

107TH CONGRESS  
2D SESSION

# S. 2240

To combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 24, 2002

Mr. LEAHY (for himself, Mr. DASCHLE, Mr. TORRICELLI, Mr. KENNEDY, Mr. HARKIN, Mr. BINGAMAN, Mr. FEINGOLD, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, 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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5   “Seniors Safety Act of 2002”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.  
 Sec. 2. Findings and purposes.  
 Sec. 3. Definitions.

#### TITLE I—COMBATING CRIMES AGAINST SENIORS

Sec. 101. Enhanced sentencing penalties based on age of victim.  
 Sec. 102. Study and report on health care fraud sentences.  
 Sec. 103. Increased penalties for fraud resulting in serious injury or death.  
 Sec. 104. Safeguarding pension plans from fraud and theft.  
 Sec. 105. Additional civil penalties for defrauding pension plans.  
 Sec. 106. Punishing bribery and graft in connection with employee benefit plans.

#### TITLE II—PREVENTING TELEMARKETING FRAUD

Sec. 201. Centralized complaint and consumer education service for victims of telemarketing fraud.  
 Sec. 202. Blocking of telemarketing scams.

#### TITLE III—PREVENTING HEALTH CARE FRAUD

Sec. 301. Injunctive authority relating to false claims and illegal kickback schemes involving Federal health care programs.  
 Sec. 302. Authorized investigative demand procedures.  
 Sec. 303. Extending antifraud safeguards to the Federal employee health benefits program.  
 Sec. 304. Grand jury disclosure.  
 Sec. 305. Increasing the effectiveness of civil investigative demands in false claims investigations.

#### TITLE IV—PROTECTING RESIDENTS OF NURSING HOMES

Sec. 401. Short title.  
 Sec. 402. Nursing home resident protection.

#### TITLE V—PROTECTING THE RIGHTS OF ELDERLY CRIME VICTIMS

Sec. 501. Use of forfeited funds to pay restitution to crime victims and regulatory agencies.  
 Sec. 502. Victim restitution.  
 Sec. 503. Bankruptcy proceedings not used to shield illegal gains from false claims.  
 Sec. 504. Forfeiture for retirement offenses.

### 3 **SEC. 2. FINDINGS AND PURPOSES.**

- 4 (a) FINDINGS.—Congress makes the following find-  
 5 ings:

1           (1) The number of older Americans is rapidly  
2           growing in the United States. According to the 2000  
3           census, 21 percent of the United States population  
4           is 55 years of age or older.

5           (2) In 1997, 7 percent of victims of serious vio-  
6           lent crime were 50 years of age or older.

7           (3) In 1997, 17.7 percent of murder victims  
8           were 55 years of age or older.

9           (4) According to the Department of Justice,  
10          persons 65 years of age and older experienced ap-  
11          proximately 2,700,000 crimes a year between 1992  
12          and 1997.

13          (5) Older victims of violent crime are almost  
14          twice as likely as younger victims to be raped,  
15          robbed, or assaulted at or in their own homes.

16          (6) Approximately half of all Americans who  
17          are 50 years of age or older are afraid to walk alone  
18          at night in their own neighborhoods.

19          (7) Seniors over 50 years of age reportedly ac-  
20          count for 37 percent of the estimated  
21          \$40,000,000,000 in losses each year due to tele-  
22          marketing fraud.

23          (8) A 1996 American Association of Retired  
24          Persons survey of people 50 years of age and older

1       showed that 57 percent were likely to receive calls  
2       from telemarketers at least once a week.

3           (9) In 1998, Congress enacted legislation to  
4       provide for increased penalties for telemarketing  
5       fraud that targets seniors.

6           (10) It has been estimated that—

7               (A) approximately 43 percent of persons  
8       turning 65 years of age can expect to spend  
9       some time in a long-term care facility; and

10              (B) approximately 20 percent can expect  
11       to spend 5 years or more in a such a facility.

12           (11) In 1997, approximately \$82,800,000,000  
13       was spent on nursing home care in the United  
14       States and over half of this amount was spent by the  
15       Medicaid and Medicare programs.

16           (12) Losses to fraud and abuse in health care  
17       reportedly cost the United States an estimated  
18       \$100,000,000,000 in 1996.

19           (13) The Inspector General for the Department  
20       of Health and Human Services has estimated that  
21       about \$12,600,000,000 in improper Medicare benefit  
22       payments, due to inadvertent mistake, fraud, and  
23       abuse were made during fiscal year 1998.

24           (14) Incidents of health care fraud and abuse  
25       remain common despite awareness of the problem.

1 (b) PURPOSES.—The purposes of this Act are to—

2 (1) combat nursing home fraud and abuse;

3 (2) enhance safeguards for pension plans and  
4 health care programs;

5 (3) develop strategies for preventing and pun-  
6 ishing crimes that target or otherwise disproportion-  
7 ately affect seniors by collecting appropriate data—

8 (A) to measure the extent of crimes com-  
9 mitted against seniors; and

10 (B) to determine the extent of domestic  
11 and elder abuse of seniors; and

12 (4) prevent and deter criminal activity, such as  
13 telemarketing fraud, that results in economic and  
14 physical harm against seniors, and ensure appro-  
15 priate restitution.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) CRIME.—The term “crime” means any  
19 criminal offense under Federal or State law.

