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HOUSE BILL NO. 373

Offered January 12, 2000

A BILL to amend the Code of Virginia by adding a section numbered 18.2-186.3, and to repeal §§ 18.2-204.1 and 18.2-204.2 of the Code of Virginia, relating to identity fraud; penalty.

Patrons—Byron, Bryant, Cantor, Drake, Kilgore, Landes, McDonnell, O'Brien and Suit

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered § 18.2-186.3 as follows:

§ 18.2-186.3. Identity fraud; penalty.

A. A person commits the offense of identity fraud when without the authorization or permission of another person and with the intent to unlawfully appropriate the identity of another for his or her own use or to the use of a third party he:

1. Obtains or records identifying information that would assist in accessing financial resources, obtaining identification documents, or obtaining benefits of another; or

2. Accesses or attempts to access the financial resources of another through the use of identifying information; or

3. Obtains or attempts to obtain goods or services in another's name through the use of identifying information; or

4. Obtains or attempts to obtain identification documents in another's name; or

5. Uses or attempts to use identification documents or identifying information of another to avoid summons, arrest, prosecution, or to impede a criminal investigation.

Such identifying information shall include but not be limited to: (i) name; (ii) date of birth; (iii) social security number; (iv) driver's license number; (v) bank account numbers; (vi) credit and/or debit card numbers; (vii) personal identification numbers (PIN); (viii) electronic identification numbers; (ix) automated and/or electronic signatures; (x) biometric data; (xi) fingerprints; (xii) password; and, (xiii) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain goods or services.

B. The prohibitions set forth in subsection A of this section shall not apply to:

1. The lawful obtaining of credit information in the course of a bona fide consumer or commercial transaction;

2. The lawful, good faith exercise of a security interest or a right to offset by a creditor or a financial institution;

3. The lawful, good faith compliance by any party required by any warrant, levy, garnishment, attachment, court order, or other administrative order, decree, or directive; or,

4. The use of such information as part of a criminal investigation by a law-enforcement officer as defined in § 9-169.

The exemptions in this subsection shall not apply to a person intending to further a scheme to violate the provisions of subsection A of this section.

C. Violations of this section shall be punishable as a Class 1 misdemeanor. Any second or subsequent conviction shall be punishable as a Class 6 felony. In any proceeding brought pursuant to this section, the crime shall be considered to have been committed in any county or city in which any part of the offense took place, regardless of whether the defendant was ever actually in such county or city.

D. Upon conviction, in addition to any other punishment, a person found guilty of this offense shall be ordered by the court to make restitution as provided for in § 19.2-305.2 to any victims of such fraud.

2. That §§ 18.2-204.1 and 18.2-204.2 of the Code of Virginia are repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 in FY 2010.

INTRODUCED

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