

HOUSE BILL 457

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2004 Regular Session
(4lr1196)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegates Petzold, Barkley, Heller, Hennessy, Kaiser, Kelley,
Lee, Mandel, Menes, Montgomery, Murray, and Pendergrass**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure - Identity Theft - Venue for Prosecution**

3 FOR the purpose of ~~authorizing a State's Attorney or the Attorney General to~~
4 ~~investigate and prosecute certain offenses relating to personal identifying~~
5 ~~information fraud; authorizing the Attorney General to exercise all the powers~~
6 ~~and duties of a State's Attorney to investigate and prosecute certain violations;~~
7 authorizing a State's Attorney or the Attorney General to investigate and
8 prosecute certain offenses relating to personal identifying information fraud;
9 authorizing the Attorney General to exercise all the powers and duties of a State's
10 Attorney to investigate and prosecute certain violations; establishing that a
11 prosecution for a violation of certain offenses relating to personal identifying
12 information fraud or other crimes based on a violation may be commenced in a
13 county in which an element of the crime occurred or in which the victim resides;
14 and generally relating to certain offenses relating to personal identifying
15 information fraud.

16 BY repealing and reenacting, with amendments,

1 Article - Criminal Law
2 Section 8-301
3 Annotated Code of Maryland
4 (2002 Volume and 2003 Supplement)

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

7 **Article - Criminal Law**

8 8-301.

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

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

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

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

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

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

24 (2) with fraudulent intent to:

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

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

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

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

6 (4) A person who violates subsection (c)(1) of this section is guilty of a
7 misdemeanor and on conviction is subject to imprisonment not exceeding 18 months
8 or a fine not exceeding \$5,000 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 Department of 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 ~~(L) (1) A STATE'S ATTORNEY OR THE ATTORNEY GENERAL MAY~~
28 ~~INVESTIGATE AND PROSECUTE A VIOLATION OF THIS SECTION OR A VIOLATION OF~~
29 ~~ANY CRIME BASED ON THE ACT ESTABLISHING A VIOLATION OF THIS SECTION.~~

30 ~~(2) IF THE ATTORNEY GENERAL EXERCISES AUTHORITY UNDER~~
31 ~~PARAGRAPH (1) OF THIS SUBSECTION, THE ATTORNEY GENERAL HAS ALL THE~~
32 ~~POWERS AND DUTIES OF A STATE'S ATTORNEY, INCLUDING THE USE OF A GRAND~~
33 ~~JURY IN ANY COUNTY OR BALTIMORE CITY, TO INVESTIGATE AND PROSECUTE THE~~
34 ~~VIOLATION.~~

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4 JURY IN ANY COUNTY OR BALTIMORE CITY, TO INVESTIGATE AND PROSECUTE THE
5 VIOLATION.

6 ~~(M)~~ ~~(L)~~ (M) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
7 PROSECUTION OF A VIOLATION OF THIS SECTION OR FOR A VIOLATION OF ANY
8 CRIME BASED ON THE ACT ESTABLISHING FOR A VIOLATION OF THIS SECTION OR
9 ~~FOR THE COMMISSION OF A CRIME ARISING OUT OF~~ OF A VIOLATION OF THIS
10 SECTION OR FOR A VIOLATION OF ANY CRIME BASED ON THE ACT ESTABLISHING A
11 VIOLATION OF THIS SECTION MAY BE COMMENCED IN ANY COUNTY IN WHICH:

12 (1) AN ELEMENT OF THE CRIME OCCURRED; OR

13 (2) THE VICTIM RESIDES.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2004.