20 (2) NURSING HOME.—The term “nursing  
21 home” means any institution or residential care fa-  
22 cility defined as such for licensing purposes under  
23 State law, or if State law does not employ the term  
24 nursing home, the equivalent term or terms as deter-  
25 mined by the Secretary of Health and Human Serv-

1       ices, pursuant to section 1908(e) of the Social Secu-  
 2       rity Act (42 U.S.C. 1396g(e)).

3               (3) SENIOR.—The term “senior” means an in-  
 4       dividual who is more than 55 years of age.

## 5       **TITLE I—COMBATING CRIMES** 6       **AGAINST SENIORS**

### 7       **SEC. 101. ENHANCED SENTENCING PENALTIES BASED ON** 8       **AGE OF VICTIM.**

9       (a) DIRECTIVE TO THE UNITED STATES SEN-  
 10      TENCING COMMISSION.—Pursuant to its authority under  
 11      section 994(p) of title 28, United States Code, and in ac-  
 12      cordance with this section, the United States Sentencing  
 13      Commission (referred to in this section as the “Commis-  
 14      sion”) shall review and, if appropriate, amend section  
 15      3A1.1(a) of the Federal sentencing guidelines to include  
 16      the age of a crime victim as one of the criteria for deter-  
 17      mining whether the application of a sentencing enhance-  
 18      ment is appropriate.

19      (b) REQUIREMENTS.—In carrying out this section,  
 20      the Commission shall—

21               (1) ensure that the Federal sentencing guide-  
 22      lines and the policy statements of the Commission  
 23      reflect the serious economic and physical harms as-  
 24      sociated with criminal activity targeted at seniors  
 25      due to their particular vulnerability;

1           (2) consider providing increased penalties for  
2       persons convicted of offenses in which the victim was  
3       a senior in appropriate circumstances;

4           (3) consult with individuals or groups rep-  
5       resenting seniors, law enforcement agencies, victims  
6       organizations, and the Federal judiciary as part of  
7       the review described in subsection (a);

8           (4) ensure reasonable consistency with other  
9       Federal sentencing guidelines and directives;

10          (5) account for any aggravating or mitigating  
11       circumstances that may justify exceptions, including  
12       circumstances for which the Federal sentencing  
13       guidelines provide sentencing enhancements;

14          (6) make any necessary conforming changes to  
15       the Federal sentencing guidelines; and

16          (7) ensure that the Federal sentencing guide-  
17       lines adequately meet the purposes of sentencing set  
18       forth in section 3553(a)(2) of title 18, United States  
19       Code.

20       (c) REPORT.—Not later than December 31, 2002, the  
21       Commission shall submit to Congress a report on issues  
22       relating to the age of crime victims, which shall include—

23           (1) an explanation of any changes to sentencing  
24       policy made by the Commission under this section;  
25       and

1           (2) any recommendations of the Commission for  
 2           retention or modification of penalty levels, including  
 3           statutory penalty levels, for offenses involving sen-  
 4           iors.

5 **SEC. 102. STUDY AND REPORT ON HEALTH CARE FRAUD**  
 6 **SENTENCES.**

7           (a) **DIRECTIVE TO THE UNITED STATES SEN-**  
 8 **TENCING COMMISSION.**—Pursuant to its authority under  
 9 section 994(p) of title 28, United States Code, and in ac-  
 10 cordance with this section, the United States Sentencing  
 11 Commission (referred to in this section as the “Commis-  
 12 sion”) shall review and, if appropriate, amend the Federal  
 13 sentencing guidelines and the policy statements of the  
 14 Commission with respect to persons convicted of offenses  
 15 involving fraud in connection with a health care benefit  
 16 program (as defined in section 24(b) of title 18, United  
 17 States Code).

18           (b) **REQUIREMENTS.**—In carrying out this section,  
 19 the Commission shall—

20           (1) ensure that the Federal sentencing guide-  
 21 lines and the policy statements of the Commission  
 22 reflect the serious harms associated with health care  
 23 fraud and the need for aggressive and appropriate  
 24 law enforcement action to prevent such fraud;



1           (2) consider providing increased penalties for  
2       persons convicted of health care fraud in appropriate  
3       circumstances;

4           (3) consult with individuals or groups rep-  
5       resenting victims of health care fraud, law enforce-  
6       ment agencies, the health care industry, and the  
7       Federal judiciary as part of the review described in  
8       subsection (a);

9           (4) ensure reasonable consistency with other  
10      Federal sentencing guidelines and directives;

11          (5) account for any aggravating or mitigating  
12      circumstances that might justify exceptions, includ-  
13      ing circumstances for which the Federal sentencing  
14      guidelines provide sentencing enhancements;

15          (6) make any necessary conforming changes to  
16      the Federal sentencing guidelines; and

17          (7) ensure that the Federal sentencing guide-  
18      lines adequately meet the purposes of sentencing as  
19      set forth in section 3553(a)(2) of title 18, United  
20      States Code.

21      (c) REPORT.—Not later than December 31, 2002, the  
22      Commission shall submit to Congress a report on issues  
23      relating to offenses described in subsection (a), which shall  
24      include—

1           (1) an explanation of any changes to sentencing  
 2       policy made by the Commission under this section;  
 3       and

4           (2) any recommendations of the Commission for  
 5       retention or modification of penalty levels, including  
 6       statutory penalty levels, for those offenses.

