

H-8184

1 Amend House File 2429 as follows:

2 1. By striking everything after the enacting clause  
3 and inserting:

4 <Section 1. Section 715A.8, Code 2011, is amended  
5 to read as follows:

6 **715A.8 Identity theft — offenses — penalties.**

7 1. *a.* For purposes of this section, "*identification*  
8 *information*" includes, but is not limited to, the  
9 name, address, date of birth, telephone number,  
10 driver's license number, nonoperator's identification  
11 card number, social security number, student  
12 identification number, military identification number,  
13 alien identification or citizenship status number,  
14 employer identification number, signature, electronic  
15 mail signature, electronic identifier or screen  
16 name, biometric identifier, genetic identification  
17 information, access device, logo, symbol, trademark,  
18 place of employment, employee identification number,  
19 parent's legal surname prior to marriage, demand  
20 deposit account number, savings or checking account  
21 number, or credit card number of a person.

22 *b.* For purposes of this section, "*financial*  
23 *institution*" means the same as defined in section  
24 527.2, and includes an insurer organized under Title  
25 XIII, subtitle 1, of this Code, or under the laws of  
26 any other state or the United States.

27 2. *a.* A person commits the offense of identity  
28 theft if ~~the person fraudulently uses or attempts to~~  
29 ~~fraudulently use identification information of another~~  
30 ~~person, with the intent to obtain credit, property,~~  
31 ~~services, or other benefit knowingly takes, purchases,~~  
32 ~~manufactures, records, possesses, uses, or attempts to~~  
33 ~~take, purchase, manufacture, record, possess, or use~~  
34 ~~identification information of another person or entity~~  
35 ~~without the consent of the other person or entity~~  
36 ~~with the intent to obtain or use the identification~~  
37 ~~information for any unlawful purpose, to cause loss~~  
38 ~~to the other person or entity, to obtain or continue~~  
39 ~~employment, or to obtain any pecuniary benefit to which~~  
40 ~~the person would not otherwise be entitled. An offense~~  
41 ~~is committed regardless of whether the other person or~~  
42 ~~entity actually suffers any economic loss as a result~~  
43 ~~of the offense or whether the person actually obtains~~  
44 ~~any pecuniary benefit.~~

45 *b.* A person commits the offense of knowingly  
46 accepting the identity of another person if the person,  
47 in hiring an employee, knowingly does both of the  
48 following:

49 (1) Accepts any identification information of  
50 another person with knowledge that the other person

1 presenting the identification information is not  
2 the actual person identified by that identification  
3 information.

4 (2) Uses the identification information for the  
5 purpose of determining whether the person who presented  
6 the identification information has the legal right or  
7 authorization under federal law to work in the United  
8 States as described and determined pursuant to the  
9 processes and procedures under 8 U.S.C. § 1324a.

10 c. (1) A person commits the offense of aggravated  
11 identity theft if the person does either of the  
12 following:

13 (a) Knowingly takes, purchases, manufactures,  
14 records, possesses, uses, or attempts to take,  
15 purchase, manufacture, record, possess, or use  
16 identification information of five or more other  
17 persons or entities without the consent of the other  
18 persons or entities with the intent to obtain or  
19 use the identification information for any unlawful  
20 purpose, to cause loss to the persons or entities, or  
21 to obtain any pecuniary benefit to which the person  
22 would not otherwise be entitled. An offense is  
23 committed regardless of whether the persons or entities  
24 actually suffer any economic loss as a result of the  
25 offense or whether the person actually obtains any  
26 pecuniary benefit.

27 (b) Commits the offense of identity theft under  
28 paragraph "a" and causes another person or entity to  
29 suffer an economic loss of three thousand dollars or  
30 more.

31 (2) In an action for aggravated identity  
32 theft pursuant to this paragraph "c", proof of  
33 possession outside the regular course of business of  
34 identification information of five or more persons  
35 or entities may give rise to an inference that the  
36 identification information was possessed for an  
37 unlawful purpose.

38 d. A person commits the offense of trafficking  
39 identity theft if the person knowingly sells,  
40 transfers, or transmits any identification information  
41 of another person or entity without the consent of  
42 the other person or entity for any unlawful purpose,  
43 to cause loss to the person or entity, or to obtain  
44 any pecuniary benefit to which the person would  
45 not otherwise be entitled. An offense is committed  
46 regardless of whether the other person or entity  
47 actually suffers any economic loss as a result of the  
48 offense or whether the person actually obtains any  
49 pecuniary benefit.

