

HOUSE BILL 1113

E1

8lr1089
CF SB 60

By: **Delegates Lee, McComas, and Niemann (Task Force to Study Identity Theft) and Delegates Barkley, Barnes, Benson, Bronrott, DeBoy, Dumais, Frick, Gutierrez, Howard, James, Jones, Kaiser, Kramer, Krebs, Kullen, Levy, Montgomery, Pena-Melnyk, Pendergrass, Ramirez, Schuh, Schuler, Shank, Smigiel, Stocksdales, Valderrama, and Waldstreicher**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud – Felony or Violations Involving Repeat Offender, Fiduciary,**
3 **or Vulnerable Adult – Penalties**

4 FOR the purpose of increasing the penalty for a person who commits identity fraud
5 where the benefit, credit, good, service, or other thing of value that is the
6 subject of the offense has a value of \$500 or greater; increasing the penalty for a
7 person who commits identity fraud under circumstances that reasonably
8 indicate that the person's intent was to manufacture, distribute, or dispense
9 another individual's personal identifying information without that individual's
10 consent; providing an enhanced penalty for a person who commits identity fraud
11 while serving as a fiduciary for the victim; providing an enhanced penalty for a
12 person who commits identity fraud in circumstances in which the victim is a
13 vulnerable adult; providing an enhanced penalty for a person convicted of the
14 crime of identity fraud who has been convicted previously of identity fraud;
15 defining certain terms; and generally relating to penalties for identity fraud.

16 BY repealing and reenacting, without amendments,
17 Article – Criminal Law
18 Section 8–301(b), (c), (d), and (h)
19 Annotated Code of Maryland
20 (2002 Volume and 2007 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Criminal Law
23 Section 8–301(a) and (e)
24 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2002 Volume and 2007 Supplement)

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

Article – Criminal Law

8–301.

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

(2) “FIDUCIARY” MEANS A PERSONAL REPRESENTATIVE, TRUSTEE, AGENT ACTING UNDER A POWER OF ATTORNEY, OR OTHER PERSON AUTHORIZED TO ACT IN A POSITION OF TRUST WITH RESPECT TO THE PROPERTY OF ANOTHER PERSON.

~~[(2)]~~ **(3)** “Payment device number” has the meaning stated in § 8–213 of this title.

~~[(3)]~~ **(4)** “Personal identifying information” 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.

(5) “VULNERABLE ADULT” HAS THE MEANING STATED IN § 3–604 OF THIS ARTICLE.

(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.

(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] **15** years or a fine not exceeding [\$25,000] **\$50,000** or both.

(2) 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 less than \$500 is guilty of a misdemeanor and on conviction is subject to:

(I) **FOR A FIRST VIOLATION**, imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both; **OR**

(II) **FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

(3) A person who violates this section under circumstances that reasonably indicate that the person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without that individual's consent is guilty of a felony and on conviction is subject to imprisonment not exceeding [5] **15** years or a fine not exceeding [\$25,000] **\$50,000** or both.

(4) **A PERSON WHO VIOLATES THIS SECTION WHILE SERVING AS A FIDUCIARY FOR THE VICTIM IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

(5) **A PERSON WHO VIOLATES THIS SECTION IN CIRCUMSTANCES IN WHICH THE VICTIM IS A VULNERABLE ADULT IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

[(4)] (6) A person who violates subsection (c)(1) or (d) of this section is guilty of a misdemeanor and on conviction is subject to:

(I) **FOR A FIRST VIOLATION**, imprisonment not exceeding 18 months or a fine not exceeding \$5,000 or both; **OR**

(II) **FOR EACH SUBSEQUENT VIOLATION, IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

1 [(5)] (7) When the violation of this section is pursuant to one scheme
2 or continuing course of conduct, whether from the same or several sources, the conduct
3 may be considered as one violation and the value of the benefit, credit, good, service, or
4 other thing of value may be aggregated in determining whether the violation is a
5 felony or misdemeanor.

6 (h) A sentence under this section may be imposed separate from and
7 consecutive to or concurrent with a sentence for any crime based on the act or acts
8 establishing the violation of this section.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2008.