7   **SEC. 103. INCREASED PENALTIES FOR FRAUD RESULTING**  
 8                           **IN SERIOUS INJURY OR DEATH.**

9       Sections 1341 and 1343 of title 18, United States  
 10   Code, are each amended by inserting before the last sen-  
 11   tence the following: “If the violation results in serious bod-  
 12   ily injury (as defined in section 1365), such person shall  
 13   be fined under this title, imprisoned not more than 20  
 14   years, or both, and if the violation results in death, such  
 15   person shall be fined under this title, imprisoned for any  
 16   term of years or life, or both.”.

17   **SEC. 104. SAFEGUARDING PENSION PLANS FROM FRAUD**  
 18                           **AND THEFT.**

19       (a) IN GENERAL.—Chapter 63 of title 18, United  
 20   States Code, is amended by adding at the end the fol-  
 21   lowing:

22   **“§ 1348. Fraud in relation to retirement arrange-**  
 23                           **ments**

24       “(a) DEFINITION.—

1           “(1) RETIREMENT ARRANGEMENT.—In this  
2 section, the term ‘retirement arrangement’ means—

3           “(A) any employee pension benefit plan  
4 subject to any provision of title I of the Em-  
5 ployee Retirement Income Security Act of 1974;

6           “(B) any qualified retirement plan within  
7 the meaning of section 4974(c) of the Internal  
8 Revenue Code of 1986;

9           “(C) any medical savings account de-  
10 scribed in section 220 of the Internal Revenue  
11 Code of 1986; or

12           “(D) a fund established within the Thrift  
13 Savings Fund by the Federal Retirement Thrift  
14 Investment Board pursuant to subchapter III of  
15 chapter 84 of title 5.

16           “(2) CERTAIN ARRANGEMENTS INCLUDED.—  
17 The term ‘retirement arrangement’ shall include any  
18 arrangement that has been represented to be an ar-  
19 rangement described in any subparagraph of para-  
20 graph (1) (whether or not so described).

21           “(3) EXCEPTION FOR GOVERNMENTAL PLAN.—  
22 Except as provided in paragraph (1)(D), the term  
23 ‘retirement arrangement’ shall not include any gov-  
24 ernmental plan (as defined in section 3(32) of title

1 I of the Employee Retirement Income Security Act  
2 of 1974 (29 U.S.C. 1002(32))).

3 “(b) PROHIBITION AND PENALTIES.—Whoever exe-  
4 cutes, or attempts to execute, a scheme or artifice—

5 “(1) to defraud any retirement arrangement or  
6 other person in connection with the establishment or  
7 maintenance of a retirement arrangement; or

8 “(2) to obtain, by means of false or fraudulent  
9 pretenses, representations, or promises, any of the  
10 money or property owned by, or under the custody  
11 or control of, any retirement arrangement or other  
12 person in connection with the establishment or main-  
13 tenance of a retirement arrangement;

14 shall be fined under this title, imprisoned not more than  
15 10 years, or both.

16 “(c) ENFORCEMENT.—

17 “(1) IN GENERAL.—Subject to paragraph (2),  
18 the Attorney General may investigate any violation  
19 of, and otherwise enforce, this section.

20 “(2) EFFECT ON OTHER AUTHORITY.—Nothing  
21 in this subsection may be construed to preclude the  
22 Secretary of Labor or the head of any other appro-  
23 priate Federal agency from investigating a violation  
24 of this section in relation to a retirement arrange-  
25 ment subject to title I of the Employee Retirement

1       Income Security Act of 1974 (29 U.S.C. 1001 et  
2       seq.) or any other provision of Federal law.”.

3       (b) TECHNICAL AMENDMENT.—Section 24(a)(1) of  
4 title 18, United States Code, is amended by inserting  
5 “1348,” after “1347,”.

6       (c) CONFORMING AMENDMENT.—The analysis for  
7 chapter 63 of title 18, United States Code, is amended  
8 by adding at the end the following:

“1348. Fraud in relation to retirement arrangements.”.

9       **SEC. 105. ADDITIONAL CIVIL PENALTIES FOR DEFRAUDING**  
10                               **PENSION PLANS.**

11       (a) IN GENERAL.—

12               (1) ACTION BY ATTORNEY GENERAL.—Except  
13 as provided in subsection (b)—

14                       (A) the Attorney General may bring a civil  
15 action in the appropriate district court of the  
16 United States against any person who engages  
17 in conduct constituting an offense under section  
18 1348 of title 18, United States Code, or con-  
19 spiracy to violate such section 1348; and

20                       (B) upon proof of such conduct by a pre-  
21 ponderance of the evidence, such person shall  
22 be subject to a civil penalty in an amount equal  
23 to the greatest of—

24                               (i) the amount of pecuniary gain to  
25 that person;

1 (ii) the amount of pecuniary loss sus-  
2 tained by the victim; or

3 (iii) not more than—

4 (I) \$50,000 for each such viola-  
5 tion in the case of an individual; or

6 (II) \$100,000 for each such vio-  
7 lation in the case of a person other  
8 than an individual.

9 (2) NO EFFECT ON OTHER REMEDIES.—The  
10 imposition of a civil penalty under this subsection  
11 does not preclude any other statutory, common law,  
12 or administrative remedy available by law to the  
13 United States or any other person.

