

SB0002/673224/1

BY: Finance Committee

AMENDMENTS TO SENATE BILL 2  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, insert “**EMERGENCY BILL**”; in line 2, strike “**Fraud**” and substitute “**Theft and of Benefits**”; strike beginning with the first “the” in line 5 down through “card;” in line 6 and substitute “theft; authorizing certain households to request a certain hearing under certain circumstances;”; and strike beginning with “requiring” in line 8 down through “retroactively;” in line 12 and substitute “establishing the Benefit Theft Restitution Fund; requiring the Department to take certain actions to reduce the vulnerability of Electronic Benefits Transfer cards to theft;”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 22 on page 1 through line 4 on page 2, inclusive, and substitute:

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

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

**(ii) “PERSONAL IDENTIFYING INFORMATION” INCLUDES AN ELECTRONIC BENEFITS TRANSFER CARD NUMBER OR PERSONAL IDENTIFICATION NUMBER.**

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

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

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

(4) "THEFT" INCLUDES:

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

(II) IDENTITY FRAUD, AS DEFINED IN § 8-301 OF THE CRIMINAL LAW ARTICLE; AND

(III) THEFT THROUGH SKIMMING PRACTICES.

(5) "TWO-WAY FRAUD ALERT" MEANS THE CAPABILITY OF THE DEPARTMENT TO COMMUNICATE WITH HOUSEHOLDS, AND OF HOUSEHOLDS TO COMMUNICATE WITH THE DEPARTMENT, THROUGH TEXT MESSAGING REGARDING POTENTIAL FRAUDULENT USE OR THEFT OF AN ELECTRONIC BENEFITS TRANSFER CARD.

(B) (1) A HOUSEHOLD IS ENTITLED TO RESTORATION OF ANY BENEFITS LOST DUE TO THEFT.

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

(3) AS SOON AS PRACTICABLE, BUT NOT LATER THAN 10 DAYS AFTER A HOUSEHOLD INFORMS THE DEPARTMENT OF THE LOSS OF BENEFITS DUE TO THEFT, THE DEPARTMENT SHALL:

(I) NOTIFY THE HOUSEHOLD IN WRITING OF THE DEPARTMENT'S DECISION AS TO WHETHER TO RESTORE BENEFITS, THE AMOUNT OF BENEFITS TO BE RESTORED, AND THE RIGHT TO AND METHOD OF REQUESTING A HEARING ON THE DEPARTMENT'S DECISION IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION;

(II) IF THE DEPARTMENT DETERMINES THAT THE HOUSEHOLD IS ENTITLED TO BENEFITS, RESTORE BENEFITS TO THE HOUSEHOLD IN THE AMOUNT OF BENEFITS THAT WAS LOST; AND

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

(4) THE DEPARTMENT MAY NOT:

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

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

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

(2) IF A HOUSEHOLD REQUESTS A HEARING UNDER THIS SUBSECTION, THE DEPARTMENT SHALL RESTORE THE BENEFITS FOR WHICH THE HOUSEHOLD CLAIMS ENTITLEMENT WHILE THE HEARING IS PENDING.

(3) IF THE HEARING DECISION IS UNFAVORABLE TO THE HOUSEHOLD, ANY BENEFITS IMPROPERLY RESTORED UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY BE RECOVERED BY THE DEPARTMENT BY REDUCING THE HOUSEHOLD'S BENEFIT AT A RATE THAT MAY NOT EXCEED THE LESSER OF \$10 OR 5% OF THE HOUSEHOLD'S MONTHLY ALLOTMENT OF BENEFITS.

(D) IF FEDERAL FUNDS ARE UNAVAILABLE FOR REIMBURSEMENT PURPOSES UNDER THIS SECTION, STATE FUNDS SHALL BE USED."

On page 2, in line 5, strike "(A)" and substitute "(E)"; in line 9, after "FOR" insert "IDENTITY"; in the same line, strike "IDENTITY"; in line 11, after "AGAINST" insert "IDENTITY"; and in the same line, after "FRAUD" insert "AND THEFT".

On pages 2 and 3, strike in their entirety the lines beginning with line 13 on page 2 through line 15 on page 3, inclusive.

On page 3, after line 15, insert:

**“(F) THE DEPARTMENT SHALL COORDINATE WITH VENDORS TO TAKE AVAILABLE PRECAUTIONS TO REDUCE THE VULNERABILITY OF ELECTRONIC BENEFITS TRANSFER CARDS TO THEFT BY UTILIZING ENHANCED TECHNOLOGY.”**

in line 16, strike “(D)” and substitute “(G)”; in line 17, strike “THE MARYLAND STATE POLICE” and substitute “LOCAL LAW ENFORCEMENT AGENCIES IN THE STATE”; in line 23, strike “AND”; in line 25, after “YEAR” insert “;

**(4) THE NUMBER OF HOUSEHOLDS REPORTING THEFT OF BENEFITS, BY JURISDICTION AND PROGRAM;**

**(5) THE NUMBER OF HOUSEHOLDS ELIGIBLE FOR EXPEDITED SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS THAT REPORTED LOSS OF BENEFITS DUE TO THEFT, BY JURISDICTION AND PROGRAM;**

