

SENATE BILL 401

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CF 3lr1380

By: **Senator Kramer**

Introduced and read first time: February 1, 2023

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Human Services – Electronic Benefits Transfer Cards – Theft and**
3 **Restoration of Benefits**

4 FOR the purpose of requiring local departments of social services to maintain a secure
5 Electronic Benefits Transfer card system, monitor Electronic Benefits Transfer
6 card activity in a certain manner, provide certain notification to certain
7 households, include a certain microchip in Electronic Benefits Transfer cards, and
8 implement certain settings on Electronic Benefits Transfer cards; requiring, on or
9 before a certain date, certain retailers to upgrade certain pay systems in a certain
10 manner; requiring local departments of social services to restore certain benefits
11 lost due to theft; authorizing certain households to request a certain hearing under
12 certain circumstances; and generally relating to electronic benefits.

13 BY adding to

14 Article – Human Services

15 Section 5–609

16 Annotated Code of Maryland

17 (2019 Replacement Volume and 2022 Supplement)

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

20 **Article – Human Services**

21 **5–609.**

22 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) (I) “PERSONAL IDENTIFYING INFORMATION” HAS THE**
2 **MEANING STATED IN § 8–301 OF THE CRIMINAL LAW ARTICLE.**

3 **(II) “PERSONAL IDENTIFYING INFORMATION” INCLUDES AN**
4 **ELECTRONIC BENEFITS TRANSFER CARD NUMBER OR PERSONAL IDENTIFICATION**
5 **NUMBER.**

6 **(3) “SKIMMING PRACTICES” INCLUDES:**

7 **(I) USE OF A SKIMMING DEVICE, INCLUDING A SCANNER,**
8 **SKIMMER, READER, OR OTHER ELECTRONIC DEVICE USED TO ACCESS, READ, SCAN,**
9 **OBTAIN, MEMORIZE, OR STORE, TEMPORARILY OR PERMANENTLY, PERSONAL**
10 **IDENTIFYING INFORMATION; OR**

11 **(II) ADDING MALICIOUS CODE ILLEGALLY TO A WEBSITE TO**
12 **CAPTURE ELECTRONIC BENEFITS TRANSFER CARD DATA OR PERSONAL**
13 **IDENTIFYING INFORMATION.**

14 **(4) “THEFT” INCLUDES:**

15 **(I) PHYSICAL THEFT OF AN ELECTRONIC BENEFITS**
16 **TRANSFER CARD;**

17 **(II) IDENTITY THEFT; AND**

18 **(III) THEFT THROUGH SKIMMING PRACTICES.**

19 **(B) A LOCAL DEPARTMENT SHALL:**

20 **(1) MAINTAIN A SECURE ELECTRONIC BENEFITS TRANSFER SYSTEM**
21 **THAT PROTECTS PERSONAL IDENTIFYING INFORMATION AND BENEFITS FROM**
22 **UNAUTHORIZED ACCESS, USE, AND DISCLOSURE;**

23 **(2) MONITOR ELECTRONIC BENEFITS TRANSFER CARD ACTIVITY**
24 **FOR SUSPICIOUS OR FRAUDULENT ACTIVITY ON AN ONGOING BASIS;**

25 **(3) NOTIFY A HOUSEHOLD PROMPTLY OF ANY SUSPICIOUS**
26 **ELECTRONIC BENEFITS TRANSFER CARD ACTIVITY OR IF ANY PERSONAL**
27 **IDENTIFYING INFORMATION IS STOLEN OR COMPROMISED;**

28 **(4) INCLUDE AN EMBEDDED MICROCHIP IN ALL ELECTRONIC**
29 **BENEFITS TRANSFER CARDS ISSUED ON OR AFTER OCTOBER 1, 2023;**

1 **(5) ON OR BEFORE OCTOBER 1, 2023, REQUIRE ALL RETAILERS**
2 **ACCEPTING ELECTRONIC BENEFITS TRANSFER CARDS IN THE STATE TO UPGRADE**
3 **THEIR PAY SYSTEMS TO TECHNOLOGY THAT ALLOWS THE USE OF ELECTRONIC**
4 **BENEFITS TRANSFER CARDS WITH EMBEDDED MICROCHIPS; AND**

