

105TH CONGRESS
2D SESSION

S. 512

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1998

Referred to the Committee on the Judiciary

AN ACT

To amend chapter 47 of title 18, United States Code,
relating to identity fraud, 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 “Identity Theft and As-
5 sumption Deterrence Act of 1998”.

1 **SEC. 2. IDENTITY THEFT.**

2 (a) ESTABLISHMENT OF OFFENSE.—Section 1028(a)
3 of title 18, United States Code, is amended—

4 (1) in paragraph (5), by striking “or” at the
5 end;

6 (2) in paragraph (6), by adding “or” at the
7 end;

8 (3) in the flush matter following paragraph (6),
9 by striking “or attempts to do so,”; and

10 (4) by inserting after paragraph (6) the follow-
11 ing:

12 “(7) knowingly transfers or uses, without lawful
13 authority, a means of identification of another per-
14 son with the intent to commit, or otherwise promote,
15 carry on, or facilitate any unlawful activity that con-
16 stitutes a violation of Federal law, or that con-
17 stitutes a felony under any applicable State or local
18 law;”.

19 (b) PENALTIES.—Section 1028(b) of title 18, United
20 States Code, is amended—

21 (1) in paragraph (1)—

22 (A) in subparagraph (B), by striking “or”
23 at the end

24 (B) in subparagraph (C), by adding “or”
25 at the end; and

26 (C) by adding at the end the following:

1 “(D) an offense under paragraph (7) of
 2 such subsection that involves the transfer or use
 3 of 1 or more means of identification if, as a re-
 4 sult of the offense, any individual committing
 5 the offense obtains anything of value aggregat-
 6 ing \$1,000 or more during any 1-year period;”;
 7 (2) in paragraph (2)—

8 (A) in subparagraph (A), by striking “or
 9 transfer of an identification document or” and
 10 inserting “transfer, or use of a means of identi-
 11 fication, an identification document, or a”; and

12 (B) in subparagraph (B), by inserting “or
 13 (7)” after “(3)”;

14 (3) by striking paragraphs (3) and (4) and in-
 15 serting the following:

16 “(3) a fine under this title or imprisonment for
 17 not more than 20 years, or both, if the offense is
 18 committed—

19 “(A) to facilitate a drug trafficking crime
 20 (as defined in section 929(a)(2)); or

21 “(B) after a prior conviction under this
 22 section becomes final;

23 “(4) a fine under this title or imprisonment for
 24 not more than 25 years, or both, if the offense is
 25 committed—

1 “(A) to facilitate an act of international
2 terrorism (as defined in section 2331(1)); or

3 “(B) in connection with a crime of violence
4 (as defined in section 924(c)(3));”;

5 (4) by redesignating paragraph (5) as para-
6 graph (6); and

7 (5) by inserting after paragraph (4) (as added
8 by paragraph (3) of this subsection) the following:

9 “(5) in the case of any offense under subsection
10 (a), forfeiture to the United States of any personal
11 property used or intended to be used to commit the
12 offense; and”.

13 (c) CIRCUMSTANCES.—Section 1028(c) of title 18,
14 United States Code, is amended by striking paragraph (3)
15 and inserting the following:

16 “(3) either—

17 “(A) the production, transfer, possession,
18 or use prohibited by this section is in or affects
19 interstate or foreign commerce; or

20 “(B) the means of identification, identifica-
21 tion document, false identification document, or
22 document-making implement is transported in
23 the mail in the course of the production, trans-
24 fer, possession, or use prohibited by this sec-
25 tion.”.

1 (d) DEFINITIONS.—Section 1028 of title 18, United
2 States Code, is amended by striking subsection (d) and
3 inserting the following:

4 “(d) DEFINITIONS.—In this section:

5 “(1) DOCUMENT-MAKING IMPLEMENT.—The
6 term ‘document-making implement’ means any im-
7 plement, impression, electronic device, or computer
8 hardware or software, that is specifically configured
9 or primarily used for making an identification docu-
10 ment, a false identification document, or another
11 document-making implement.