50 3. If the value of the credit, property, or

1 ~~services exceeds one thousand dollars, the person~~  
2 ~~commits a class "D" felony. If the value of the~~  
3 ~~credit, property, or services does not exceed one~~  
4 ~~thousand dollars, the person commits an aggravated~~  
5 ~~misdemeanor. A violation of this subsection shall be~~  
6 ~~punishable as follows:~~  
7 a. A person who violates subsection 2, paragraph  
8 "a", commits a class "D" felony.  
9 b. A person who violates subsection 2, paragraph  
10 "b", commits a class "D" felony, and notwithstanding  
11 section 902.9, subsection 5, shall be punished by  
12 confinement for no more than seven years and a fine of  
13 at least eight hundred fifty dollars but not more than  
14 eight thousand five hundred dollars.  
15 c. A person who violates subsection 2, paragraph  
16 "c", commits a class "C" felony.  
17 d. A person who violates subsection 2, paragraph  
18 "d", commits a class "C" felony, and notwithstanding  
19 section 902.9, subsection 4, shall be punished by  
20 confinement for no more than twelve years and a fine of  
21 at least one thousand two hundred fifty dollars but not  
22 more than ten thousand two hundred fifty dollars.  
23 4. A person of the applicable age indicated  
24 in this section who knowingly takes, purchases,  
25 manufactures, records, possesses, uses, or attempts  
26 to take, purchase, manufacture, record, possess, or  
27 use identification information of another person or  
28 entity for the following purposes may be considered  
29 to have violated the applicable statute or ordinance  
30 governing such purposes but shall not be considered to  
31 have committed any offense of identity theft under this  
32 section:  
33 a. Possession or purchase of alcohol by a person  
34 under the age of twenty-one.  
35 b. Entry by a person under the age of twenty-one  
36 onto the premises of an establishment where one may  
37 purchase alcoholic beverages as defined in section  
38 123.3 for consumption on the premises and in which the  
39 -serving of food is only incidental to the consumption  
40 of those beverages.  
41 c. Entry by a person under the age of seventeen  
42 onto the premises of a motion picture theater for the  
43 viewing of a motion picture which is prohibited to be  
44 viewed by persons under the age of seventeen.  
45 d. Possession or purchase of cigarettes or tobacco  
46 products by a person under the age of eighteen.  
47 e. Entry by a person under the age of twenty-one  
48 onto the premises of a racetrack, excursion boat, or  
49 gambling structure.  
50 f. Entry by a person under the age of eighteen onto

1 the premises of a business establishment other than  
2 an establishment identified in paragraph "b", "c", or  
3 "e" of this section where such entry is prohibited by  
4 persons under the age of eighteen.  
5 g. Obtaining employment in violation of chapter 92.  
6 ~~4.~~ 5. A violation of this section is an unlawful  
7 practice under section 714.16.  
8 ~~5.~~ 6. Violations of this section shall be  
9 prosecuted in any of the following venues:  
10 a. In the county in which the violation occurred.  
11 b. If the violation was committed in more than  
12 one county, or if the elements of the offense were  
13 committed in more than one county, then in any county  
14 where any violation occurred or where an element of the  
15 offense occurred.  
16 c. In the county where the victim resides.  
17 d. In the county where the property that was  
18 ~~fraudulently used or attempted to be used~~ subject to  
19 the violation was located at the time of the violation.  
20 ~~6.~~ 7. Any real or personal property obtained by  
21 a person as a result of a violation of this section,  
22 including but not limited to any money, interest,  
23 security, claim, contractual right, or financial  
24 instrument that is in the possession of the person,  
25 shall be subject to seizure and forfeiture pursuant  
26 to chapter 809A. A victim injured by a violation  
27 of this section, or a financial institution that  
28 has indemnified a victim injured by a violation of  
29 this section, may file a claim as an interest holder  
30 pursuant to section 809A.11 for payment of damages  
31 suffered by the victim including costs of recovery and  
32 reasonable attorney fees.  
33 ~~7.~~ 8. A financial institution may file a complaint  
34 regarding a violation of this section on behalf of a  
35 victim and shall have the same rights and privileges as  
36 the victim if the financial institution has indemnified  
37 the victim for such violations.  
38 ~~8.~~ 9. Upon the request of a victim, a peace  
39 officer in any jurisdiction described in subsection 5  
40 6 shall take a report regarding an alleged violation  
41 of this section and shall provide a copy of the  
42 report to the victim. The report may also be provided  
43 to any other law enforcement agency in any of the  
44 jurisdictions described in subsection 5 6.>

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BALTIMORE of Boone