
By: **Senators Giannetti and Stone (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 3, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Identity Fraud and Theft - Personal Identifying Information**
3 **and Penalties**

4 FOR the purpose of expanding the definition of personal identifying information as it
5 relates to the offense of identity fraud; altering certain penalties; making
6 certain technical corrections; and generally relating to identity fraud and theft.

7 BY repealing and reenacting, with amendments,
8 Article - Criminal Law
9 Section 7-103(f) and 8-301
10 Annotated Code of Maryland
11 (2002 Volume and 2004 Supplement)

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

14 **Article - Criminal Law**

15 7-103.

16 (f) When theft is committed in violation of this part under one scheme or
17 continuing course of conduct, whether from the same or several sources:

18 (1) the conduct may be [considered] CHARGED as one crime; and

19 (2) the value of the property or services may be aggregated in
20 determining whether the theft is a felony or a misdemeanor.

21 8-301.

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

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

1 (3) "Personal identifying information" [means] INCLUDES a name,
2 address, telephone number, driver's license number, Social Security number, place of
3 employment, employee identification number, mother's maiden name, bank or other
4 financial institution account number, date of birth, personal identification number,
5 credit card 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] WITH INTENT to manufacture,
26 distribute, or dispense another individual's personal identifying information without
27 that individual's consent is guilty of a felony and on conviction is subject to
28 imprisonment 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] FELONY and on conviction is subject to imprisonment not exceeding
31 [18 months] 5 YEARS or a fine not exceeding [\$5,000] \$25,000 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[.]:

34 (I) the conduct may be [considered] CHARGED as one [violation]
35 CRIME; and

1 (II) the value of the benefit, credit, good, service, or other thing of
2 value may be aggregated in determining whether the [violation] CRIME is a felony or
3 misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (l) (1) A State's Attorney or the Attorney General may investigate and
18 prosecute a violation of this section or a violation of any crime based on the act
19 establishing a violation of this section.

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

24 (m) Notwithstanding any other provision of law, the prosecution of a violation
25 of this section or for a violation of any crime based on the act establishing a violation
26 of this section may be commenced in any county in which:

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

28 (2) the victim resides.

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