14 (b) EXCEPTION.—No civil penalty may be imposed  
15 pursuant to subsection (a) with respect to conduct involv-  
16 ing a retirement arrangement that—

17 (1) is an employee pension benefit plan subject  
18 to title I of the Employee Retirement Income Secu-  
19 rity Act of 1974; and

20 (2) for which the civil penalties may be imposed  
21 under section 502 of the Employee Retirement In-  
22 come Security Act of 1974 (29 U.S.C. 1132).

23 (c) DETERMINATION OF PENALTY AMOUNT.—In de-  
24 termining the amount of the penalty under subsection (a),

1 the district court may consider the effect of the penalty  
 2 on the violator or other person's ability to—

3 (1) restore all losses to the victims; or

4 (2) provide other relief ordered in another civil  
 5 or criminal prosecution related to such conduct, in-  
 6 cluding any penalty or tax imposed on the violator  
 7 or other person pursuant to the Internal Revenue  
 8 Code of 1986.

9 **SEC. 106. PUNISHING BRIBERY AND GRAFT IN CONNEC-**  
 10 **TION WITH EMPLOYEE BENEFIT PLANS.**

11 (a) IN GENERAL.—Section 1954 of title 18, United  
 12 States Code, is amended to read as follows:

13 **“§ 1954. Bribery and graft in connection with em-**  
 14 **ployee benefit plans**

15 “(a) DEFINITIONS.—In this section—

16 “(1) the term ‘employee benefit plan’ means  
 17 any employee welfare benefit plan or employee pen-  
 18 sion benefit plan subject to any provision of title I  
 19 of the Employee Retirement Income Security Act of  
 20 1974;

21 “(2) the terms ‘employee organization’, ‘admin-  
 22 istrator’, and ‘employee benefit plan sponsor’ mean  
 23 any employee organization, administrator, or plan  
 24 sponsor, as defined in title I of the Employment Re-  
 25 tirement Income Security Act of 1974; and

1 “(3) the term ‘applicable person’ means—

2 “(A) an administrator, officer, trustee,  
3 custodian, counsel, agent, or employee of any  
4 employee benefit plan;

5 “(B) an officer, counsel, agent, or em-  
6 ployee of an employer or an employer any of  
7 whose employees are covered by such plan;

8 “(C) an officer, counsel, agent, or em-  
9 ployee of an employee organization any of  
10 whose members are covered by such plan;

11 “(D) a person who, or an officer, counsel,  
12 agent, or employee of an organization that, pro-  
13 vides benefit plan services to such plan; or

14 “(E) a person with actual or apparent in-  
15 fluence or decisionmaking authority in regard  
16 to such plan.

17 “(b) BRIBERY AND GRAFT.—Whoever—

18 “(1) being an applicable person, receives or  
19 agrees to receive or solicits, any fee, kickback, com-  
20 mission, gift, loan, money, or thing of value, person-  
21 ally or for any other person, because of or with the  
22 intent to be corruptly influenced with respect to any  
23 action, decision, or duty of that applicable person re-  
24 lating to any question or matter concerning an em-  
25 ployee benefit plan;



1           “(2) directly or indirectly, gives or offers, or  
2           promises to give or offer, any fee, kickback, commis-  
3           sion, gift, loan, money, or thing of value, to any ap-  
4           plicable person, because of or with the intent to be  
5           corruptly influenced with respect to any action, deci-  
6           sion, or duty of that applicable person relating to  
7           any question or matter concerning an employee ben-  
8           efit plan; or

9           “(3) attempts to give, accept, or receive any  
10          thing of value with the intent to be corruptly influ-  
11          enced in violation of this section;

12       shall be fined under this title, imprisoned not more than  
13       5 years, or both.

14       “(c) EXCEPTIONS.—Nothing in this section may be  
15       construed to apply to any—

16           “(1) payment to, or acceptance by, any person  
17           of bona fide salary, compensation, or other payments  
18           made for goods or facilities actually furnished or for  
19           services actually performed in the regular course of  
20           his duties as an applicable person; or

21           “(2) payment to, or acceptance in good faith  
22           by, any employee benefit plan sponsor, or person  
23           acting on behalf of the sponsor, of anything of value  
24           relating to the decision or action of the sponsor to  
25           establish, terminate, or modify the governing instru-

1       ments of an employee benefit plan in a manner that  
2       does not violate—

3               “(A) title I of the Employee Retirement  
4       Income Security Act of 1974;

5               “(B) any regulation or order promulgated  
6       under title I of the Employee Retirement In-  
7       come Security Act of 1974; or

8               “(C) any other provision of law governing  
9       the plan.”.

10       (b) CONFORMING AMENDMENT.—The analysis for  
11   chapter 95 of title 18, United States Code, is amended  
12   by striking the item relating to section 1954 and inserting  
13   the following:

“1954. Bribery and graft in connection with employee benefit plans.”.

