
By: **Senator Forehand**

Introduced and read first time: January 24, 2003

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of increasing certain maximum fines under certain circumstances
4 for a person knowingly, willfully, and with fraudulent intent possessing,
5 obtaining, or helping another person to possess or obtain any personal
6 identifying information of an individual without consent in order to use, sell, or
7 transfer the information to get a benefit, credit, good, service, or other thing of
8 value in the name of the individual; increasing certain maximum fines under
9 certain circumstances for a person knowingly and willfully assuming the
10 identity of another to avoid identification, apprehension, or prosecution for a
11 crime or to get a benefit, credit, good, service, or other thing of value, or to avoid
12 the payment of debt or other legal obligation under certain circumstances; and
13 generally relating to penalties for the possession or use of certain personal
14 identifying information and for assuming the identity of another under certain
15 circumstances.

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

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

23 **Article - Criminal Law**

24 8-301.

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

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

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

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

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

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

13 (2) with fraudulent intent to:

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

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

16 (d) (1) A person who violates this section where the benefit, credit, goods,
17 services, or other thing of value that is the subject of subsection (b) or (c) of this
18 section has a value of \$500 or greater is guilty of a felony and on conviction is subject
19 to imprisonment not exceeding 5 years or a fine not exceeding [\$5,000] \$100,000 or
20 both.

21 (2) 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 less than \$500 is guilty of a misdemeanor and on conviction is
24 subject to imprisonment not exceeding 18 months or a fine not exceeding [\$5,000]
25 \$100,000 or both.

26 (3) A person who violates this section under circumstances that
27 reasonably indicate that the person's intent was to manufacture, distribute, or
28 dispense another individual's personal identifying information without that
29 individual's consent is guilty of a felony and on conviction is subject to imprisonment
30 not exceeding 5 years or a fine not exceeding [\$5,000] \$100,000 or both.

31 (4) A person who violates subsection (c)(1) is guilty of a misdemeanor and
32 on conviction is subject to imprisonment not exceeding 18 months or a fine not
33 exceeding [\$5,000] \$100,000 or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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