

HOUSE BILL 358

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HB 565/01 - JUD

2002 Regular Session
2lr0655

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

Introduced and read first time: January 25, 2002

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 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; altering the penalties for fraud involving personal identifying
8 information; providing certain penalties depending on the value of goods
9 obtained fraudulently when using a certain person's personal identifying
10 information; providing a penalty when the personal identifying information of a
11 certain individual is used for certain purposes without that person's consent;
12 providing a penalty when the personal identifying information is used to avoid
13 prosecution for certain crimes; providing statewide jurisdiction for certain law
14 enforcement officers investigating and enforcing the crime of fraudulent use of
15 personal identifying information; providing certain notifications of
16 investigations or enforcement actions to certain law enforcement agencies;
17 providing immunity and exceptions from liability for certain law enforcement
18 officers when acting under the statewide jurisdiction of this section; repealing
19 certain provisions of law that prohibit the possession of a credit card number or
20 payment device number of another person; altering the exclusive original
21 jurisdiction of the District Court to include felony criminal cases of fraud
22 involving personal identifying information; defining a certain term; making
23 stylistic changes; providing for the construction of this Act; and generally
24 relating to the crime of fraud involving personal identifying information.

25 BY repealing

26 Article - Criminal Law

27 Section 8-215

28 Annotated Code of Maryland

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

30 2002)

31 BY repealing and reenacting, with amendments,

32 Article - Criminal Law

1 Section 8-301
2 Annotated Code of Maryland
3 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
4 2002)

5 BY repealing and reenacting, with amendments,
6 Article - Courts and Judicial Proceedings
7 Section 4-301(b)(11)
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2001 Supplement)

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

12 **Article - Criminal Law**

13 [8-215.

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

15 (1) a credit card number or other payment device number belonging to
16 another; or

17 (2) any holder's signature.]

18 8-301.

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

21 (2) "PAYMENT DEVICE NUMBER" HAS THE MEANING STATED IN § 8-213
22 OF THIS TITLE.

23 (3) "[personal] PERSONAL identifying information" means a name,
24 address, telephone number, driver's license number, Social Security number, place of
25 employment, employee identification number, mother's maiden name, bank or other
26 financial institution account number, date of birth, personal identification number,
27 [or] credit card number, OR OTHER PAYMENT DEVICE NUMBER.

28 (b) A person may not knowingly, willfully, and with fraudulent intent
29 POSSESS, [obtain] OBTAIN, or help another to POSSESS OR obtain any personal
30 identifying information of an individual, without the consent of the individual, in
31 order to use, sell, or transfer the information to get a benefit, credit, good, service, or
32 other thing of value in the name of the individual.

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

34 (1) to avoid prosecution for a crime; or

- 1 (2) with fraudulent intent to:
- 2 (i) get a benefit, credit, good, service, or other thing of value; or
- 3 (ii) avoid the payment of debt or other legal obligation.

4 (d) (1) A PERSON WHO VIOLATES THIS SECTION WHERE THE BENEFIT,
5 CREDIT, GOODS, SERVICES, OR OTHER ITEM OF VALUE THAT IS THE SUBJECT OF
6 SUBSECTION (B) OR SUBSECTION (C) HAS A VALUE OF \$500 OR GREATER IS GUILTY OF
7 A FELONY AND IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE
8 NOT EXCEEDING \$5,000 OR BOTH.

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

14 (3) A PERSON WHO VIOLATES THIS SECTION AND THE CIRCUMSTANCES
15 REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO MANUFACTURE,
16 DISTRIBUTE, OR DISPENSE ANOTHER INDIVIDUAL'S PERSONAL IDENTIFYING
17 INFORMATION WITHOUT THAT INDIVIDUAL'S CONSENT IS GUILTY OF A FELONY AND
18 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT
19 EXCEEDING \$5,000 OR BOTH.

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

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

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

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

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

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

36 (H) NOTWITHSTANDING ANY OTHER LAW, THE DEPARTMENT OF STATE
37 POLICE MAY INITIATE INVESTIGATIONS AND ENFORCE THIS SECTION THROUGHOUT
38 THE STATE WITHOUT REGARD TO ANY LIMITATION OTHERWISE APPLICABLE TO

1 THAT DEPARTMENT'S ACTIVITIES IN A MUNICIPAL CORPORATION OR OTHER
2 POLITICAL SUBDIVISION.

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

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

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

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.

1

Article - Courts and Judicial Proceedings

2 4-301.

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

6 (11) Violation of [§ 14-1403 of the Commercial Law Article] § 8-301 OF
7 THE CRIMINAL LAW ARTICLE;

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
9 construed to apply only prospectively and may not be applied or interpreted to have
10 any effect on or application to any offenses that were committed before October 1,
11 2002.

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