

110TH CONGRESS
1ST SESSION

H. R. 2290

To amend title 18, United States Code, to better assure cyber-security,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2007

Mr. SCHIFF (for himself, Mr. CHABOT, Mr. DELAHUNT, Mr. DANIEL E. LUNGREN of California, Mr. DAVIS of Alabama, Ms. CARSON, Mr. GOODLATTE, Ms. ESHOO, Mr. WEXLER, Mr. ISSA, Ms. LINDA T. SÁNCHEZ of California, Mr. McCAUL of Texas, and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to better assure
cyber-security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cyber-Security En-
5 hancement Act of 2007”.

6 **SEC. 2. PERSONAL ELECTRONIC RECORDS.**

7 Section 1030(a)(2) of title 18, United States Code,
8 is amended—

1 (1) by striking “or” at the end of subparagraph
2 (B); and

3 (2) by adding at the end the following:

4 “(D) a unique electronic identification
5 number, address or routing code, or access de-
6 vice (as defined in section 1029(e)(1)), from a
7 protected computer; or”.

8 **SEC. 3. USE OF FULL INTERSTATE AND FOREIGN COM-**
9 **MERCE POWER FOR CRIMINAL PENALTIES.**

10 (a) BROADENING OF SCOPE.—Section 1030(e)(2)(B)
11 of title 18, United States Code, is amended by inserting
12 “or affecting” after “which is used in”.

13 (b) ELIMINATION OF REQUIREMENT OF AN INTER-
14 STATE OR FOREIGN COMMUNICATION FOR CERTAIN OF-
15 FENSES INVOLVING PROTECTED COMPUTERS.—Section
16 1030(a)(2)(C) of title 18, United States Code, is amended
17 by striking “if the conduct involved an interstate or for-
18 eign communication”.

19 **SEC. 4. RICO PREDICATES.**

20 Section 1961(1)(B) of title 18, United States Code,
21 is amended by inserting “section 1030 (relating to fraud
22 and related activity in connection with computers),” before
23 “section 1084”.

1 **SEC. 5. CYBER-EXTORTION.**

2 Section 1030(a)(7) of title 18, United States Code,
3 is amended by inserting “, or to access without authoriza-
4 tion or exceed authorized access to a protected computer”
5 after “cause damage to a protected computer”.

6 **SEC. 6. CONSPIRACY TO COMMIT CYBER-CRIMES.**

7 Section 1030(b) of title 18, United States Code, is
8 amended by inserting “or conspires” after “attempts”.

9 **SEC. 7. PENALTIES FOR SECTION 1030 VIOLATIONS.**

10 Subsection (c) of section 1030 of title 18, United
11 States Code, is amended to read as follows:

12 “(c) The court, in imposing sentence for an offense
13 under subsection (a) or (b), shall, in addition to any other
14 sentence imposed and irrespective of any provision of
15 State law, order that the person forfeit to the United
16 States—

17 “(1) the person’s interest in any personal prop-
18 erty that was used or intended to be used to commit
19 or to facilitate the commission of such violation; and

20 “(2) any property, real or personal, constituting
21 or derived from, any proceeds the person obtained,
22 directly or indirectly, as a result of such violation.”.

23 **SEC. 8. DIRECTIVE TO SENTENCING COMMISSION.**

24 (a) DIRECTIVE.—Pursuant to its authority under
25 section 994(p) of title 28, United States Code, and in ac-
26 cordance with this section, the United States Sentencing

1 Commission shall forthwith review its guidelines and pol-
2 icy statements applicable to persons convicted of offenses
3 under sections 1028, 1028A, 1030, 1030A, 2511 and
4 2701 of title 18, United States Code and any other rel-
5 evant provisions of law, in order to reflect the intent of
6 Congress that such penalties be increased in comparison
7 to those currently provided by such guidelines and policy
8 statements.

