

---

By: Delegates Lee, Barkley, Bronrott, Cadden, DeBoy, Doory, Dumais,  
Gilleland, Glassman, Goldwater, Gutierrez, Healey, Hogan, James,  
Kaiser, Madaleno, McComas, Menes, Montgomery, Petzold, Quinter,  
Shank, Shewell, Sophocleus, and Weir

Introduced and read first time: February 10, 2006

Assigned to: Judiciary

---

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Identity Fraud Victims - Judicial Determinations of**  
3 **Innocence and Victim Database**

4 FOR the purpose of authorizing a person who has learned or reasonably suspects that  
5 the person has been the victim of identity fraud to petition a court on the motion  
6 of the person or upon application of a certain prosecuting attorney for an  
7 expedited judicial determination of factual innocence with respect to certain  
8 offenses; establishing that a certain judicial determination of factual innocence  
9 may be heard and determined on certain evidence; requiring a court to make a  
10 certain finding after making a certain determination; requiring the court to  
11 issue a certain order certifying a certain determination; requiring the court to  
12 provide a certain victim with certain written documentation of a certain order;  
13 authorizing a court to order certain records, files, and indexes deleted, sealed, or  
14 labeled in a certain manner under certain circumstances; authorizing the court  
15 to vacate a certain order under certain circumstances; requiring the  
16 Administrative Office of the Courts to develop a certain form; requiring the  
17 Office to establish and maintain a certain database of certain victims of identity  
18 fraud; requiring the Office to provide certain persons access to the database for  
19 certain purposes; restricting access to a certain database; requiring a certain  
20 identity fraud victim to submit a certain order, fingerprints, and other  
21 information to the Office; requiring the Office to verify a certain identity in a  
22 certain manner; requiring the Office to establish and maintain a certain  
23 toll-free telephone number; defining a certain term; and generally relating to  
24 the establishment of an identity fraud victim database.

25 BY adding to

26 Article - Criminal Law

27 Section 8-305

28 Annotated Code of Maryland

29 (2002 Volume and 2005 Supplement)

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

3 **Article - Criminal Law**

4 8-305.

5 (A) IN THIS SECTION, "PROSECUTING ATTORNEY" HAS THE MEANING STATED  
6 IN § 11-101 OF THE CRIMINAL PROCEDURE ARTICLE.

7 (B) (1) A PERSON WHO HAS LEARNED OR REASONABLY SUSPECTS THAT THE  
8 PERSON HAS BEEN THE VICTIM OF IDENTITY FRAUD IN VIOLATION OF THIS  
9 SUBTITLE MAY PETITION A COURT ON THE MOTION OF THE PERSON OR ON  
10 APPLICATION OF A PROSECUTING ATTORNEY FOR AN EXPEDITED JUDICIAL  
11 DETERMINATION OF FACTUAL INNOCENCE WITH RESPECT TO AN OFFENSE  
12 DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION.

13 (2) A JUDICIAL DETERMINATION OF FACTUAL INNOCENCE MADE  
14 UNDER THIS SECTION MAY BE HEARD AND DETERMINED ON DECLARATIONS,  
15 AFFIDAVITS, POLICE REPORTS, OR OTHER RELEVANT MATERIAL AND RELIABLE  
16 INFORMATION SUBMITTED BY THE PARTIES OR ORDERED TO BE PART OF THE  
17 RECORD BY THE COURT.

18 (3) WHERE THE COURT DETERMINES THAT THE PETITION OR MOTION IS  
19 MERITORIOUS AND THAT THERE IS NO REASONABLE CAUSE TO BELIEVE THAT THE  
20 VICTIM COMMITTED THE OFFENSE FOR WHICH A DEFENDANT WAS ARRESTED,  
21 CHARGED, CONVICTED, OR SUBJECT TO A CRIMINAL COMPLAINT IN THE NAME OF  
22 THE VICTIM, OR THAT THE IDENTITY OF THE VICTIM HAS BEEN MISTAKENLY  
23 ASSOCIATED WITH A RECORD OF CRIMINAL CONVICTION, THE COURT SHALL FIND  
24 THE VICTIM FACTUALLY INNOCENT OF THAT OFFENSE.

