
By: **Delegates Petzold, Lee, and Menes**
 Introduced and read first time: January 26, 2006
 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Caregiver Convicted of Identity Fraud - Prohibition Against**
 3 **Contracting with Vulnerable Adult**

4 FOR the purpose of prohibiting a person convicted of a violation of the identity fraud
 5 law from entering into a contract to provide caregiver services to a vulnerable
 6 adult; establishing penalties for a violation of this Act; establishing that a
 7 contract for caregiver services between a vulnerable adult and a person
 8 convicted of violating the identity fraud law is voidable by a vulnerable adult;
 9 defining certain terms; and generally relating to contracts between vulnerable
 10 adults and caregivers.

11 BY repealing and reenacting, without amendments,
 12 Article - Criminal Law
 13 Section 3-604(a)(1), (3), and (10) and 8-301(b), (c), and (d)
 14 Annotated Code of Maryland
 15 (2002 Volume and 2005 Supplement)

16 BY adding to
 17 Article - Criminal Law
 18 Section 8-301.1
 19 Annotated Code of Maryland
 20 (2002 Volume and 2005 Supplement)

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 3-604.

25 (a) (1) In this section and §§ 3-605 and 3-606 of this subtitle the following
 26 words have the meanings indicated.

27 (3) "Caregiver" means a person under a duty to care for a vulnerable
 28 adult because of a contractual undertaking to provide care.

1 (10) "Vulnerable adult" means an adult who lacks the physical or mental
2 capacity to provide for the adult's daily needs.

3 8-301.

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

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

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

11 (2) with fraudulent intent to:

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

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

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

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

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

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

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

1 8-301.1.

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "CAREGIVER" HAS THE MEANING STATED IN § 3-604 OF THIS
5 ARTICLE.

6 (3) "VULNERABLE ADULT" HAS THE MEANING STATED IN § 3-604 OF THIS
7 ARTICLE.

8 (B) A PERSON CONVICTED OF A VIOLATION OF § 8-301 OF THIS SUBTITLE MAY
9 NOT ENTER INTO A CONTRACT TO PROVIDE SERVICES TO A VULNERABLE ADULT AS A
10 CAREGIVER.

11 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
12 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 18 MONTHS
13 OR A FINE NOT EXCEEDING \$5,000 OR BOTH.

14 (D) A CONTRACT FOR CAREGIVER SERVICES BETWEEN A VULNERABLE ADULT
15 AND A PERSON CONVICTED OF A VIOLATION OF § 8-301 OF THIS SUBTITLE IS
16 VOIDABLE BY A VULNERABLE ADULT.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2006.