
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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2003

CHAPTER _____

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 provisions of law ~~under~~
16 circumstances that reasonably indicate an intent to manufacture, distribute, or
17 dispense certain personal identifying information without consent; and
18 generally relating to penalties for offenses relating to personal identifying
19 information.

20 BY repealing and reenacting, with amendments,
21 Article - Criminal Law
22 Section 8-301

1 Annotated Code of Maryland
2 (2002 Volume)

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

5 **Article - Criminal Law**

6 8-301.

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

8 (2) "Payment device number" has the meaning stated in § 8-213 of this
9 title.

10 (3) "Personal identifying information" means a name, address, telephone
11 number, driver's license number, Social Security number, place of employment,
12 employee identification number, mother's maiden name, bank or other financial
13 institution account number, date of birth, personal identification number, credit card
14 number, or other payment device number.

15 (b) A person may not knowingly, willfully, and with fraudulent intent possess,
16 obtain, or help another to possess or obtain any personal identifying information of an
17 individual, without the consent of the individual, in order to use, sell, or transfer the
18 information to get a benefit, credit, good, service, or other thing of value in the name
19 of the individual.

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

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

22 (2) with fraudulent intent to:

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

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

25 (d) (1) A person who violates this section where the benefit, credit, goods,
26 services, or other thing of value that is the subject of subsection (b) or (c) of this
27 section has a value of \$500 or greater is guilty of a felony and on conviction is subject
28 to imprisonment not exceeding ~~{5} 20~~ years or a fine not exceeding ~~[\$5,000] \$25,000~~
29 or both.

30 (2) A person who violates this section where the benefit, credit, goods,
31 services, or other thing of value that is the subject of subsection (b) or (c) of this
32 section has a value of less than \$500 is guilty of a misdemeanor and on conviction is
33 subject to imprisonment not exceeding 18 months or a fine not exceeding ~~{ \$5,000 }~~
34 ~~\$25,000~~ or both.

1 (3) A person who violates this section under circumstances that
2 reasonably indicate that the person's intent was to manufacture, distribute, or
3 dispense another individual's personal identifying information without that
4 individual's consent is guilty of a felony and on conviction is subject to imprisonment
5 not exceeding ~~{5} 20~~ years or a fine not exceeding ~~[\$5,000] \$25,000~~ or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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