**(6) THE TOTAL DOLLAR AMOUNT OF BENEFITS REPORTED LOST DUE TO THEFT, BY JURISDICTION AND PROGRAM;**

**(7) THE NUMBER OF DETERMINATIONS OF THEFT MADE BY THE DEPARTMENT, BY JURISDICTION;**

**(8) THE NUMBER OF DETERMINATIONS MADE BY THE DEPARTMENT THAT THEFT DID NOT OCCUR, BY JURISDICTION;**

**(9) THE NUMBER OF HOUSEHOLDS REIMBURSED FOR BENEFITS LOST DUE TO THEFT AND THE TOTAL DOLLAR AMOUNT OF BENEFITS RESTORED, BY JURISDICTION AND PROGRAM;**

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

(11) THE NUMBER OF HEARINGS REQUESTED AND THE NUMBER OF HOUSEHOLDS THAT RECEIVED A RESTORATION OF BENEFITS AS AN OUTCOME OF A HEARING, BY JURISDICTION; AND

(12) DEMOGRAPHIC DATA ON HOUSEHOLDS THAT EXPERIENCED THEFT, INCLUDING RACE, GENDER, NUMBER OF HOUSEHOLDS WITH CHILDREN UNDER THE AGE OF 18 YEARS, AND NUMBER OF HOUSEHOLDS WITH A MEMBER AT LEAST 60 YEARS OLD”;

and after line 25, insert:

“5-610.

(A) THERE IS A BENEFIT THEFT RESTITUTION FUND.

(B) (1) THE BENEFIT THEFT RESTITUTION FUND SHALL BE USED TO:

(i) RESTORE BENEFITS TO ANY HOUSEHOLD THAT LOST BENEFITS DUE TO THEFT THAT OCCURRED BETWEEN MARCH 15, 2020, AND DECEMBER 31, 2021, BOTH INCLUSIVE, EVEN IF THE HOUSEHOLD IS INELIGIBLE TO RECEIVE BENEFITS AT THE TIME OF RESTORATION, PROVIDED THAT THE DEPARTMENT CONFIRMS THE HOUSEHOLD LOST BENEFITS DUE TO THEFT DURING THAT TIME PERIOD; AND

(ii) ISSUE BENEFITS TO ANY HOUSEHOLD THAT LOST BENEFITS DUE TO THEFT THAT OCCURRED BETWEEN JANUARY 1, 2022, AND

OCTOBER 1, 2022, BOTH INCLUSIVE, EVEN IF THE HOUSEHOLD IS INELIGIBLE TO RECEIVE BENEFITS AT THE TIME OF ISSUANCE.

(2) UP TO 10% OF THE AMOUNT APPROPRIATED TO THE FUND MAY BE USED TO SUPPORT INNOVATIVE PRACTICES REQUIRED TO SUPPORT BENEFICIARIES DURING THE TIME PERIOD BETWEEN THE REPORTING OF THE LOSS OF BENEFITS DUE TO THEFT AND THE RESTORATION OF BENEFITS.

(C) FOR FISCAL YEAR 2024, THE ANNUAL BUDGET BILL SHALL INCLUDE AN APPROPRIATION OF \$2,000,000 TO THE BENEFIT THEFT RESTITUTION FUND.

(D) ON OR BEFORE SEPTEMBER 1, 2023, THE DEPARTMENT SHALL ISSUE BENEFITS TO HOUSEHOLDS ELIGIBLE TO RECEIVE FUNDS UNDER SUBSECTION (B) OF THIS SECTION.”.

On pages 3 and 4, strike in their entirety the lines beginning with line 26 on page 3 through line 7 on page 4; in line 8, strike “5.” and substitute “2.”; and in lines 8 and 9, strike “this Act shall take effect October 1, 2023.” and substitute “in implementing the provisions of § 5–609(f) of the Human Services Article, as enacted by Section 1 of this Act, the Department of Human Services shall coordinate with vendors to implement available precautions to reduce the vulnerability of Electronic Benefits Transfer cards to theft, including:

(1) the inclusion of an embedded microchip in all Electronic Benefits Transfer cards issued on or after October 1, 2023;

(2) the use of two-way fraud alerts;

(3) connectivity for universal benefits cards;

(4) providing, at initial benefit approval and each redetermination of eligibility, written notice of fraud risk and instructions on how to reduce the risk of theft, including updating Personal Identification Numbers regularly and avoiding the use of common Personal Identification Numbers;

(5) enabling Electronic Benefits Transfer cardholders to place certain limits on the use of their cards, including limiting transactions during certain hours or prohibiting out-of-state transactions; and

(6) monitoring transactions for suspicious activity by leveraging user behavior analytics of Electronic Benefits Transfer user data to detect when data is being inappropriately accessed or is compromised.

SECTION 3. AND BE IT FURTHER ENACTED, That the Department of Human Services shall consider innovative financial and software services offered by both current and potential vendors to improve the administration and security of Electronic Benefits Transfer programs.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.”.