

SENATE BILL 559

Unofficial Copy
E1

2002 Regular Session
(2r1959)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Collins (Baltimore County Administration) and
Senators Forehand and Colburn**

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 **Crimes - Fraud - Personal Identifying Information**

3 ~~FOR the purpose of expanding the crime of identity fraud to include possession or~~
4 ~~aiding another in possessing the personal identifying information of an~~
5 ~~individual under certain circumstances; altering the penalties for identity fraud;~~
6 ~~providing certain penalties depending on the value of goods obtained~~
7 ~~fraudulently when using certain personal identifying information; providing a~~
8 ~~penalty when certain personal identifying information is used for certain~~
9 ~~purposes without consent; providing a penalty for using personal identifying~~
10 ~~information to avoid prosecution for a crime under certain circumstances;~~
11 ~~providing statewide jurisdiction for certain law enforcement officers~~
12 ~~investigating and enforcing the crime of fraudulent use of personal identifying~~
13 ~~information; providing certain notifications of investigations or enforcement~~
14 ~~actions to certain law enforcement units; providing immunity and exceptions~~
15 ~~from liability for certain law enforcement officers when acting under the~~
16 ~~statewide jurisdiction of this section; repealing a certain provision that prohibits~~

1 the possession of a credit card number or payment device number of another or
 2 a holder's signature under certain circumstances; altering the exclusive original
 3 jurisdiction of the District Court to include felony criminal cases of fraud
 4 involving personal identifying information ~~repealing a certain prohibition~~
 5 ~~against possession of certain credit card numbers, payment device numbers, or~~
 6 ~~certain signatures under certain circumstances; establishing certain penalties~~
 7 ~~for certain violations committed with intent to fraudulently manufacture,~~
 8 ~~distribute, or dispense certain personal identifying information under certain~~
 9 ~~circumstances; altering a certain definition; defining a certain term; and~~
 10 generally relating to the crime of fraud involving personal identifying
 11 information.

12 *FOR the purpose of expanding a certain definition of personal identifying information*
 13 *to include payment device numbers; expanding the crime of fraud involving*
 14 *personal identifying information to include possession or aiding another in*
 15 *possessing the personal identifying information of an individual under certain*
 16 *circumstances; ~~prohibiting a person from creating a false identification with a~~*
 17 *~~certain intent; altering the penalties for fraud involving personal identifying~~*
 18 *information; providing certain penalties depending on the value of goods*
 19 *obtained fraudulently when using a certain person's personal identifying*
 20 *information; providing a penalty when the personal identifying information of a*
 21 *certain individual is used for certain purposes without that person's consent;*
 22 *providing a penalty when the personal identifying information is used to avoid*
 23 *prosecution for certain crimes; providing statewide jurisdiction for certain law*
 24 *enforcement officers of the Department of State Police investigating and*
 25 *enforcing the crime of fraudulent use of personal identifying information;*
 26 *providing statewide jurisdiction for certain law enforcement officers*
 27 *investigating the crime of fraudulent use of personal identifying information*
 28 *under certain circumstances; providing certain notifications of investigations to*
 29 *certain law enforcement agencies; providing immunity and exceptions from*
 30 *liability for certain law enforcement officers when acting under ~~the statewide~~*
 31 *~~jurisdiction of this section~~ certain authority; ~~repealing certain provisions of law~~*
 32 *that prohibit the possession of a credit card number or payment device number of*
 33 *another person; establishing that the jurisdiction of the District Court is*
 34 *concurrent with the circuit courts for felony criminal cases of fraud involving*
 35 *personal identifying information; defining a certain term; making stylistic*
 36 *changes; providing for the construction of this Act; and generally relating to the*
 37 *crime of fraud involving personal identifying information.*

38 BY repealing
 39 Article - Criminal Law
 40 Section 8-215
 41 Annotated Code of Maryland
 42 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
 43 2002)

44 BY repealing and reenacting, with amendments,
 45 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 ~~BY repealing and reenacting, without amendments,~~
 11 ~~Article - Courts and Judicial Proceedings~~
 12 ~~Section 4-302~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(1998 Replacement Volume and 2001 Supplement)~~

15 BY repealing and reenacting, with amendments,
 16 Article - Courts and Judicial Proceedings
 17 Section 4-301(b)(11)
 18 Annotated Code of Maryland
 19 (1998 Replacement Volume and 2001 Supplement)

20 BY repealing and reenacting, without amendments,
 21 Article - Courts and Judicial Proceedings
 22 Section 4-302(a) and (d)(1)(ii)
 23 Annotated Code of Maryland
 24 (1998 Replacement Volume and 2001 Supplement)

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

27 **Article - Criminal Law**

28 [8-215.

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

30 (1) a credit card number or other payment device number belonging to
 31 another; or

32 (2) any holder's signature.]

1 8-301.

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

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

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

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

16 (c) A person may not knowingly and willfully assume the identity of another
17 OR CREATE A FALSE IDENTITY:

18 (1) to avoid IDENTIFICATION, APPREHENSION, OR prosecution for a
19 crime; or

20 (2) with fraudulent intent to:

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

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

23 ~~(d) (1) IF A PERSON VIOLATES SUBSECTION (B) OF THIS SECTION UNDER
24 CIRCUMSTANCES THAT REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO
25 WITH INTENT TO FRAUDULENTLY MANUFACTURE, DISTRIBUTE, OR DISPENSE THE
26 PERSONAL IDENTIFYING INFORMATION OF AN INDIVIDUAL WITHOUT THE
27 INDIVIDUAL'S CONSENT, THE PERSON IS GUILTY OF A FELONY AND ON CONVICTION
28 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 5 YEARS OR A FINE NOT
29 EXCEEDING \$5,000 OR BOTH.~~

30 ~~(2) IF THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER ITEM OF VALUE
31 UNDER SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF \$500 OR MORE, A
32 PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION
33 IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT
34 EXCEEDING \$5,000 OR BOTH.~~

35 ~~(3) [A] IF THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER ITEM OF
36 VALUE UNDER SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF LESS THAN
37 \$500 EXCEPT AS PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, A person who
38 violates this section is guilty of a misdemeanor and on conviction is subject to~~

1 imprisonment not exceeding [1 year] 18 MONTHS or a fine not exceeding \$5,000 or
2 both.

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

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

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

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

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

28 ~~(4) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PERSON~~
29 ~~WHO VIOLATES SUBSECTION (C)(1) OF THIS SECTION IS GUILTY OF A MISDEMEANOR~~
30 ~~AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS~~
31 ~~OR A FINE NOT EXCEEDING \$5,000 OR BOTH.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 Article - Courts and Judicial Proceedings

13 4-301.

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

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

19 4-302.

20 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
 21 (14), (15), and (16) of this subtitle, the District Court does not have jurisdiction to try
 22 a criminal case charging the commission of a felony.

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

25 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
 26 (10), (11), (12), (13), (14), (15), and (16) of this subtitle.

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

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

1 ~~4-302.~~

2 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
3 (14), (15), and (16) of this subtitle, the District Court does not have jurisdiction to try
4 a criminal case charging the commission of a felony.

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

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

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 (i) In which the penalty may be confinement for 3 years or more or
15 a fine of \$2,500 or more; or

16 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
17 (10), (11), (12), (13), (14), (15), and (16) of this subtitle.

18 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
19 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
20 § 287 of the Code.

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

23 1. Properly demands a jury trial;

24 2. Appeals as provided by law from a final judgment entered
25 in the District Court; or

26 3. Is charged with another offense arising out of the same
27 circumstances that is within a circuit court's jurisdiction.

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

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

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