## 14               **TITLE II—PREVENTING** 15               **TELEMARKETING FRAUD**

### 16   **SEC. 201. CENTRALIZED COMPLAINT AND CONSUMER EDU-** 17               **CATION SERVICE FOR VICTIMS OF TELE-** 18               **MARKETING FRAUD.**

19       (a) CENTRALIZED SERVICE.—

20               (1) REQUIREMENT.—The Federal Trade Com-  
21   mission shall, after consultation with the Attorney  
22   General, establish procedures to—

23               (A) log and acknowledge the receipt of  
24       complaints by individuals who certify that they  
25       have a reasonable belief that they have been the

1 victim of fraud in connection with the conduct  
2 of telemarketing (as that term is defined in sec-  
3 tion 2325 of title 18, United States Code, as  
4 amended by section 202(a) of this Act);

5 (B) provide to individuals described in sub-  
6 paragraph (A), and to any other persons, infor-  
7 mation on telemarketing fraud, including—

8 (i) general information on tele-  
9 marketing fraud, including descriptions of  
10 the most common telemarketing fraud  
11 schemes;

12 (ii) information on means of referring  
13 complaints on telemarketing fraud to ap-  
14 propriate law enforcement agencies, includ-  
15 ing the Director of the Federal Bureau of  
16 Investigation, the attorneys general of the  
17 States, and the national toll-free telephone  
18 number on telemarketing fraud established  
19 by the Attorney General; and

20 (iii) information, if available, on the  
21 number of complaints of telemarketing  
22 fraud against particular companies and  
23 any record of convictions for telemarketing  
24 fraud by particular companies for which a  
25 specific request has been made; and

1 (C) refer complaints described in subpara-  
2 graph (A) to appropriate entities, including  
3 State consumer protection agencies or entities  
4 and appropriate law enforcement agencies, for  
5 potential law enforcement action.

6 (2) CENTRAL LOCATION.—The service under  
7 the procedures under paragraph (1) shall be pro-  
8 vided at and through a single site selected by the  
9 Commission for that purpose.

10 (3) COMMENCEMENT.—The Federal Trade  
11 Commission shall commence carrying out the service  
12 not later than 1 year after the date of enactment of  
13 this Act.

14 (b) CREATION OF FRAUD CONVICTION DATABASE.—

15 (1) ESTABLISHMENT.—The Attorney General  
16 shall establish and maintain a computer database  
17 containing information on the corporations and com-  
18 panies convicted of offenses for telemarketing fraud  
19 under Federal and State law.

20 (2) DATABASE.—The database established  
21 under paragraph (1) shall include a description of  
22 the type and method of the fraud scheme for which  
23 each corporation or company covered by the data-  
24 base was convicted.

1           (3) USE OF DATABASE.—The Attorney General  
 2       shall make information in the database available to  
 3       the Federal Trade Commission for purposes of pro-  
 4       viding information as part of the service under sub-  
 5       section (a).

6           (c) AUTHORIZATION OF APPROPRIATIONS.—There is  
 7       authorized to be appropriated such sums as may be nec-  
 8       essary to carry out this section.

9       **SEC. 202. BLOCKING OF TELEMARKETING SCAMS.**

10       (a) EXPANSION OF SCOPE OF TELEMARKETING  
 11       FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES.—  
 12       Section 2325(1) of title 18, United States Code, is amend-  
 13       ed by striking “telephone calls” and inserting “wire com-  
 14       munications utilizing a telephone service”.

15       (b) BLOCKING OR TERMINATION OF TELEPHONE  
 16       SERVICE ASSOCIATED WITH TELEMARKETING FRAUD.—

17           (1) IN GENERAL.—Chapter 113A of title 18,  
 18       United States Code, is amended by adding at the  
 19       end the following:

20       **“§ 2328. Blocking or termination of telephone service**

21       **“(a) DEFINITIONS.—**In this section:

22           **“(1) REASONABLE NOTICE TO THE SUB-**  
 23       **SCRIBER.—**

24           **“(A) IN GENERAL.—**The term ‘reasonable  
 25       notice to the subscriber’, in the case of a sub-

1           subscriber of a common carrier, means any infor-  
2           mation necessary to provide notice to the sub-  
3           scriber that—

4                   “(i) the wire communications facilities  
5                   furnished by the common carrier may not  
6                   be used for the purpose of transmitting,  
7                   receiving, forwarding, or delivering a wire  
8                   communication in interstate or foreign  
9                   commerce for the purpose of executing any  
10                  scheme or artifice to defraud in connection  
11                  with the conduct of telemarketing; and

12                  “(ii) such use constitutes sufficient  
13                  grounds for the immediate discontinuance  
14                  or refusal of the leasing, furnishing, or  
15                  maintaining of the facilities to or for the  
16                  subscriber.

17                  “(B) INCLUDED MATTER.—The term in-  
18                  cludes any tariff filed by the common carrier  
19                  with the Federal Communications Commission  
20                  that contains the information specified in sub-  
21                  paragraph (A).

22                  “(2) WIRE COMMUNICATION.—The term ‘wire  
23                  communication’ has the same meaning given that  
24                  term in section 2510(1).

1           “(3) WIRE COMMUNICATIONS FACILITY.—The  
2       term ‘wire communications facility’ means any facil-  
3       ity (including instrumentalities, personnel, and serv-  
4       ices) used by a common carrier for purposes of the  
5       transmission, receipt, forwarding, or delivery of wire  
6       communications.

7       “(b) BLOCKING OR TERMINATING TELEPHONE  
8       SERVICE.—If a common carrier subject to the jurisdiction  
9       of the Federal Communications Commission is notified in  
10      writing by the Attorney General, acting within the juris-  
11      diction of the Attorney General, that any wire communica-  
12      tions facility furnished by that common carrier is being  
13      used or will be used by a subscriber for the purpose of  
14      transmitting or receiving a wire communication in inter-  
15      state or foreign commerce for the purpose of executing any  
16      scheme or artifice to defraud, or for obtaining money or  
17      property by means of false or fraudulent pretenses, rep-  
18      resentations, or promises, in connection with the conduct  
19      of telemarketing, the common carrier shall discontinue or  
20      refuse the leasing, furnishing, or maintaining of the facil-  
21      ity to or for the subscriber after reasonable notice to the  
22      subscriber.