5 **(6) IMPLEMENT SETTINGS ON ELECTRONIC BENEFITS TRANSFER**
6 **CARDS THAT WOULD:**

7 **(I) SEND A HOUSEHOLD AN IMMEDIATE TEXT ALERT AFTER**
8 **EACH ELECTRONIC BENEFITS TRANSFER CARD TRANSACTION;**

9 **(II) PREVENT AN ELECTRONIC BENEFITS TRANSFER CARD**
10 **FROM BEING USED OUTSIDE THE STATE WITHOUT PRIOR AUTHORIZATION FROM**
11 **THE HOUSEHOLD; AND**

12 **(III) ALLOW A HOUSEHOLD TO PROHIBIT AN ELECTRONIC**
13 **BENEFITS TRANSFER CARD FROM BEING USED DURING CERTAIN HOURS.**

14 **(C) (1) A HOUSEHOLD IS ENTITLED TO RESTORATION OF ANY BENEFITS**
15 **LOST DUE TO THEFT.**

16 **(2) IF A LOCAL DEPARTMENT IS AWARE OF A HOUSEHOLD'S**
17 **ENTITLEMENT TO THE RESTORATION OF BENEFITS UNDER PARAGRAPH (1) OF THIS**
18 **SUBSECTION, THE LOCAL DEPARTMENT AUTOMATICALLY SHALL RESTORE THE**
19 **BENEFITS WITHOUT REQUIRING FURTHER ACTION FROM THE HOUSEHOLD.**

20 **(3) WITHIN 2 DAYS AFTER A HOUSEHOLD INFORMING THE LOCAL**
21 **DEPARTMENT OF THE LOSS OR THEFT OF BENEFITS THE RESTORATION OF WHICH**
22 **THE HOUSEHOLD IS ENTITLED TO UNDER PARAGRAPH (1) OF THIS SUBSECTION,**
23 **THE LOCAL DEPARTMENT SHALL:**

24 **(I) NOTIFY THE HOUSEHOLD IN WRITING OF THE LOCAL**
25 **DEPARTMENT'S DECISION TO RESTORE BENEFITS, THE AMOUNT OF BENEFITS TO**
26 **BE RESTORED, AND THE RIGHT TO AND METHOD OF REQUESTING A HEARING ON**
27 **THE LOCAL DEPARTMENT'S DECISION IN ACCORDANCE WITH SUBSECTION (D) OF**
28 **THIS SECTION;**

29 **(II) RESTORE BENEFITS TO THE HOUSEHOLD IN THE AMOUNT**
30 **OF BENEFITS THAT WAS LOST; AND**

31 **(III) PROVIDE THE HOUSEHOLD WITH A NEW ELECTRONIC**
32 **BENEFITS TRANSFER CARD.**

1 **(4) A LOCAL DEPARTMENT MAY NOT:**

2 **(I) REQUIRE A HOUSEHOLD TO PROVIDE A POLICE REPORT AS**
3 **A CONDITION OF RESTORATION OF BENEFITS; OR**

4 **(II) LIMIT THE NUMBER OF MONTHS IN WHICH A HOUSEHOLD**
5 **CAN RECEIVE RESTORATION OF BENEFITS LOST DUE TO THEFT.**

6 **(5) ON OR BEFORE SEPTEMBER 1, 2023, A LOCAL DEPARTMENT**
7 **SHALL ISSUE BENEFITS TO ANY HOUSEHOLD THAT LOST BENEFITS DUE TO THEFT**
8 **BETWEEN JANUARY 1, 2020, AND JULY 1, 2023, BOTH INCLUSIVE, EVEN IF THE**
9 **HOUSEHOLD IS INELIGIBLE TO RECEIVE BENEFITS AT THE TIME OF ISSUANCE.**