9 (b) REQUIREMENTS.—In determining its guidelines
10 and policy statements on the appropriate sentence for the
11 crimes enumerated in paragraph (a), the Commission shall
12 consider the extent to which the guidelines and policy
13 statements may or may not account for the following fac-
14 tors in order to create an effective deterrent to computer
15 crime and the theft or misuse of personally identifiable
16 data—

17 (1) the level of sophistication and planning in-
18 volved in such offense;

19 (2) whether such offense was committed for
20 purpose of commercial advantage or private financial
21 benefit;

22 (3) the potential and actual loss resulting from
23 the offense;

1 (4) whether the defendant acted with intent to
2 cause either physical or property harm in commit-
3 ting the offense;

4 (5) the extent to which the offense violated the
5 privacy rights of individuals;

6 (6) the effect of the offense upon the operations
7 of a government agency of the United States, or of
8 a State or local government;

9 (7) whether the offense involved a computer
10 used by the government in furtherance of national
11 defense, national security or the administration of
12 justice;

13 (8) whether the offense was intended to, or had
14 the effect of significantly interfering with or dis-
15 rupting a critical infrastructure;

16 (9) whether the offense was intended to, or had
17 the effect of creating a threat to public health or
18 safety, injury to any person, or death; and

19 (10) whether the defendant purposefully in-
20 volved a juvenile in the commission of the offense to
21 avoid punishment.

22 (c) **ADDITIONAL REQUIREMENTS.**—In carrying out
23 this section, the Commission shall—

1 (1) assure reasonable consistency with other
2 relevant directives and with other sentencing guide-
3 lines;

4 (2) account for any additional aggravating or
5 mitigating circumstances that might justify excep-
6 tions to the generally applicable sentencing ranges;

7 (3) make any conforming changes to the sen-
8 tencing guidelines; and

9 (4) assure that the guidelines adequately meet
10 the purposes of sentencing as set forth in section
11 3553(a)(2) of title 18, United States Code.

12 **SEC. 9. DAMAGE TO PROTECTED COMPUTERS.**

13 (a) Section 1030(a)(5)(B) of title 18, United States
14 Code, is amended—

15 (1) by striking “or” at the end of clause (iv);

16 (2) by inserting “or” at the end of clause (v);

17 and

18 (3) by adding at the end the following:

19 “(vi) damage affecting ten or more
20 protected computers during any 1-year pe-
21 riod.”.

22 (b) Section 2332b(g)(5)(B)(i) of title 18, United
23 States Code, is amended by striking “(v) (relating to pro-
24 tection of computers)” and inserting “(vi) (relating to the
25 protection of computers)”.

1 **SEC. 10. ADDITIONAL FUNDING FOR RESOURCES TO INVESTIGATE AND PROSECUTE CRIMINAL ACTIVITY INVOLVING COMPUTERS.**

2
3
4 (a) **ADDITIONAL FUNDING FOR RESOURCES.**—

5 (1) **AUTHORIZATION.**—In addition to amounts
6 otherwise authorized for resources to investigate and
7 prosecute criminal activity involving computers,
8 there are authorized to be appropriated for each of
9 the fiscal years 2007 through 2011—

10 (A) \$10,000,000 to the Director of the
11 United States Secret Service;

12 (B) \$10,000,000 to the Attorney General
13 for the Criminal Division of the Department of
14 Justice; and

15 (C) \$10,000,000 to the Director of the
16 Federal Bureau of Investigation.

17 (2) **AVAILABILITY.**—Any amounts appropriated
18 under paragraph (1) shall remain available until ex-
19 pended.

20 (b) **USE OF ADDITIONAL FUNDING.**—Funds made
21 available under subsection (a) shall be used by the Direc-
22 tor of the United States Secret Service, the Director of
23 the Federal Bureau of Investigation, and the Attorney
24 General, for the United States Secret Service, the Federal
25 Bureau of Investigation, and the criminal division of the
26 Department of Justice, respectively, to—

- 1 (1) hire and train law enforcement officers to—
- 2 (A) investigate crimes committed through
- 3 the use of computers and other information
- 4 technology, including through the use of the
- 5 Internet; and
- 6 (B) assist in the prosecution of such
- 7 crimes; and
- 8 (2) procure advanced tools of forensic science to
- 9 investigate, prosecute, and study such crimes.

○