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By: **Delegates Lee, Anderson, Barkley, Bohanan, Bronrott, Brown, Burns, Conroy, Doory, Dumais, Dwyer, Fulton, Gaines, Goldwater, Gutierrez, Jones, Kaiser, Kelley, Kirk, Love, Madaleno, Mandel, McComas, McHale, Menes, Moe, Montgomery, Murray, Oaks, Paige, Petzold, Quinter, Ross, Simmons, Sophocleus, Stern, Taylor, Trueschler, F. Turner, V. Turner, Vallario, Vaughn, and Walkup**

Introduced and read first time: February 6, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Identity Fraud - Penalties**

3 FOR the purpose of increasing a certain maximum term of imprisonment and a  
4 certain maximum fine for a person knowingly, willfully, and with fraudulent  
5 intent possessing, obtaining, or helping another person to possess or obtain any  
6 personal identifying information of an individual without consent in order to  
7 use, sell, or transfer the information to get a benefit, credit, good, service, or  
8 other thing of value of a certain value or greater in the name of the individual;  
9 increasing a certain maximum term of imprisonment and a certain maximum  
10 fine for a person knowingly and willfully assuming the identity of another to  
11 avoid identification, apprehension, or prosecution for a crime, or to get a certain  
12 benefit or avoid certain obligations with fraudulent intent, where the certain  
13 benefit, credit, good, service, or other thing of value is of a certain value or  
14 greater; increasing a certain maximum term of imprisonment and a certain  
15 maximum fine for a person who violates certain offenses under circumstances  
16 that reasonably indicate an intent to manufacture, distribute, or dispense  
17 certain personal identifying information without consent; and generally relating  
18 to penalties for offenses relating to personal identifying information.

19 BY repealing and reenacting, with amendments,  
20 Article - Criminal Law  
21 Section 8-301  
22 Annotated Code of Maryland  
23 (2002 Volume)

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

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**Article - Criminal Law**

2 8-301.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Payment device number" has the meaning stated in § 8-213 of this  
5 title.6 (3) "Personal identifying information" means a name, address, telephone  
7 number, driver's license number, Social Security number, place of employment,  
8 employee identification number, mother's maiden name, bank or other financial  
9 institution account number, date of birth, personal identification number, credit card  
10 number, or other payment device number.11 (b) A person may not knowingly, willfully, and with fraudulent intent possess,  
12 obtain, or help another to possess or obtain any personal identifying information of an  
13 individual, without the consent of the individual, in order to use, sell, or transfer the  
14 information to get a benefit, credit, good, service, or other thing of value in the name  
15 of the individual.

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

17 (1) to avoid identification, apprehension, or prosecution for a crime; or

18 (2) with fraudulent intent to:

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

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

21 (d) (1) A person who violates this section where the benefit, credit, goods,  
22 services, or other thing of value that is the subject of subsection (b) or (c) of this  
23 section has a value of \$500 or greater is guilty of a felony and on conviction is subject  
24 to imprisonment not exceeding [5] 20 years or a fine not exceeding [\$5,000] \$25,000  
25 or both.26 (2) A person who violates this section where the benefit, credit, goods,  
27 services, or other thing of value that is the subject of subsection (b) or (c) of this  
28 section has a value of less than \$500 is guilty of a misdemeanor and on conviction is  
29 subject to imprisonment not exceeding 18 months or a fine not exceeding [\$5,000]  
30 \$25,000 or both.31 (3) A person who violates this section under circumstances that  
32 reasonably indicate that the person's intent was to manufacture, distribute, or  
33 dispense another individual's personal identifying information without that  
34 individual's consent is guilty of a felony and on conviction is subject to imprisonment  
35 not exceeding [5] 20 years or a fine not exceeding [\$5,000] \$25,000 or both.

1 (4) A person who violates subsection (c)(1) is guilty of a misdemeanor and  
2 on conviction is subject to imprisonment not exceeding 18 months or a fine not  
3 exceeding [\$5,000] \$25,000 or both.

4 (5) When the violation of this section is pursuant to one scheme or  
5 continuing course of conduct, whether from the same or several sources, the conduct  
6 may be considered as one violation and the value of the benefit, credit, goods, services,  
7 or other thing of value may be aggregated in determining whether the violation is a  
8 felony or misdemeanor.

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

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

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

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

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

22 (h) Notwithstanding any other law, the Department of State Police may  
23 initiate investigations and enforce this section throughout the State without regard to  
24 any limitation otherwise applicable to that department's activities in a municipal  
25 corporation or other political subdivision.

26 (i) (1) Notwithstanding any other law, a law enforcement officer of the  
27 Maryland Transportation Authority Police, the Maryland Port Administration Police,  
28 or a municipal corporation or county may investigate violations of this section  
29 throughout the State without any limitation as to jurisdiction and to the same extent  
30 as a law enforcement officer of the Department of State Police.

31 (2) The authority granted in paragraph (1) of this subsection may be  
32 exercised only in accordance with regulations that the Secretary of the State Police  
33 adopts.

34 (3) The regulations are not subject to Title 10, Subtitle 1 of the State  
35 Government Article.

36 (4) The authority granted in paragraph (1) of this subsection may be  
37 exercised only if an act related to the crime was committed in the investigating law  
38 enforcement agency's jurisdiction or if the complaining witness resides in the  
39 investigating law enforcement agency's jurisdiction.

1 (j) If action is taken under the authority granted in subsection (i) of this  
2 section, notification of an investigation:

3 (1) in a municipal corporation, shall be made to the chief of police or  
4 designee of the chief of police;

5 (2) in a county that has a county police department, shall be made to the  
6 chief of police or designee of the chief of police;

7 (3) in a county without a police department, shall be made to the sheriff  
8 or designee of the sheriff;

9 (4) in Baltimore City, shall be made to the Police Commissioner or the  
10 Police Commissioner's designee; and

11 (5) on property owned, leased, or operated by or under the control of the  
12 Maryland Transportation Authority, the Maryland Aviation Administration, or the  
13 Maryland Port Administration, shall be made to the respective chief of police or the  
14 chief's designee.

15 (k) When acting under the authority granted in subsection (h) or (i) of this  
16 section, a law enforcement officer:

17 (1) in addition to any other immunities and exemptions to which the  
18 officer may be entitled, has the immunities from liability and exemptions accorded to  
19 a law enforcement officer of the Department of State Police; but

20 (2) remains an employee of the officer's employing agency.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
22 effect October 1, 2003.