

HOUSE BILL 1036

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By: **Delegates Lee, Stein, Ali, Barkley, Bronrott, DeBoy, Dumais, Glenn, Goldwater, Healey, Heller, Hixson, Hubbard, Impallaria, James, Jones, Kramer, Krebs, Lawton, Manno, McComas, McDonough, Minnick, Montgomery, Nathan-Pulliam, Pendergrass, Ramirez, Robinson, Schuler, Shank, Shewell, Simmons, Smigiel, Sophocleus, Stocksdale, F. Turner, Valderrama, and Walkup**

Introduced and read first time: February 9, 2007

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud – Inducing Another to Provide Identifying**
3 **Information – Prohibited**

4 FOR the purpose of prohibiting the act of claiming to be another person without the
5 knowledge and consent of that person with the intent of soliciting, requesting,
6 persuading, or otherwise inducing another person to provide the personal
7 identifying information or payment device number of another person without
8 the knowledge and consent of that person; establishing a penalty; expanding the
9 definition of “personal identifying information”; and generally relating to the
10 unauthorized disclosure of personal identifying information or payment device
11 numbers and identity fraud.

12 BY repealing and reenacting, with amendments,
13 Article – Criminal Law
14 Section 8–301
15 Annotated Code of Maryland
16 (2002 Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Criminal Law

8–301.

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

(2) “Payment device number” has the meaning stated in § 8–213 of this title.

(3) “Personal identifying information” [means] **INCLUDES** 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.

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

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

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

(2) with fraudulent intent to:

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

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

(D) A PERSON MAY NOT KNOWINGLY AND WILLFULLY CLAIM TO REPRESENT ANOTHER PERSON WITHOUT THE KNOWLEDGE AND CONSENT OF THAT PERSON, WITH THE INTENT TO SOLICIT, REQUEST, OR TAKE ANY OTHER ACTION TO OTHERWISE INDUCE ANOTHER PERSON TO PROVIDE PERSONAL IDENTIFYING INFORMATION OR A PAYMENT DEVICE NUMBER.

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

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

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

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

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

18 [(e)] **(F)** A person described in subsection [(d)(2)] **(E)(2)** or (4) of this
19 section is subject to § 5-106(b) of the Courts Article.

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

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

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

28 [(g)] **(H)** A sentence under this section may be imposed separate from and
29 consecutive to or concurrent with a sentence for any crime based on the act or acts
30 establishing the violation of this section.

31 [(h)] **(I)** Notwithstanding any other law, the Department of State Police
32 may initiate investigations and enforce this section throughout the State without

1 regard to any limitation otherwise applicable to that department's activities in a
2 municipal corporation or other political subdivision.

3 [(i)] **(J)** (1) Notwithstanding any other law, a law enforcement officer of
4 the Maryland Transportation Authority Police, the Maryland Port Administration
5 Police, the park police of the Maryland–National Capital Park and Planning
6 Commission, or a municipal corporation or county may investigate violations of this
7 section throughout the State without any limitation as to jurisdiction and to the same
8 extent as a law enforcement officer of the Department of State Police.

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

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

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

18 [(j)] **(K)** If action is taken under the authority granted in subsection [(i)]
19 **(J)** of this section, notification of an investigation:

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

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

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

26 (4) in Baltimore City, shall be made to the Police Commissioner or the
27 Police Commissioner's designee;

28 (5) on property owned, leased, or operated by or under the control of
29 the Maryland Transportation Authority, the Maryland Aviation Administration, or the
30 Maryland Port Administration, shall be made to the respective chief of police or the
31 chief's designee; and

1 (6) on property owned, leased, or operated by or under the control of
2 the Maryland–National Capital Park and Planning Commission, to the chief of police
3 of the Maryland–National Capital Park and Planning Commission for the county in
4 which the property is located.

5 ~~[(k)]~~ (L) When acting under the authority granted in subsection ~~[(h) or]~~ (i)
6 **OR (J)** of this section, a law enforcement officer:

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

10 (2) remains an employee of the officer’s employing agency.

11 ~~[(1)]~~ (M) (1) A State’s Attorney or the Attorney General may investigate
12 and prosecute a violation of this section or a violation of any crime based on the act
13 establishing a violation of this section.

14 (2) If the Attorney General exercises authority under paragraph (1) of
15 this subsection, the Attorney General has all the powers and duties of a State’s
16 Attorney, including the use of a grand jury in any county or Baltimore City, to
17 investigate and prosecute the violation.

18 ~~[(m)]~~ (N) Notwithstanding any other provision of law, the prosecution of a
19 violation of this section or for a violation of any crime based on the act establishing a
20 violation of this section may be commenced in any county in which:

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

22 (2) the victim resides.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.