

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

House Bill 625
Judiciary

(Delegate Zirkin)

Credit Card Crimes - Evidence of Unauthorized Use

This bill authorizes a statement that a cardholder's credit card was taken without the cardholder's consent or knowledge, made under oath by a credit cardholder who resides out-of-state at the time of trial, to be introduced into evidence in a prosecution for specified credit card crimes.

Fiscal Summary

State Effect: This bill is procedural in nature and is not expected to directly impact government finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A statement made under oath by a credit cardholder who resides out-of-state at the time of trial that the cardholder's credit card was taken from the cardholder's possession, custody, or control without the cardholder's consent or knowledge may be introduced into evidence in a prosecution for the following credit card crimes:

- fraud in procuring the issuance of a credit card;
- credit card theft (taking a credit card from another without consent or receiving a credit card from another with intent to sell);
- credit card counterfeiting;

- obtaining property by counterfeiting, theft, or misrepresentation;
- honoring a stolen credit card or credit card known to be counterfeit with intent to defraud the issuer or cardholder;
- failing to furnish money, goods, services, or anything of value with intent to defraud and after representing in writing that the item has been furnished;
- possessing an “incomplete credit card” or possessing any contrivance designed to reproduce a credit card without the issuer’s consent; or
- receiving property by stolen, counterfeit, or misrepresented credit card.

The statement may include:

- the manner in which the credit card was taken from the cardholder’s control or possession;
- the date that the cardholder discovered the loss of possession of the credit card; and
- a detailed description of each alleged unauthorized transaction.

The bill also requires that if the State intends to introduce such a statement without the cardholder’s testimony, it must notify the defendant or defense counsel and provide same with a copy of the statement at least 25 days before trial. If the defendant wishes the cardholder to be present and testify, the defendant must notify the State at least 15 days prior to trial; if the defendant gives timely notice, then the statement is inadmissible.

Current Law: With certain exceptions not applicable to the type of statement described by this bill, a statement made out of court and offered for the truth of the matter asserted is inadmissible as evidence in court.

Article 21 of the Maryland Declaration of Rights and the Sixth Amendment to the U.S. Constitution (applicable to the states via the Fourteenth Amendment) guarantee that in all criminal prosecutions, the defendant has the right to confront and cross-examine the witnesses against the defendant.

Background: A procedurally similar provision exists in relation to drunk driving prosecutions, allowing a technician’s results of a defendant’s blood-alcohol test that meets statutory requirements to be admitted as substantive evidence upon timely notice to the defendant, without the technician having to testify. If the defendant timely objects to admission of the test results without the technician’s presence, then the results are inadmissible without the technician’s presence.

Additional Information

Prior Introductions: None.

Cross File: SB 465 (Senator Stone) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

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