12 “(2) IDENTIFICATION DOCUMENT.—The term
13 ‘identification document’ means a document made or
14 issued by or under the authority of the United
15 States Government, a State, political subdivision of
16 a State, a foreign government, political subdivision
17 of a foreign government, an international govern-
18 mental or an international quasi-governmental orga-
19 nization which, when completed with information
20 concerning a particular individual, is of a type in-
21 tended or commonly accepted for the purpose of
22 identification of individuals.

23 “(3) MEANS OF IDENTIFICATION.—The term
24 ‘means of identification’ means any name or number
25 that may be used, alone or in conjunction with any

1 other information, to identify a specific individual,
 2 including any—

3 “(A) name, social security number, date of
 4 birth, official State or government issued driv-
 5 er’s license or identification number, alien reg-
 6 istration number, government passport number,
 7 employer or taxpayer identification number;

8 “(B) unique biometric data, such as finger-
 9 print, voice print, retina or iris image, or other
 10 unique physical representation;

11 “(C) unique electronic identification num-
 12 ber, address, or routing code; or

13 “(D) telecommunication identifying infor-
 14 mation or access device (as defined in section
 15 1029(e)).

16 “(4) PERSONAL IDENTIFICATION CARD.—The
 17 term ‘personal identification card’ means an identi-
 18 fication document issued by a State or local govern-
 19 ment solely for the purpose of identification.

20 “(5) PRODUCE.—The term ‘produce’ includes
 21 alter, authenticate, or assemble.

22 “(6) STATE.—The term ‘State’ includes any
 23 State of the United States, the District of Columbia,
 24 the Commonwealth of Puerto Rico, and any other

1 commonwealth, possession, or territory of the United
2 States.”.

3 (e) ATTEMPT AND CONSPIRACY.—Section 1028 of
4 title 18, United States Code, is amended by adding at the
5 end the following:

6 “(f) ATTEMPT AND CONSPIRACY.—Any person who
7 attempts or conspires to commit any offense under this
8 section shall be subject to the same penalties as those pre-
9 scribed for the offense, the commission of which was the
10 object of the attempt or conspiracy.”.

11 (f) FORFEITURE PROCEDURES.—Section 1028 of
12 title 18, United States Code, is amended by adding at the
13 end the following:

14 “(g) FORFEITURE PROCEDURES.—The forfeiture of
15 property under this section, including any seizure and dis-
16 position of the property and any related judicial or admin-
17 istrative proceeding, shall be governed by the provisions
18 of section 413 (other than subsection (d) of that section)
19 of the Comprehensive Drug Abuse Prevention and Control
20 Act of 1970 (21 U.S.C. 853).”.

21 (g) RULE OF CONSTRUCTION.—Section 1028 of title
22 18, United States Code, is amended by adding at the end
23 the following:

24 “(h) RULE OF CONSTRUCTION.—For purpose of sub-
25 section (a)(7), a single identification document or false

1 identification document that contains 1 or more means of
 2 identification shall be construed to be 1 means of identi-
 3 fication.”.

4 (g) CONFORMING AMENDMENTS.—Chapter 47 of
 5 title 18, United States Code, is amended—

6 (1) in section 1028, by striking “or attempts to
 7 do so,”;

8 (2) in the heading for section 1028, by adding
 9 **“and information”** at the end; and

10 (3) in the analysis for the chapter, in the item
 11 relating to section 1028, by adding “and informa-
 12 tion” at the end.