10 **(D) (1) IF A HOUSEHOLD DISPUTES THE AMOUNT OF BENEFITS**
11 **RESTORED OR A LOCAL DEPARTMENT'S DETERMINATION THAT NO RESTORATION**
12 **IS DUE, THE HOUSEHOLD MAY REQUEST A HEARING WITH THE DEPARTMENT**
13 **WITHIN 90 DAYS AFTER THE DATE OF THE LOCAL DEPARTMENT'S DETERMINATION.**

14 **(2) IF A HOUSEHOLD REQUESTS A HEARING UNDER THIS**
15 **SUBSECTION, THE LOCAL DEPARTMENT AUTOMATICALLY SHALL RESTORE THE**
16 **BENEFITS FOR WHICH THE HOUSEHOLD CLAIMS ENTITLEMENT WHILE THE**
17 **HEARING IS PENDING.**

18 **(3) IF THE HEARING DECISION IS UNFAVORABLE TO THE**
19 **HOUSEHOLD, ANY BENEFITS IMPROPERLY RESTORED UNDER PARAGRAPH (2) OF**
20 **THIS SUBSECTION MAY BE RECOVERED BY THE LOCAL DEPARTMENT BY REDUCING**
21 **THE HOUSEHOLD'S BENEFIT AT A RATE THAT MAY NOT EXCEED THE GREATER OF**
22 **\$10 OR 10% OF THE HOUSEHOLD'S MONTHLY ALLOTMENT OF BENEFITS.**

23 **(E) IF FEDERAL FUNDS ARE UNAVAILABLE FOR REIMBURSEMENT**
24 **PURPOSES UNDER THIS SECTION, STATE FUNDS SHALL BE USED.**

25 **(F) ON OR BEFORE DECEMBER 1, 2023, AND EACH DECEMBER 1**
26 **THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN**
27 **ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, ON THE**
28 **FOLLOWING INFORMATION FOR THE IMMEDIATELY PRECEDING YEAR:**

29 **(1) THE NUMBER OF HOUSEHOLDS REPORTING THEFT OF BENEFITS,**
30 **BY JURISDICTION;**

31 **(2) THE NUMBER OF HOUSEHOLDS ELIGIBLE FOR EMERGENCY**
32 **SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS THAT REPORTED**
33 **THEFT OF BENEFITS;**

1 **(3) THE TOTAL DOLLAR AMOUNT OF BENEFITS REPORTED STOLEN,**
2 **BY JURISDICTION;**

3 **(4) THE NUMBER OF DETERMINATIONS OF THEFT MADE BY A LOCAL**
4 **DEPARTMENT, BY JURISDICTION;**

5 **(5) THE NUMBER OF DETERMINATIONS MADE BY A LOCAL**
6 **DEPARTMENT THAT THEFT DID NOT OCCUR, BY JURISDICTION;**

7 **(6) THE NUMBER OF HOUSEHOLDS REIMBURSED FOR THEFT AND**
8 **THE TOTAL DOLLAR AMOUNT OF BENEFITS RESTORED, BY JURISDICTION;**

9 **(7) THE AVERAGE AND MAXIMUM LENGTH OF TIME, IN DAYS,**
10 **BETWEEN THE REPORT OF THEFT AND THE RESTORATION OF BENEFITS, BY**
11 **JURISDICTION;**

12 **(8) THE NUMBER OF HEARINGS REQUESTED AND THE NUMBER OF**
13 **HOUSEHOLDS THAT RECEIVED A RESTORATION OF BENEFITS AS AN OUTCOME OF A**
14 **HEARING; AND**

15 **(9) DEMOGRAPHIC DATA ON HOUSEHOLDS THAT EXPERIENCED**
16 **THEFT, INCLUDING RACE, GENDER, NUMBER OF HOUSEHOLDS WITH CHILDREN**
17 **UNDER THE AGE OF 18 YEARS, AND NUMBER OF HOUSEHOLDS WITH A MEMBER AT**
18 **LEAST 60 YEARS OLD.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 July 1, 2023.