

SENATE BILL 624

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CF 3lr2350

By: **Senator Pugh (Commission on Maryland Cybersecurity Innovation and Excellence)**

Introduced and read first time: February 1, 2013

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Identity Fraud – Medical Records**

3 FOR the purpose of prohibiting a person from knowingly, willfully, and with
4 fraudulent intent, possessing, obtaining, or helping another to possess or obtain
5 personal identifying information to access medical information or services;
6 prohibiting a person from knowingly and willfully assuming the identity of a
7 natural or a fictitious person with fraudulent intent to access medical
8 information or services; prohibiting a person from using a certain device
9 knowingly, willfully, and with fraudulent intent to access medical information
10 or services; providing penalties for a violation of this Act; authorizing a court to
11 order a certain person to make restitution for clearing the medical history or
12 records of a victim; altering a certain definition; and generally relating to
13 identity fraud.

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 8–301(a) through (d), (g), and (i)
17 Annotated Code of Maryland
18 (2012 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, without amendments,
20 Article – Criminal Law
21 Section 8–301(e), (f), (h), and (j)
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2012 Supplement)

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

26 **Article – Criminal Law**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 8-301.

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

3 (2) "Payment device number" has the meaning stated in § 8-213 of
4 this title.

5 (3) (I) "Personal identifying information" includes a name, address,
6 telephone number, driver's license number, Social Security number, place of
7 employment, employee identification number, **HEALTH INSURANCE**
8 **IDENTIFICATION NUMBER, MEDICAL IDENTIFICATION NUMBER**, mother's maiden
9 name, bank or other financial institution account number, date of birth, personal
10 identification number, **UNIQUE BIOMETRIC DATA, INCLUDING FINGERPRINT,**
11 **VOICE PRINT, RETINA OR IRIS IMAGE OR OTHER UNIQUE PHYSICAL**
12 **REPRESENTATION, DIGITAL SIGNATURE**, credit card number, or other payment
13 device number.

14 (II) **"PERSONAL IDENTIFYING INFORMATION" MAY BE**
15 **DERIVED FROM ANY ELEMENT IN SUBPARAGRAPH (I) OF THIS PARAGRAPH,**
16 **ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO IDENTIFY A**
17 **SPECIFIC NATURAL OR FICTITIOUS INDIVIDUAL.**

18 (4) "Re-encoder" means an electronic device that places encoded
19 personal identifying information or a payment device number from the magnetic strip
20 or stripe of a credit card onto the magnetic strip or stripe of a different credit card or
21 any electronic medium that allows such a transaction to occur.

22 (5) "Skimming device" means a scanner, skimmer, reader, or any other
23 electronic device that is used to access, read, scan, obtain, memorize, or store,
24 temporarily or permanently, personal identifying information or a payment device
25 number encoded on the magnetic strip or stripe of a credit card.

26 (b) A person may not knowingly, willfully, and with fraudulent intent
27 possess, obtain, or help another to possess or obtain any personal identifying
28 information of an individual, without the consent of the individual, in order to use,
29 sell, or transfer the information to get a benefit, credit, good, service, or other thing of
30 value **OR TO ACCESS MEDICAL INFORMATION OR SERVICES** in the name of the
31 individual.

32 (c) A person may not knowingly and willfully assume the identity of another,
33 including a fictitious person:

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

35 (2) with fraudulent intent to:

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

3 (ii) **ACCESS MEDICAL INFORMATION OR SERVICES; OR**

4 **(III)** avoid the payment of debt or other legal obligation.

5 (d) A person may not knowingly, willfully, and with fraudulent intent to
6 obtain a benefit, credit, good, service, or other thing of value **OR TO ACCESS MEDICAL**
7 **INFORMATION OR SERVICES**, use:

8 (1) a re-encoder to place information encoded on the magnetic strip or
9 stripe of a credit card onto the magnetic strip or stripe of a different credit card or use
10 any other electronic medium that allows such a transaction to occur without the
11 consent of the individual authorized to use the credit card from which the personal
12 identifying information or payment device number is being re-encoded; or

13 (2) a skimming device to access, read, scan, obtain, memorize, or store
14 personal identifying information or a payment device number on the magnetic strip or
15 stripe of a credit card without the consent of the individual authorized to use the
16 credit card.

17 (e) A person may not knowingly, willfully, and with fraudulent intent
18 possess, obtain, or help another possess or obtain a re-encoder device or a skimming
19 device for the unauthorized use, sale, or transfer of personal identifying information or
20 a payment device number.

21 (f) A person may not knowingly and willfully claim to represent another
22 person without the knowledge and consent of that person, with the intent to solicit,
23 request, or take any other action to otherwise induce another person to provide
24 personal identifying information or a payment device number.

25 (g) (1) A person who violates this section where the benefit, credit, good,
26 service, **MEDICAL INFORMATION OR SERVICES**, or other thing of value that is the
27 subject of subsection (b), (c), or (d) of this section has a value of \$500 or greater is
28 guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years
29 or a fine not exceeding \$25,000 or both.

30 (2) A person who violates this section where the benefit, credit, good,
31 service, **MEDICAL INFORMATION OR SERVICES**, or other thing of value that is the
32 subject of subsection (b), (c), or (d) of this section has a value of less than \$500 is guilty
33 of a misdemeanor and on conviction is subject to imprisonment not exceeding 18
34 months or a fine not exceeding \$5,000 or both.

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

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

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

14 (h) A person described in subsection (g)(2) or (4) of this section is subject to §
15 5-106(b) of the Courts Article.

16 (i) In addition to restitution under Title 11, Subtitle 6 of the Criminal
17 Procedure Article, a court may order a person who pleads guilty or nolo contendere or
18 who is found guilty under this section to make restitution to the victim for reasonable
19 costs, including reasonable attorney's fees, incurred:

20 (1) for clearing the victim's credit history or credit rating; [and]

21 (2) **FOR CLEARING THE VICTIM'S MEDICAL HISTORY OR RECORDS;**
22 **AND**

23 **(3)** in connection with a civil or administrative proceeding to satisfy a
24 debt, lien, judgment, or other obligation of the victim that arose because of the
25 violation.

26 (j) A sentence under this section may be imposed separate from and
27 consecutive to or concurrent with a sentence for any crime based on the act or acts
28 establishing the violation of this section.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2013.