13 **SEC. 3. RESTITUTION.**

14 Section 3663A of title 18, United States Code, is
 15 amended—

16 (1) in subsection (c)(1)(A)—

17 (A) in clause (ii), by striking “or” at the
 18 end;

19 (B) in clause (iii), by striking “and” at the
 20 end and inserting “or”; and

21 (C) by adding at the end the following:

22 “(iv) an offense described in section 1028
 23 (relating to fraud and related activity in con-
 24 nection with means of identification or identi-
 25 fication documents); and”;

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

2 “(e) FRAUD AND RELATED ACTIVITY IN CONNEC-
 3 TION WITH IDENTIFICATION DOCUMENTS AND INFORMA-
 4 TION.—Making restitution to a victim under this section
 5 for an offense described in section 1028 (relating to fraud
 6 and related activity in connection with means of identifica-
 7 tion or identification documents) may include payment for
 8 any costs, including attorney fees, incurred by the victim,
 9 including any costs incurred—

10 “(1) in clearing the credit history or credit rat-
 11 ing of the victim; or

12 “(2) in connection with any civil or administra-
 13 tive proceeding to satisfy any debt, lien, or other ob-
 14 ligation of the victim arising as a result of the ac-
 15 tions of the defendant.”.

16 **SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDE-**
 17 **LINES FOR OFFENSES UNDER SECTION 1028.**

18 (a) IN GENERAL.—Pursuant to its authority under
 19 section 994(p) of title 28, United States Code, the United
 20 States Sentencing Commission shall review and amend the
 21 Federal sentencing guidelines and the policy statements
 22 of the Commission, as appropriate, to provide an appro-
 23 priate penalty for each offense under section 1028 of title
 24 18, United States Code, as amended by this Act.

1 (b) FACTORS FOR CONSIDERATION.—In carrying out
2 subsection (a), the United States Sentencing Commission
3 shall consider, with respect to each offense described in
4 subsection (a)—

5 (1) the extent to which the number of victims
6 (as defined in section 3663A(a) of title 18, United
7 States Code) involved in the offense, including harm
8 to reputation, inconvenience, and other difficulties
9 resulting from the offense, is an adequate measure
10 for establishing penalties under the Federal sentenc-
11 ing guidelines;

12 (2) the number of means of identification, iden-
13 tification documents, or false identification docu-
14 ments (as those terms are defined in section 1028(d)
15 of title 18, United States Code, as amended by this
16 Act) involved in the offense, is an adequate measure
17 for establishing penalties under the Federal sentenc-
18 ing guidelines;

19 (3) the extent to which the value of the loss to
20 any individual caused by the offense is an adequate
21 measure for establishing penalties under the Federal
22 sentencing guidelines;

23 (4) the range of conduct covered by the offense;

24 (5) the extent to which sentencing enhance-
25 ments within the Federal sentencing guidelines and

the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(7) the extent to which Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(8) any other factor that the United States Sentencing Commission considers to be appropriate.

SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully ac-

1 quired in violation of section 1028 of title 18, United
2 States Code, as amended by this Act;

3 (2) provide informational materials to individ-
4 uals described in paragraph (1); and

5 (3) refer complaints described in paragraph (1)
6 to appropriate entities, which may include referral
7 to—

8 (A) the 3 major national consumer report-
9 ing agencies; and

10 (B) appropriate law enforcement agencies
11 for potential law enforcement action.

12 (b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated such sums as may be
14 necessary to carry out this section.

15 **SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED**
16 **STATES CODE.**

17 (a) TECHNICAL CORRECTION RELATING TO CRIMI-
18 NAL FORFEITURE PROCEDURES.—Section 982(b)(1) of
19 title 18, United States Code, is amended to read as fol-
20 lows: “(1) The forfeiture of property under this section,
21 including any seizure and disposition of the property and
22 any related judicial or administrative proceeding, shall be
23 governed by the provisions of section 413 (other than sub-
24 section (d) of that section) of the Comprehensive Drug

1 Abuse Prevention and Control Act of 1970 (21 U.S.C.
2 853).”.

3 (b) ECONOMIC ESPIONAGE AND THEFT OF TRADE
4 SECRETS AS PREDICATE OFFENSES FOR WIRE INTER-
5 CEPTION.—Section 2516(1)(a) of title 18, United States
6 Code, is amended by inserting “chapter 90 (relating to
7 protection of trade secrets),” after “to espionage,”.

Passed the Senate July 30, 1998.

Attest:

GARY SISCO,
Secretary.