
By: **Senator Collins (Baltimore County Administration)**

Introduced and read first time: February 1, 2002

Assigned to: Judicial Proceedings

A BILL ENTITLED

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
17 the possession of a credit card number or payment device number of another or
18 a holder's signature under certain circumstances; altering the exclusive original
19 jurisdiction of the District Court to include felony criminal cases of fraud
20 involving personal identifying information; altering a certain definition;
21 defining a certain term; and generally relating to the crime of fraud involving
22 personal identifying information.

23 BY repealing

24 Article - Criminal Law

25 Section 8-215

26 Annotated Code of Maryland

27 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
28 2002)

29 BY repealing and reenacting, with amendments,

30 Article - Criminal Law

31 Section 8-301

32 Annotated Code of Maryland

1 (As enacted by Chapter ____ (H.B. 11) of the Acts of the General Assembly of
2 2002)

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

8 BY repealing and reenacting, without amendments,
9 Article - Courts and Judicial Proceedings
10 Section 4-302
11 Annotated Code of Maryland
12 (1998 Replacement Volume and 2001 Supplement)

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

15 **Article - Criminal Law**

16 [8-215.

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

18 (1) a credit card number or other payment device number belonging to
19 another; or

20 (2) any holder's signature.]

21 8-301.

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

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

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

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

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

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

3 (2) with fraudulent intent to:

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

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

6 (d) (1) IF A PERSON VIOLATES THIS SECTION UNDER CIRCUMSTANCES
7 THAT REASONABLY INDICATE THAT THE PERSON'S INTENT WAS TO MANUFACTURE,
8 DISTRIBUTE, OR DISPENSE THE PERSONAL IDENTIFYING INFORMATION OF AN
9 INDIVIDUAL WITHOUT THE INDIVIDUAL'S CONSENT, THE PERSON IS GUILTY OF A
10 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15
11 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

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

17 (3) [A] IF THE BENEFIT, CREDIT, GOOD, SERVICE, OR OTHER ITEM OF
18 VALUE UNDER SUBSECTION (B) OR (C) OF THIS SECTION HAS A VALUE OF LESS THAN
19 \$500, A person who violates this section is guilty of a misdemeanor and on conviction
20 is subject to imprisonment not exceeding [1 year] 18 MONTHS or a fine not exceeding
21 \$5,000 or both.

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

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

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

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

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

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

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

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

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

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

20 (J) IF ACTION IS TAKEN UNDER THE AUTHORITY GRANTED IN SUBSECTION
21 (H) OR (I) OF THIS SECTION, NOTIFICATION OF AN INVESTIGATION OR ENFORCEMENT
22 ACTION SHALL BE MADE:

23 (1) IN A MUNICIPAL CORPORATION, TO THE CHIEF OF POLICE OR
24 DESIGNEE OF THE CHIEF OF POLICE;

25 (2) IN A COUNTY THAT HAS A COUNTY POLICE DEPARTMENT, TO THE
26 CHIEF OF POLICE OR DESIGNEE OF THE CHIEF OF POLICE;

27 (3) IN A COUNTY WITHOUT A POLICE DEPARTMENT, TO THE SHERIFF OR
28 DESIGNEE OF THE SHERIFF;

29 (4) IN BALTIMORE CITY, TO THE POLICE COMMISSIONER OR THE POLICE
30 COMMISSIONER'S DESIGNEE; AND

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

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

37 (1) IN ADDITION TO ANY OTHER IMMUNITIES AND EXEMPTIONS TO
38 WHICH THE OFFICER MAY BE ENTITLED, HAS THE IMMUNITIES FROM LIABILITY AND

1 EXEMPTIONS ACCORDED TO A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT
2 OF STATE POLICE; BUT

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

4 **Article - Courts and Judicial Proceedings**

5 4-301.

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

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

11 4-302.

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

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

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

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

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

26 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
27 (10), (11), (12), (13), (14), (15), and (16) of this subtitle.

28 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
29 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
30 § 287 of the Code.

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

33 1. Properly demands a jury trial;