23      “(c) PROHIBITION ON DAMAGES.—No damages, pen-  
24      alty, or forfeiture, whether civil or criminal, shall be found  
25      or imposed against any common carrier for any act done

1 by the common carrier in compliance with a notice re-  
 2 ceived from the Attorney General under this section.

3 “(d) RELIEF.—

4 “(1) IN GENERAL.—Nothing in this section  
 5 may be construed to prejudice the right of any per-  
 6 son affected thereby to secure an appropriate deter-  
 7 mination, as otherwise provided by law, in a Federal  
 8 court, that—

9 “(A) the leasing, furnishing, or maintain-  
 10 ing of a facility should not be discontinued or  
 11 refused under this section; or

12 “(B) the leasing, furnishing, or maintain-  
 13 ing of a facility that has been so discontinued  
 14 or refused should be restored.

15 “(2) SUPPORTING INFORMATION.—In any ac-  
 16 tion brought under this subsection, the court may  
 17 direct that the Attorney General present evidence in  
 18 support of the notice made under subsection (b) to  
 19 which such action relates.”.

20 (2) CONFORMING AMENDMENT.—The analysis  
 21 for chapter 113A of title 18, United States Code, is  
 22 amended by adding at the end the following:

“2328. Blocking or termination of telephone service.”.



1 **TITLE III—PREVENTING HEALTH**  
 2 **CARE FRAUD**

3 **SEC. 301. INJUNCTIVE AUTHORITY RELATING TO FALSE**  
 4 **CLAIMS AND ILLEGAL KICKBACK SCHEMES**  
 5 **INVOLVING FEDERAL HEALTH CARE PRO-**  
 6 **GRAMS.**

7 (a) IN GENERAL.—Section 1345(a) of title 18,  
 8 United States Code, is amended—

9 (1) in paragraph (1)—

10 (A) in subparagraph (B), by striking “,  
 11 or” and inserting a semicolon;

12 (B) in subparagraph (C), by striking the  
 13 period at the end and inserting “; or”; and

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

15 “(D) committing or about to commit an offense  
 16 under section 1128B of the Social Security Act (42  
 17 U.S.C. 1320a–7b),”; and

18 (2) in paragraph (2), by inserting “a violation  
 19 of paragraph (1)(D), or” before “a banking”.

20 (b) CIVIL ACTIONS.—

21 (1) IN GENERAL.—Section 1128B of the Social  
 22 Security Act (42 U.S.C. 1320a–7b) is amended by  
 23 adding at the end the following:

24 “(g) CIVIL ACTIONS.—

1           “(1) IN GENERAL.—The Attorney General may  
2       bring an action in the appropriate district court of  
3       the United States to impose upon any person who  
4       carries out any activity in violation of this section  
5       with respect to a Federal health care program a civil  
6       penalty of not more than \$50,000 for each such vio-  
7       lation, or damages of 3 times the total remuneration  
8       offered, paid, solicited, or received, whichever is  
9       greater.

10           “(2) EXISTENCE OF VIOLATION.—A violation  
11       exists under paragraph (1) if 1 or more purposes of  
12       the remuneration is unlawful, and the damages shall  
13       be the full amount of such remuneration.

14           “(3) PROCEDURES.—An action under para-  
15       graph (1) shall be governed by—

16           “(A) the procedures with regard to sub-  
17       poenas, statutes of limitations, standards of  
18       proof, and collateral estoppel set forth in sec-  
19       tion 3731 of title 31, United States Code; and

20           “(B) the Federal Rules of Civil Procedure.

21           “(4) NO EFFECT ON OTHER REMEDIES.—Noth-  
22       ing in this section may be construed to affect the  
23       availability of any other criminal or civil remedy.

24           “(h) INJUNCTIVE RELIEF.—The Attorney General  
25       may commence a civil action in an appropriate district

1 court of the United States to enjoin a violation of this  
 2 section, as provided in section 1345 of title 18, United  
 3 States Code.”.

4 (2) CONFORMING AMENDMENT.—The heading  
 5 of section 1128B of the Social Security Act (42  
 6 U.S.C. 1320a–7b) is amended by inserting “AND  
 7 CIVIL” after “CRIMINAL”.

8 **SEC. 302. AUTHORIZED INVESTIGATIVE DEMAND PROCE-**  
 9 **DURES.**

10 Section 3486 of title 18, United States Code, is  
 11 amended—

12 (1) in subsection (a), by inserting “, or any al-  
 13 legation of fraud or false claims (whether criminal or  
 14 civil) in connection with a Federal health care pro-  
 15 gram (as defined in section 1128B(f) of the Social  
 16 Security Act (42 U.S.C. 1320a–7b(f))),” after “Fed-  
 17 eral health care offense” each place it appears; and

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

19 “(f) PRIVACY PROTECTION.—

20 “(1) IN GENERAL.—Except as provided in para-  
 21 graph (2), any record (including any book, paper,  
 22 document, electronic medium, or other object or tan-  
 23 gible thing) produced pursuant to a subpoena issued  
 24 under this section that contains personally identifi-  
 25 able health information may not be disclosed to any

1 person, except pursuant to a court order under sub-  
2 section (e)(1).

