

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

Committee Report: Favorable

House action: Adopted

Read second time: March 19, 2007

CHAPTER _____

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2002 Volume and 2006 Supplement)

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

4 **Article – Criminal Law**

5 8–301.

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

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

9 (3) “Personal identifying information” [means] **INCLUDES** a name,
10 address, telephone number, driver’s license number, Social Security number, place of
11 employment, employee identification number, mother’s maiden name, bank or other
12 financial institution account number, date of birth, personal identification number,
13 credit card number, or other payment device number.

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

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

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

21 (2) with fraudulent intent to:

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

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

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

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

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

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

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

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

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

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

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

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

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

4 **[(h)] (I)** Notwithstanding any other law, the Department of State Police
5 may initiate investigations and enforce this section throughout the State without
6 regard to any limitation otherwise applicable to that department's activities in a
7 municipal corporation or other political subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (2) remains an employee of the officer's employing agency.

15 [(1)] (M) (1) A State's Attorney or the Attorney General may investigate
16 and prosecute a violation of this section or a violation of any crime based on the act
17 establishing a violation of this section.

18 (2) If the Attorney General exercises authority under paragraph (1) of
19 this subsection, the Attorney General has all the powers and duties of a State's
20 Attorney, including the use of a grand jury in any county or Baltimore City, to
21 investigate and prosecute the violation.

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

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

26 (2) the victim resides.

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