25 (4) IF THE VICTIM IS FOUND FACTUALLY INNOCENT, THE COURT SHALL  
26 ISSUE AN ORDER CERTIFYING THIS DETERMINATION.

27 (C) (1) AFTER A COURT HAS ISSUED A DETERMINATION OF FACTUAL  
28 INNOCENCE UNDER THIS SECTION, THE COURT:

29 (I) SHALL PROVIDE THE VICTIM WRITTEN DOCUMENTATION OF  
30 THE ORDER; AND

31 (II) MAY ORDER THE NAME AND ASSOCIATED PERSONAL  
32 IDENTIFYING INFORMATION CONTAINED IN COURT RECORDS, FILES, AND INDEXES  
33 ACCESSIBLE BY THE PUBLIC DELETED, SEALED, OR LABELED TO SHOW THAT THE  
34 DATA IS IMPERSONATED AND DOES NOT REFLECT THE DEFENDANT'S IDENTITY.

35 (2) A COURT THAT HAS ISSUED A DETERMINATION OF FACTUAL  
36 INNOCENCE UNDER THIS SECTION MAY AT ANY TIME VACATE THAT  
37 DETERMINATION IF THE PETITION OR INFORMATION SUBMITTED IN SUPPORT OF  
38 THE PETITION IS FOUND TO CONTAIN MATERIAL MISREPRESENTATION OR FRAUD.

1 (D) (1) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL DEVELOP A  
2 FORM FOR USE IN ISSUING AN ORDER UNDER THIS SECTION.

3 (2) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ESTABLISH  
4 AND MAINTAIN A DATABASE OF PERSONS WHO HAVE BEEN VICTIMS OF IDENTITY  
5 FRAUD AND HAVE RECEIVED DETERMINATIONS OF FACTUAL INNOCENCE.

6 (3) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL PROVIDE A  
7 VICTIM OF IDENTITY FRAUD OR THE AUTHORIZED REPRESENTATIVE OF THE VICTIM  
8 ACCESS TO THE DATABASE IN ORDER TO ESTABLISH THAT THE VICTIM HAS BEEN A  
9 VICTIM OF IDENTITY FRAUD.

10 (4) ACCESS TO THE DATABASE SHALL BE LIMITED TO CRIMINAL  
11 JUSTICE AGENCIES, THE IDENTITY FRAUD VICTIM, AND ANY OTHER PERSONS AND  
12 AGENCIES AUTHORIZED BY THE VICTIM.

13 (5) IN ORDER FOR A VICTIM OF IDENTITY FRAUD TO BE INCLUDED IN  
14 THE DATABASE ESTABLISHED UNDER THIS SUBSECTION, THE IDENTITY FRAUD  
15 VICTIM SHALL SUBMIT TO THE ADMINISTRATIVE OFFICE OF THE COURTS THE  
16 COURT ORDER, A FULL SET OF FINGERPRINTS, AND ANY OTHER INFORMATION  
17 PRESCRIBED BY THE ADMINISTRATIVE OFFICE OF THE COURTS.

18 (6) ON RECEIVING INFORMATION UNDER THIS SUBSECTION, THE  
19 ADMINISTRATIVE OFFICE OF THE COURTS SHALL VERIFY THE IDENTITY OF THE  
20 VICTIM AGAINST A DRIVER'S LICENSE OR OTHER IDENTIFICATION RECORD  
21 MAINTAINED BY THE MOTOR VEHICLE ADMINISTRATION.

22 (E) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ESTABLISH AND  
23 MAINTAIN A TOLL-FREE TELEPHONE NUMBER TO PROVIDE ACCESS TO  
24 INFORMATION UNDER SUBSECTION (D) OF THIS SECTION.

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