3 “(2) EXCEPTIONS.—A record described in para-  
4 graph (1) may be disclosed—

5 “(A) to an attorney for the Government  
6 for use in the performance of the official duty  
7 of the attorney (including presentation to a  
8 Federal grand jury);

9 “(B) to government personnel (including  
10 personnel of a State or subdivision of a State)  
11 as are determined to be necessary by an attor-  
12 ney for the Government to assist an attorney  
13 for the Government in the performance of the  
14 official duty of that attorney to enforce Federal  
15 criminal law;

16 “(C) as directed by a court preliminarily  
17 to, or in connection with, a judicial proceeding;

18 “(D) as permitted by a court at the re-  
19 quest of a defendant in an administrative, civil,  
20 or criminal action brought by the United  
21 States, upon a showing that grounds may exist  
22 for a motion to exclude evidence obtained under  
23 this section; or

24 “(E) at the request of an attorney for the  
25 Government, upon a showing that such matters

1           may disclose a violation of State criminal law,  
2           to an appropriate official of a State or subdivi-  
3           sion of a State for the purpose of enforcing  
4           such law.

5           “(3) MANNER OF COURT ORDERED DISCLO-  
6           SURES.—

7                   “(A) IN GENERAL.—Except as provided in  
8                   subparagraph (B), if a court orders the disclo-  
9                   sure of any record described in paragraph (1),  
10                  the disclosure—

11                           “(i) shall be made in such manner, at  
12                           such time, and under such conditions as  
13                           the court may direct; and

14                           “(ii) shall be undertaken in a manner  
15                           that preserves the confidentiality and pri-  
16                           vacy of individuals who are the subject of  
17                           the record.

18                   “(B) EXCEPTION.—If disclosure is re-  
19                   quired by the nature of the proceedings, the at-  
20                   torney for the Government shall request that  
21                   the presiding judicial or administrative officer  
22                   enter an order limiting the disclosure of the  
23                   record to the maximum extent practicable, in-  
24                   cluding redacting the personally identifiable

1 health information from publicly disclosed or  
 2 filed pleadings or records.

3 “(4) DESTRUCTION OF RECORDS.—Any record  
 4 described in paragraph (1), and all copies of that  
 5 record, in whatever form (including electronic), shall  
 6 be destroyed not later than 90 days after the date  
 7 on which the record is produced, unless otherwise or-  
 8 dered by a court of competent jurisdiction, upon a  
 9 showing of good cause.

10 “(5) EFFECT OF VIOLATION.—Any person who  
 11 knowingly fails to comply with this subsection may  
 12 be punished as in contempt of court.

13 “(g) PERSONALLY IDENTIFIABLE HEALTH INFORMA-  
 14 TION DEFINED.—In this section, the term ‘personally  
 15 identifiable health information’ means any information, in-  
 16 cluding genetic information, demographic information,  
 17 and tissue samples collected from an individual, whether  
 18 oral or recorded in any form or medium, that—

19 “(1) relates to the past, present, or future phys-  
 20 ical or mental health or condition of an individual,  
 21 the provision of health care to an individual, or the  
 22 past, present, or future payment for the provision of  
 23 health care to an individual; and

24 “(2) either—

25 “(A) identifies an individual; or

1           “(B) with respect to which there is a rea-  
 2           sonable basis to believe that the information  
 3           can be used to identify an individual.”.

4 **SEC. 303. EXTENDING ANTIFRAUD SAFEGUARDS TO THE**  
 5           **FEDERAL EMPLOYEE HEALTH BENEFITS**  
 6           **PROGRAM.**

7           Section 1128B(f)(1) of the Social Security Act (42  
 8 U.S.C. 1320a–7b(f)(1)) is amended by striking “(other  
 9 than the health insurance program under chapter 89 of  
 10 title 5, United States Code)”.

11 **SEC. 304. GRAND JURY DISCLOSURE.**

12           Section 3322 of title 18, United States Code, is  
 13 amended—

14           (1) by redesignating subsections (c) and (d) as  
 15           subsections (d) and (e), respectively; and

16           (2) by inserting after subsection (b) the fol-  
 17           lowing:

18           “(c) GRAND JURY DISCLOSURE.—Subject to section  
 19 3486(f), upon ex parte motion of an attorney for the Gov-  
 20 ernment showing that a disclosure in accordance with that  
 21 subsection would be of assistance to enforce any provision  
 22 of Federal law, a court may direct the disclosure of any  
 23 matter occurring before a grand jury during an investiga-  
 24 tion of a Federal health care offense (as defined in section  
 25 24(a) of this title) to an attorney for the Government to

1 use in any investigation or civil proceeding relating to  
 2 fraud or false claims in connection with a Federal health  
 3 care program (as defined in section 1128B(f) of the Social  
 4 Security Act (42 U.S.C. 1320a–7b(f))).”.

5 **SEC. 305. INCREASING THE EFFECTIVENESS OF CIVIL IN-**  
 6 **VESTIGATIVE DEMANDS IN FALSE CLAIMS IN-**  
 7 **VESTIGATIONS.**

8 Section 3733 of title 31, United States Code, is  
 9 amended—

10 (1) in subsection (a)(1), in the second sentence,  
 11 by inserting “, except to the Deputy Attorney Gen-  
 12 eral or to an Assistant Attorney General” before the  
 13 period at the end; and

14 (2) in subsection (i)(2)(C), by adding at the end  
 15 the following: “Disclosure of information to a person  
 16 who brings a civil action under section 3730, or the  
 17 counsel of that person, shall be allowed only upon  
 18 application to a United States district court showing  
 19 that such disclosure would assist the Department of  
 20 Justice in carrying out its statutory responsibil-  
 21 ities.”.



