

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1471
Judiciary

(Delegate Embry)

Consumer Protection - Identity Theft Debt

This bill establishes procedures, including required notices and investigations, to allow a consumer to have debt declared as “identity theft debt” and authorizes a consumer to file a civil action related to the debt. It is an affirmative defense to a claim against a creditor that the consumer agreed to incur the debt before or after it was incurred or received the benefit of the debt while knowing that it was incurred in the consumer’s name. There is a rebuttable presumption that a debt is identity theft debt if an individual is found guilty, pleads guilty, or receives probation before judgment for a violation of § 8-301 of the Criminal Law Article (identity fraud) that gave rise to the debt. A consumer may not waive any protections granted under the bill, and nothing in the bill may be construed to prevent a consumer from pursuing any other remedy provided by law. A creditor may seek to recover an identity theft debt from a person that caused the debt to be incurred.

Fiscal Summary

State Effect: General fund expenditures increase by \$13,000 in FY 2027 only for one-time computer programming. Otherwise, the bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Definitions

“Consumer” means an individual subject to a debt.

“Evidence” includes a police report; a report made to a law enforcement agency; a Federal Trade Commission identity theft report; a report made to the Office of the Attorney General; a report made to the consumer protection office of a local government; a record of a guilty plea, conviction, or probation before judgment; and an identity theft passport under § 8-305 of the Criminal Law Article.

“Identity theft debt” means any part of a debt that is incurred by someone other than the person who is authorized to incur the debt.

Required Notice, Investigations, and Determinations of Identity Theft Debt

A consumer may send written notice alleging that debt owed by the consumer to a creditor is identity theft debt. The notice must be sent by certified mail or any means sufficient for service under the Maryland Rules and include evidence supporting the assertion that the debt is identity theft debt. On receipt of this notice, a creditor must cease any debt collection activity relating to the debt and may not sell the debt, as specified. Cessation of debt collection activity (1) is not an admission of guilt, liability, or viability or nonviability of the subject debt and (2) does not waive any right or defense available to the consumer or creditor in any proceeding.

A creditor must conduct and conclude a reasonable investigation of allegations contained in the written notice no later than 30 days after receiving the notice. The investigation must consider any evidence provided by the consumer and any relevant evidence in the possession of the creditor.

If the creditor determines that the debt is not identity theft debt, the creditor must notify the consumer in writing of the result of the investigation and the reason for the creditor’s conclusion and provide the consumer with a copy of any record or evidence that formed the basis for the creditor’s conclusion.

If the creditor determines that the debt is identity theft debt, the creditor must notify the consumer in writing of the result of the investigation. The creditor is also required to permanently cease any debt collection activities relating to the identity theft debt, including (1) voluntarily dismissing any pending litigation relating to the identity theft debt;

(2) terminating any agreement with any debt collector contracted to collect the identity theft debt; and (3) notifying consumer reporting agencies to delete or modify records relating to the debt. Any time limitation on debt collection must be tolled for any period during which a creditor is prohibited from collecting the debt under the bill.

Civil Actions

Except during the 30-day investigation period, a consumer may file an action in the circuit court in the county in which the consumer lives or where the subject debt was incurred, alleging that all or part of the subject debt is identity theft debt or that a creditor violated the procedural requirements of the bill. The filing must include a copy of the required notice and any evidence provided to the creditor and information identifying the accounts associated with the debt. A consumer may demand a jury trial, and a creditor may not collect or attempt to collect a debt that is subject to the action during the pendency of the proceeding.

A consumer who proves by a preponderance of the evidence that a creditor violated a provision of the bill is entitled to (1) a declaratory judgment that a debt is partially or wholly identity theft debt and (2) an injunction prohibiting a creditor from holding or attempting to hold the consumer liable for the identity theft debt, enforcing or attempting to enforce a judgment related to the identity theft debt, or assigning the identity theft debt to a third party.

If a consumer prevails in an action, the alleged identity theft debtor is entitled to damages, court costs, and reasonable attorney's fees. If a consumer proves by a preponderance of the evidence that a creditor knowingly failed to comply with the procedural requirements of the bill, the consumer is entitled to double damages, court costs, and reasonable attorney's fees.

Current Law: The identity fraud statute contains several prohibitions. Among other things, the statute prohibits a person from knowingly, willfully, and with fraudulent intent possessing, obtaining, or helping another to possess or obtain any "personal identifying information" (*e.g.*, name, address, Social Security number, date of birth, mother's maiden name, etc.) 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 or to access health information or health care. A person also may not knowingly and willfully assume the identity of another, including a fictitious person (1) to avoid identification, apprehension, or prosecution for a crime or (2) with fraudulent intent to get a benefit, credit, good, service, or other thing of value; access health information or health care; or avoid the payment of debt or other legal obligation.

Violators of this prohibition are subject to the following penalties, based on the value involved:

- at least \$100 but less than \$1,500 – misdemeanor, imprisonment for up to 1 year and/or a \$500 maximum fine;
- at least \$1,500 but less than \$25,000 – felony, imprisonment for up to 5 years and/or a \$10,000 maximum fine;
- at least \$25,000 but less than \$100,000 – felony, imprisonment for up to 10 years and/or a \$15,000 maximum fine; and
- \$100,000 or more – felony, imprisonment for up to 20 years and/or a \$25,000 maximum fine.

The statute also prohibits a person from maliciously using an “interactive computer service” to disclose or assist another person to disclose the driver’s license number, bank or other financial institution account number, credit card number, payment device number, Social Security number, or employee identification number of an individual, without the consent of the individual, in order to annoy, threaten, embarrass, or harass the individual. Violators are guilty of a misdemeanor punishable by imprisonment for up to one year and/or a \$500 maximum fine.

“Interactive computer service” means an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a system that provides access to the Internet and cellular phones.

Under § 8-305 of the Criminal Law Article, an “identity theft passport” means a card or certificate issued by the Attorney General that verifies the identity of the person who is a victim of identity fraud. Section 8-305 contains procedures for the application for and issuance of an identity theft passport.

State Expenditures: General fund expenditures for the Judiciary increase by \$12,952 in FY 2027 only for one-time computer programming to implement the bill.

According to the Judiciary, during fiscal 2025, there were 1,224 charges, 170 guilty dispositions, and 22 probations before judgment under the identity fraud statute in the District Court. During fiscal 2025, there were 253 charges, 67 guilty dispositions, and 4 probations before judgment for identity fraud in the circuit courts.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Office of the Attorney General (Consumer Protection Division); Judiciary (Administrative Office of the Courts); Maryland Department of Labor; Department of Legislative Services

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Analysis by: Amy A. Devadas

Direct Inquiries to:
(410) 946-5510
(301) 970-5510