

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 781

(Prince George's County Delegation and
Montgomery County Delegation)

Judiciary

Judicial Proceedings

**Park Police of the Maryland-National Capital Park and Planning Commission -
Identity Fraud and Notification of Investigations PG/MC 107-06**

This bill provides statewide jurisdiction for the park police of the Maryland-National Capital Park and Planning Commission (M-NCPPC) when investigating the fraudulent use of personal identifying information under the State's existing criminal prohibitions against identity fraud. If investigative or enforcement action is taken by any authorized police officer under this authority on property owned, leased, or operated by or under the control of M-NCPPC, notification of the investigation or enforcement action must be made to the M-NCPPC chief of police for the county in which the property is located.

Fiscal Summary

State Effect: Minimal. Any additional imprisonments or fines resulting from investigations authorized under this bill, or from subsequent enforcement actions, would not significantly affect State incarceration costs or finances.

Local Effect: Minimal. Any additional imprisonments or fines resulting from investigations authorized under this bill, or from subsequent enforcement actions, would not significantly affect local incarceration costs or finances.

Small Business Effect: Minimal or none.

Analysis

Current Law: 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. Statewide investigative authority, without regard to jurisdiction, is currently held by the State Police, the Maryland Transportation Authority Police, the Maryland Port Administration Police, and police officers of a municipal corporation or a county. Similar notification provisions also apply to investigations and enforcement actions taken on property owned, leased, or operated by or under the control of the Maryland Transportation Authority Police, the Maryland Port Administration Police, or a political subdivision of the State.

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 imprisonment not exceeding five years, a fine not exceeding \$25,000, or both, 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 imprisonment for up to 18 months and/or a fine up to \$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 up to \$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 up to \$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.

Chapter 579 of 2006 provided that a person who knows or reasonably suspects that he/she is a victim of identity fraud may contact a local law enforcement agency with jurisdiction over any part of the county where the victim lives or the crime occurred. A local law enforcement agency so contacted must promptly prepare and file a report regarding the alleged identity fraud and provide a copy of the report to the victim. The agency contacted by the victim may refer the matter to another law enforcement agency with proper jurisdiction. An agency is not required to count the report as an open case. These provisions are not to be interpreted to interfere with the allocation of resources for the investigation of crimes.

Background: The Identity Theft Data Clearinghouse, sponsored by the Federal Trade Commission (FTC) and the 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 2005. In calendar 2005, the FTC received 255,565 identity theft complaints. In calendar 2004, the number of identity theft complaints was 246,847.

In Maryland, residents reported 4,848 instances of identity theft in 2005, or 86.6 complaints per 100,000 population, ranking Maryland eleventh in the nation for identity theft. As has been the case for the last several years, the most common type of identity theft was credit card fraud, which comprised 31% of all complaints. The highest number of complaints came from the State's major urban areas: Baltimore City, Silver Spring, Hyattsville, Rockville, and Gaithersburg.

Chapters 241 and 242 of 2005 established a 21-member legislative task force on identity theft. To date, 14 of 21 members have been appointed. The task force is charged with

studying the problems associated with identity theft in Maryland and the privacy laws in other states. The task force is required to consult with federal agencies, agencies in other states, and identity theft experts during its investigation. The task force must also complete a survey of State agencies to determine compliance with State and federal laws regarding collection and use of Social Security numbers. Findings and recommendations for possible remedies to identity theft must be submitted to the General Assembly by December 31, 2006.

Additional Information

Prior Introductions: HB 534 of 2005, a similar bill, had a hearing before the House Judiciary Committee and was withdrawn.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Maryland-National Capital Park and Planning Commission, Department of Legislative Services

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