

HOUSE BILL 358

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2002 Regular Session
(2r0655)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Petzold, Barve, Barkley, Boschert, Burns, Cole,
Heller, Hutchins, Kelly, Mandel, Menes, Murphy, Pendergrass, and
Shriver**

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.

Speaker.

CHAPTER _____

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 involving
5 personal identifying information to include possession or aiding another in
6 possessing the personal identifying information of an individual under certain
7 circumstances; ~~prohibiting a person from creating a false identification with a~~
8 ~~certain intent~~; altering the penalties for fraud involving personal identifying
9 information; providing certain penalties depending on the value of goods
10 obtained fraudulently when using a certain person's personal identifying
11 information; providing a penalty when the personal identifying information of a
12 certain individual is used for certain purposes without that person's consent;
13 providing a penalty when the personal identifying information is used to avoid
14 prosecution for certain crimes; providing statewide jurisdiction for certain law
15 enforcement officers of the Department of State Police investigating and

1 enforcing the crime of fraudulent use of personal identifying information;
 2 providing statewide jurisdiction for certain law enforcement officers
 3 investigating the crime of fraudulent use of personal identifying information
 4 under certain circumstances; providing certain notifications of investigations ~~or~~
 5 ~~enforcement actions~~ to certain law enforcement agencies; providing immunity
 6 and exceptions from liability for certain law enforcement officers when acting
 7 under ~~the statewide jurisdiction of this section~~ *certain authority*; repealing
 8 certain provisions of law that prohibit the possession of a credit card number or
 9 payment device number of another person; ~~altering the exclusive original~~
 10 ~~jurisdiction of the District Court to include~~ establishing that the jurisdiction of
 11 the District Court is concurrent with the circuit courts for felony criminal cases
 12 of fraud involving personal identifying information; defining a certain term;
 13 making stylistic changes; providing for the construction of this Act; and
 14 generally relating to the crime of fraud involving personal identifying
 15 information.

16 BY repealing

17 Article - Criminal Law

18 Section 8-215

19 Annotated Code of Maryland

20 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of

21 2002)

22 BY repealing and reenacting, with amendments,

23 Article - Criminal Law

24 Section 8-301

25 Annotated Code of Maryland

26 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of

27 2002)

28 BY repealing and reenacting, with amendments,

29 Article - Courts and Judicial Proceedings

30 Section 4-301(b)(11)

31 Annotated Code of Maryland

32 (1998 Replacement Volume and 2001 Supplement)

33 BY repealing and reenacting, without amendments,

34 Article - Courts and Judicial Proceedings

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

36 Annotated Code of Maryland

37 (1998 Replacement Volume and 2001 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

39 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Criminal Law

2 [8-215.

3 With unlawful or fraudulent intent, a person may not possess:

4 (1) a credit card number or other payment device number belonging to
5 another; or

6 (2) any holder's signature.]

7 8-301.

8 (a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS
9 INDICATED.10 (2) "PAYMENT DEVICE NUMBER" HAS THE MEANING STATED IN § 8-213
11 OF THIS TITLE.12 (3) "[personal] PERSONAL identifying information" means a name,
13 address, telephone number, driver's license number, Social Security number, place of
14 employment, employee identification number, mother's maiden name, bank or other
15 financial institution account number, date of birth, personal identification number,
16 [or] credit card number, OR OTHER PAYMENT DEVICE NUMBER.17 (b) A person may not knowingly, willfully, and with fraudulent intent
18 POSSESS, [obtain] OBTAIN, or help another to POSSESS OR obtain any personal
19 identifying information of an individual, without the consent of the individual, in
20 order to use, sell, or transfer the information to get a benefit, credit, good, service, or
21 other thing of value in the name of the individual.22 (c) A person may not knowingly and willfully assume the identity of another
23 OR CREATE A FALSE IDENTITY:24 (1) to avoid IDENTIFICATION, APPREHENSION, OR prosecution for a
25 crime; or

26 (2) with fraudulent intent to:

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

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

29 (d) (1) A PERSON WHO VIOLATES THIS SECTION WHERE THE BENEFIT,
30 CREDIT, GOODS, SERVICES, OR OTHER ITEM OF VALUE THAT IS THE SUBJECT OF
31 SUBSECTION (B) OR SUBSECTION (C) HAS A VALUE OF \$500 OR GREATER IS GUILTY OF
32 A FELONY AND IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~45~~ 10.5 YEARS OR A
33 FINE NOT EXCEEDING \$5,000 OR BOTH.34 (2) A person who violates this section WHERE THE BENEFIT, CREDIT,
35 GOODS, SERVICES, OR OTHER ITEM OF VALUE THAT IS THE SUBJECT OF SUBSECTION

1 (B) OR SUBSECTION (C) HAS A VALUE OF LESS THAN \$500 is guilty of a misdemeanor
2 and [on conviction] is subject to imprisonment not exceeding [1 year] 18 MONTHS or
3 a fine not exceeding \$5,000 or both.

4 (3) A PERSON WHO VIOLATES THIS SECTION AND THE CIRCUMSTANCES
5 REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO MANUFACTURE,
6 DISTRIBUTE, OR DISPENSE ANOTHER INDIVIDUAL'S PERSONAL IDENTIFYING
7 INFORMATION WITHOUT THAT INDIVIDUAL'S CONSENT IS GUILTY OF A FELONY AND
8 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING ~~45~~ 40 5 YEARS OR A FINE NOT
9 EXCEEDING \$5,000 OR BOTH.

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

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

19 (e) A person who violates this section is subject to § 5-106(b) of the Courts
20 Article.

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

25 (1) for clearing the victim's credit history or credit rating; and

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

29 (g) A sentence under this section may be imposed separate from and
30 consecutive to or concurrent with a sentence for any crime based on the act or acts
31 establishing the violation of this section.

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

37 (I) (1) NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT
38 OFFICER OF THE MARYLAND TRANSPORTATION AUTHORITY POLICE, THE MARYLAND
39 PORT ADMINISTRATION POLICE, OR A MUNICIPAL CORPORATION OR COUNTY MAY
40 INVESTIGATE ~~AND OTHERWISE ENFORCE~~ VIOLATIONS OF THIS SECTION

1 THROUGHOUT THE STATE WITHOUT ANY LIMITATION AS TO JURISDICTION AND TO
2 THE SAME EXTENT AS A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT OF
3 STATE POLICE.

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

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

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

14 (J) IF ACTION IS TAKEN UNDER THE AUTHORITY GRANTED IN SUBSECTION
15 ~~(H) OR (I)~~ OF THIS SECTION, NOTIFICATION OF AN INVESTIGATION ~~OR ENFORCEMENT~~
16 ~~ACTION~~:

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

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

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

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

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

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

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

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

Article - Courts and Judicial Proceedings

1 4-301.

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

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

7 4-302.

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

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

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

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
17 construed to apply only prospectively and may not be applied or interpreted to have
18 any effect on or application to any offenses that were committed before October 1,
19 2002.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2002.