; providing statewide jurisdiction for certain law enforcement officers investigating the crime of fraudulent use of personal identifying information under certain circumstances; providing certain notifications of investigations to certain law enforcement agencies; providing immunity and exceptions from liability for certain law enforcement officers when acting under the statewide jurisdiction of this section; repealing certain provisions of law that prohibit the possession of a credit card number or payment device number of another person; establishing that the jurisdiction of the District Court is concurrent with the circuit courts for felony criminal cases of fraud involving personal identifying information; defining a certain term; making stylistic changes; providing for the construction of this Act; and generally relating to the crime of fraud involving personal identifying information.”.

On page 2, after line 22, insert:

(Over)

“BY repealing and reenacting, with amendments,

Article - Courts and Judicial Proceedings

Section 4-301(b)(11)

Annotated Code of Maryland

(1998 Replacement Volume and 2001 Supplement)

BY repealing and reenacting, without amendments,

Article - Courts and Judicial Proceedings

Section 4-302(a) and (d)(1)(ii)

Annotated Code of Maryland

(1998 Replacement Volume and 2001 Supplement)”.

#### AMENDMENT NO. 2

On page 3, in line 9, strike the third comma; in line 13, after “another” insert “OR CREATE A FALSE IDENTITY”; in line 14, after “avoid” insert “IDENTIFICATION, APPREHENSION, OR”; and strike in their entirety lines 18 through 35, inclusive, and substitute:

“(d) (1) A PERSON WHO VIOLATES THIS SECTION WHERE THE BENEFIT, CREDIT, GOODS, SERVICES, OR OTHER ITEM OF VALUE THAT IS THE SUBJECT OF SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF \$500 OR GREATER IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(2) A person who violates this section WHERE THE BENEFIT, CREDIT, GOODS, SERVICES, OR OTHER ITEM OF VALUE THAT IS THE SUBJECT OF SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF LESS THAN \$500 is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding [1 year] 18 MONTHS or a fine not exceeding \$5,000 or both.

(3) A PERSON WHO VIOLATES THIS SECTION AND THE CIRCUMSTANCES REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO MANUFACTURE, DISTRIBUTE, OR DISPENSE ANOTHER INDIVIDUAL'S PERSONAL IDENTIFYING INFORMATION WITHOUT THAT INDIVIDUAL'S CONSENT IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(4) A PERSON WHO VIOLATES SUBSECTION (C)(1) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT MORE THAN 18 MONTHS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

(5) WHEN THE VIOLATION OF THIS SECTION IS PURSUANT TO ONE SCHEME OR CONTINUING COURSE OF CONDUCT, WHETHER FROM THE SAME OR SEVERAL SOURCES, THE CONDUCT MAY BE CONSIDERED AS ONE OFFENSE AND THE VALUE OF THE BENEFIT, CREDIT, GOODS, SERVICES, OR OTHER ITEM MAY BE AGGREGATED IN DETERMINING WHETHER THE VIOLATION IS A FELONY OR MISDEMEANOR.”.

On page 4, after line 13, insert:

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

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

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

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

(Over)

(4) THE AUTHORITY GRANTED IN PARAGRAPH (1) OF THIS SUBSECTION MAY BE EXERCISED ONLY IF AN ACT RELATED TO THE CRIME WAS COMMITTED IN THE INVESTIGATING LAW ENFORCEMENT AGENCY'S JURISDICTION OR IF THE COMPLAINING WITNESS RESIDES IN THE INVESTIGATING LAW ENFORCEMENT AGENCY'S JURISDICTION.

(J) IF ACTION IS TAKEN UNDER THE AUTHORITY GRANTED IN SUBSECTION (I) OF THIS SECTION, NOTIFICATION OF AN INVESTIGATION:

(1) IN A MUNICIPAL CORPORATION, SHALL BE MADE TO THE CHIEF OF POLICE OR DESIGNEE OF THE CHIEF OF POLICE;

(2) IN A COUNTY THAT HAS A COUNTY POLICE DEPARTMENT, SHALL BE MADE TO THE CHIEF OF POLICE OR DESIGNEE OF THE CHIEF OF POLICE;

(3) IN A COUNTY WITHOUT A POLICE DEPARTMENT, SHALL BE MADE TO THE SHERIFF OR DESIGNEE OF THE SHERIFF;

(4) IN BALTIMORE CITY, SHALL BE MADE TO THE POLICE COMMISSIONER OR THE POLICE COMMISSIONER'S DESIGNEE; AND

(5) ON PROPERTY OWNED, LEASED, OR OPERATED BY OR UNDER THE CONTROL OF THE MARYLAND TRANSPORTATION AUTHORITY, THE MARYLAND AVIATION ADMINISTRATION, OR THE MARYLAND PORT ADMINISTRATION, SHALL BE MADE TO THE RESPECTIVE CHIEF OF POLICE OR THE CHIEF'S DESIGNEE.

(K) WHEN ACTING UNDER THE AUTHORITY GRANTED IN SUBSECTION (H) OR (I) OF THIS SECTION, A LAW ENFORCEMENT OFFICER:

(1) IN ADDITION TO ANY OTHER IMMUNITIES AND EXEMPTIONS TO WHICH THE OFFICER MAY BE ENTITLED, HAS THE IMMUNITIES FROM LIABILITY AND EXEMPTIONS ACCORDED TO A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT OF STATE POLICE; BUT

(2) REMAINS AN EMPLOYEE OF THE OFFICER'S EMPLOYING AGENCY.

Article - Courts and Judicial Proceedings

4-301.

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

(11) Violation of [§ 14-1403 of the Commercial Law Article] § 8-301 OF THE CRIMINAL LAW ARTICLE, WHETHER A FELONY OR MISDEMEANOR;

4-302.

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

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

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

On page 7, after line 5, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any offenses that were committed before October 1, 2002.”;  
and in line 6, strike “2.” and substitute “3.”.

(Over)