

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 1568 (Delegate Quinter)
 Judiciary

Identity Fraud Investigations - Notification - Motor Vehicle Administration

This bill requires a law enforcement agency to notify the Motor Vehicle Administration (MVA) in the event of an investigation of possible identity theft in which the agency obtains the driver’s license number of the alleged victim. The MVA is required to keep a record of the notification and make information about the driver’s license number and the possible identity theft available to a law enforcement officer who is making a check of the driver’s license number during a traffic stop.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$150,000 in FY 2006 only to modify computer programs in the MVA.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	150,000	0	0	0	0
Net Effect	(\$150,000)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that when an alleged victim of identity theft possesses a driver’s license and makes the license number available to a law enforcement agency

investigating the identity theft violations, the MVA must be notified and the agency must keep a record of the notification. The notification to the MVA must include a transmittal date, case number, identifying and contact information for the alleged victim, and the victim's driver license number.

When the MVA receives the notification from the law enforcement agency, the MVA must keep a record of the notification, and record that the driver's license number belongs to a possible victim of identity theft. The information recorded by the MVA must be made available to a law enforcement officer who is conducting a routine check of the driver's license of a person who is the subject of a traffic stop by the officer.

At the conclusion of the identity theft investigation, the law enforcement agency must notify the MVA, and include information as required by the bill. When the MVA receives notification about the conclusion of the investigation, the MVA must remove the recorded information about the identity theft investigation from its records. The MVA must adopt regulations to implement the bill, in consultation with the primary law enforcement officers of the State. The bill may not be construed to convey to a law enforcement officer any search and seizure powers otherwise prohibited.

Current Law: The term "personal identifying information" means: a name, address, telephone number, driver's license number, Social Security number, place of employment, employee identification number, mother's maiden name, bank or other financial institution account number, date of birth, personal identification number, credit card number, or other payment device number.

A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any individual's personal identifying information without the consent of that individual to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value in the name of that individual. A person may not knowingly and willfully assume the identity of another to avoid identification, apprehension, or prosecution for a crime or with fraudulent intent to get a benefit, credit, good, service, or other thing of value or to avoid payment of debts or other legal obligations.

A person who violates this identity fraud provision is guilty of a felony and is subject to maximum penalties of imprisonment for five years and/or a fine of \$25,000, if the benefit, credit, good, service, or other thing that is the subject of the crime is valued at \$500 or more. If the benefit or other thing has a value of less than \$500, then the violator is guilty of a misdemeanor and is subject to maximum penalties of imprisonment for 18 months and/or a fine of \$5,000.

If circumstances reasonably indicate that a person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without the individual's consent, the violator is guilty of a felony and is subject to imprisonment for up to five years and/or a fine of \$25,000. A person who knowingly and willfully assumes the identity of another to avoid identification, apprehension, or prosecution for a crime is guilty of a misdemeanor and subject to imprisonment for up to 18 months and/or a fine of \$5,000. If the violation is committed pursuant to a scheme or continuing course of conduct, the conduct may be considered one offense. The value of goods or services may be combined to determine whether the violation is a felony or misdemeanor.

Notwithstanding any other provision of law, the State may institute a prosecution for the misdemeanor of identity fraud at any time. For purposes of the Maryland Constitution, a person convicted of the misdemeanor offense of identity fraud is deemed to have committed a misdemeanor whose punishment is confinement in the penitentiary and may reserve a point or question for *in banc* review as provided by the Maryland Constitution. A violator of any of these provisions is subject to a court order for restitution and paying costs, including reasonable attorney's fees, related to restoring a victim's identity. A sentence under the identity fraud provisions may be imposed separate from and consecutive to, or concurrent with, a sentence for any crime based on the acts establishing the violation.

Law enforcement officers may operate without regard to jurisdictional boundaries to investigate identity fraud provisions, within specified limitations. The authority may be exercised only if an act related to the crime was committed in the jurisdiction of an investigative agency or a complaining witness resides in an investigating agency's jurisdiction. Notification of an investigation must be made to appropriate law enforcement personnel.

Background: Identity theft is commonly regarded as one of the fastest growing crimes in the United States. Thieves employ a variety of methods, including looking through dumpsters, watching people enter passwords, and "phishing" for personal information, over the telephone or via the Internet to siphon off the value of a person's good name and credit.

In September 2003, the Federal Trade Commission (FTC) released an *Identity Theft Survey Report*. From March through April of 2003, 4,057 adults were surveyed nationwide to determine the magnitude and impact of identity theft. A total of 4.6% of survey respondents indicated they were the victims of identity theft between 2002 and 2003. Extrapolation of this survey result suggested that 9.9 million Americans are victimized by identity theft annually. When asked about the last five years, 12.7% of the survey respondents indicated that they were the victims of identity theft involving setting

up new accounts, misuse of existing credit cards, or misuse of savings or checking accounts. Extrapolation of these survey results suggested that as many as 27 million Americans may have been victims of identity theft over the last five years.

The Identity Theft Data Clearinghouse, sponsored by FTC and Consumer Sentinel, a consortium of national and international law enforcement and private security entities, released *National and State Trends in Fraud and Identity Theft* for calendar 2004. The FTC received 246,570 identity theft consumer complaints in 2004. There were 214,905 identity theft reports in 2003

According to the FTC, in calendar 2004 Maryland was ranked thirteenth out of 50 states for identity theft, with 83 victims per 100,000 population and 4,612 identity theft victims. In calendar 2003, Maryland was ranked eleventh for identity theft with 764.9 victims per 100,000 population and 4,124 identity theft victims. The most common type of identity theft in Maryland was credit card fraud, occurring to 1,482 or 32% of victims. Phone or utilities fraud occurred in 21% of reported cases and bank fraud occurred in 17% of reported cases. The areas of Maryland that contained the highest reports of identity theft were Baltimore, Silver Spring, Laurel, Columbia, and Rockville. In a comparison of 49 major metropolitan areas, the Washington Metropolitan area ranked eighteenth for identity fraud complaints with 5,142 reported victims and a crime incidence of 107.1 per 100,000 population. The Baltimore Metropolitan area ranked thirtieth with 2,142 reported victims and a crime incidence of 83.9 per 100,000 population.

All 50 states and the District of Columbia have provisions relating to identity theft. The federal Identity Theft and Assumption Deterrence Act of 1998 made it a federal crime to knowingly transfer or use the means of identification of another person with the intent to commit a violation of federal law or a felony under any state or local law. The federal Fair and Accurate Credit Transactions Act of 2003 provides additional deterrence to identity theft, but also contains preemptions of state authority relating to enforcement of identity theft provisions enacted after 2003.

State Expenditures: TTF expenditures could increase by \$150,000 in fiscal 2006 only for computer modifications to implement the bill's provisions. A database would have to be created to interface with law enforcement agencies. Investigation reports and a function to compare driver's license numbers against the MVA database would also have to be created to implement the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Garrett County, Dorchester County, Judiciary (Administrative Office of the Courts), Department of State Police, Baltimore County, Anne Arundel County, Maryland Department of Transportation, Baltimore City, Department of Legislative Services

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