
By: **Delegate Quinter**

Introduced and read first time: March 7, 2005

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud Investigations - Notification - Motor Vehicle Administration**

3 FOR the purpose of requiring a law enforcement agency investigating a possible case
4 of identity fraud to provide a certain notification to the Motor Vehicle
5 Administration; providing for the contents of certain notifications; requiring the
6 Administration to keep a record of a certain notification; requiring the
7 Administration to record certain information in its records regarding a certain
8 driver's license on receipt of a certain notification; requiring certain information
9 provided under this Act to be available to certain law enforcement officers under
10 certain circumstances; requiring a law enforcement agency to provide a certain
11 notification to the Administration at the conclusion of an identity fraud
12 investigation; requiring the Administration to remove certain information from
13 its records on receipt of a certain notification; requiring the Administration, in
14 consultation with certain law enforcement officers, to adopt regulations
15 implementing the provisions of this Act; providing for the construction of this
16 Act; defining certain terms; and generally relating to notification to the Motor
17 Vehicle Administration of identity fraud investigations.

18 BY repealing and reenacting, with amendments,
19 Article - Criminal Law
20 Section 8-301
21 Annotated Code of Maryland
22 (2002 Volume and 2004 Supplement)

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

25 **Article - Criminal Law**

26 8-301.

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

28 (2) "Payment device number" has the meaning stated in § 8-213 of this
29 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, good,
17 service, or other thing of value that is the subject of subsection (b) or (c) of this section
18 has a value of \$500 or greater is guilty of a felony and on conviction is subject to
19 imprisonment not exceeding 5 years or a fine not exceeding \$25,000 or both.

20 (2) A person who violates this section where the benefit, credit, good,
21 service, or other thing of value that is the subject of subsection (b) or (c) of this section
22 has a value of less than \$500 is guilty of a misdemeanor and on conviction is subject
23 to imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both.

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

29 (4) A person who violates subsection (c)(1) of this section is guilty of a
30 misdemeanor and on conviction is subject to imprisonment not exceeding 18 months
31 or a fine not exceeding \$5,000 or both.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (K) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
8 MEANINGS INDICATED.

9 (II) "ADMINISTRATION" MEANS THE MOTOR VEHICLE
10 ADMINISTRATION.

11 (III) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN §
12 13-406.1(A)(2) OF THE TRANSPORTATION ARTICLE.

13 (IV) "PRINCIPAL LAW ENFORCEMENT OFFICER" HAS THE MEANING
14 STATED IN § 13-406.1(A)(4) OF THE TRANSPORTATION ARTICLE.

15 (2) THIS SUBSECTION APPLIES WHEN THE ALLEGED VICTIM OF A
16 VIOLATION OF SUBSECTION (B) OR (C) OF THIS SECTION:

17 (I) POSSESSES A DRIVER'S LICENSE; AND

18 (II) MAKES THE DRIVER'S LICENSE NUMBER AVAILABLE TO A LAW
19 ENFORCEMENT AGENCY INVESTIGATING THE ALLEGED VIOLATIONS OF
20 SUBSECTION (B) OR (C) OR THIS SECTION.

21 (3) (I) A LAW ENFORCEMENT AGENCY INVESTIGATING A VIOLATION
22 OF SUBSECTION (B) OR (C) OF THIS SECTION SHALL:

23 1. NOTIFY THE ADMINISTRATION OF THE INVESTIGATION;
24 AND

25 2. KEEP A RECORD OF THE NOTIFICATION.

26 (II) THE NOTIFICATION REQUIRED UNDER THIS PARAGRAPH
27 SHALL INCLUDE:

28 1. THE DATE THAT THE NOTIFICATION IS SENT;

29 2. A CASE NUMBER IDENTIFYING THE INVESTIGATION;

30 3. THE NAME AND CONTACT INFORMATION OF THE PRIMARY
31 INVESTIGATING OFFICER;

32 4. THE NAME OF THE ALLEGED VICTIM OF THE VIOLATION
33 BEING INVESTIGATED; AND

1 5. THE DRIVER'S LICENSE NUMBER OF THE ALLEGED
2 VICTIM.

3 (III) ON RECEIPT OF A NOTIFICATION REQUIRED UNDER THIS
4 PARAGRAPH, THE ADMINISTRATION SHALL:

5 1. KEEP A RECORD OF THE NOTIFICATION; AND

6 2. INDICATE IN ITS RECORDS THAT THE DRIVER'S LICENSE
7 BELONGS TO A POSSIBLE VICTIM OF A VIOLATION OF SUBSECTION (B) OR (C) OF THIS
8 SECTION.

9 (IV) THE INFORMATION RECORDED UNDER SUBPARAGRAPH (III)2
10 OF THIS PARAGRAPH SHALL BE MADE AVAILABLE TO A LAW ENFORCEMENT OFFICER
11 CONDUCTING A ROUTINE CHECK OF THE DRIVER'S LICENSE OF A PERSON WHO IS
12 THE SUBJECT OF A TRAFFIC STOP CONDUCTED BY THE OFFICER.

13 (4) (I) A LAW ENFORCEMENT AGENCY CONDUCTING AN
14 INVESTIGATION OF WHICH THE ADMINISTRATION HAS BEEN NOTIFIED UNDER
15 PARAGRAPH (3) OF THIS SUBSECTION SHALL NOTIFY THE ADMINISTRATION OF THE
16 CONCLUSION OF THE INVESTIGATION.

17 (II) THE NOTIFICATION REQUIRED UNDER THIS PARAGRAPH
18 SHALL INCLUDE THE INFORMATION REQUIRED IN A NOTIFICATION SENT UNDER
19 PARAGRAPH (3) OF THIS SUBSECTION.

20 (III) ON RECEIPT OF A NOTIFICATION REQUIRED UNDER THIS
21 PARAGRAPH, THE ADMINISTRATION SHALL REMOVE THE INFORMATION RECORDED
22 IN ITS RECORDS UNDER PARAGRAPH (3)(III) OF THIS SUBSECTION.

23 (5) THE ADMINISTRATION, IN CONSULTATION WITH THE PRIMARY LAW
24 ENFORCEMENT OFFICERS OF THE STATE, SHALL ADOPT REGULATIONS TO
25 IMPLEMENT THIS SUBSECTION.

26 (6) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONVEY TO A LAW
27 ENFORCEMENT OFFICER ANY POWERS OF SEARCH OR SEIZURE OTHERWISE
28 PROHIBITED BY LAW.

29 [(k)](L) When acting under the authority granted in subsection (h) or (i) of this
30 section, a law enforcement officer:

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

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

35 [(l)](M) (1) A State's Attorney or the Attorney General may investigate and
36 prosecute a violation of this section or a violation of any crime based on the act
37 establishing a violation of this section.

1 (2) If the Attorney General exercises authority under paragraph (1) of
2 this subsection, the Attorney General has all the powers and duties of a State's
3 Attorney, including the use of a grand jury in any county or Baltimore City, to
4 investigate and prosecute the violation.

5 [(m)](N) Notwithstanding any other provision of law, the prosecution of a
6 violation of this section or for a violation of any crime based on the act establishing a
7 violation of this section may be commenced in any county in which:

8 (1) an element of the crime occurred; or

9 (2) the victim resides.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2005.