1           **TITLE IV—PROTECTING**  
 2           **RESIDENTS OF NURSING HOMES**

3   **SEC. 401. SHORT TITLE.**

4           This title may be cited as the “Nursing Home Resi-  
 5   dent Protection Act of 2002”.

6   **SEC. 402. NURSING HOME RESIDENT PROTECTION.**

7           (a) PROTECTION OF RESIDENTS IN NURSING HOMES  
 8   AND OTHER RESIDENTIAL HEALTH CARE FACILITIES.—  
 9   Chapter 63 of title 18, United States Code, is amended  
 10 by adding at the end the following:

11   **“§ 1349. Pattern of violations resulting in harm to**  
 12                 **residents of nursing homes and related**  
 13                 **facilities**

14           “(a) DEFINITIONS.—In this section:

15                 “(1) ENTITY.—The term ‘entity’ means—

16                         “(A) any residential health care facility  
 17                         (including facilities that do not exclusively pro-  
 18                         vide residential health care services);

19                         “(B) any entity that manages a residential  
 20                         health care facility; or

21                         “(C) any entity that owns, directly or indi-  
 22                         rectly, a controlling interest or a 50 percent or  
 23                         greater interest in 1 or more residential health  
 24                         care facilities including States, localities, and  
 25                         political subdivisions thereof.

1           “(2) FEDERAL HEALTH CARE PROGRAM.—The  
 2           term ‘Federal health care program’ has the same  
 3           meaning given that term in section 1128B(f) of the  
 4           Social Security Act.

5           “(3) PATTERN OF VIOLATIONS.—The term  
 6           ‘pattern of violations’ means multiple violations of a  
 7           single Federal or State law, regulation, or rule or  
 8           single violations of multiple Federal or State laws,  
 9           regulations, or rules, that are widespread, systemic,  
 10          repeated, similar in nature, or result from a policy  
 11          or practice.

12          “(4) RESIDENTIAL HEALTH CARE FACILITY.—  
 13          The term ‘residential health care facility’ means any  
 14          facility (including any facility that does not exclu-  
 15          sively provide residential health care services), in-  
 16          cluding skilled and unskilled nursing facilities and  
 17          mental health and mental retardation facilities,  
 18          that—

19                 “(A) receives Federal funds, directly from  
 20                 the Federal Government or indirectly from a  
 21                 third party on contract with or receiving a  
 22                 grant or other monies from the Federal Govern-  
 23                 ment, to provide health care; or

24                 “(B) provides health care services in a res-  
 25                 idential setting and, in any calendar year in

1           which a violation occurs, is the recipient of ben-  
 2           efits or payments in excess of \$10,000 from a  
 3           Federal health care program.

4           “(5) STATE.—The term ‘State’ means each of  
 5           the several States of the United States, the District  
 6           of Columbia, and any commonwealth, territory, or  
 7           possession of the United States.

8           “(b) PROHIBITION AND PENALTIES.—Whoever  
 9           knowingly and willfully engages in a pattern of violations  
 10          that affects the health, safety, or care of individuals resid-  
 11          ing in a residential health care facility or facilities, and  
 12          that results in significant physical or mental harm to 1  
 13          or more of such residents, shall be punished as provided  
 14          in section 1347, except that any organization shall be  
 15          fined not more than \$2,000,000 per residential health care  
 16          facility.

17          “(c) CIVIL PROVISIONS.—

18                 “(1) IN GENERAL.—The Attorney General may  
 19          bring an action in a district court of the United  
 20          States to impose on any individual or entity that en-  
 21          gages in a pattern of violations that affects the  
 22          health, safety, or care of individuals residing in a  
 23          residential health care facility, and that results in  
 24          physical or mental harm to 1 or more such  
 25          residents—

1 “(A) a civil penalty; or

2 “(B) in the case of—

3 “(i) an individual (other than an  
4 owner, operator, officer, or manager of  
5 such a residential health care facility), not  
6 more than \$10,000;

7 “(ii) an individual who is an owner,  
8 operator, officer, or manager of such a res-  
9 idential health care facility, not more than  
10 \$100,000 for each separate facility in-  
11 volved in the pattern of violations under  
12 this section;

13 “(iii) a residential health care facility,  
14 not more than \$1,000,000 for each pattern  
15 of violations; or

16 “(iv) an entity, not more than  
17 \$1,000,000 for each separate residential  
18 health care facility involved in the pattern  
19 of violations owned or managed by that en-  
20 tity.

21 “(2) OTHER APPROPRIATE RELIEF.—If the At-  
22 torney General has reason to believe that an indi-  
23 vidual or entity is engaging in or is about to engage  
24 in a pattern of violations that would affect the  
25 health, safety, or care of individuals residing in a

1 residential health care facility, and that results in or  
2 has the potential to result in physical or mental  
3 harm to 1 or more such residents, the Attorney Gen-  
4 eral may petition an appropriate district court of the  
5 United States for appropriate equitable and declara-  
6 tory relief to eliminate the pattern of violations.

7 “(3) PROCEDURES.—In any action under this  
8 subsection—

9 “(A) a subpoena requiring the attendance  
10 of a witness at a trial or hearing may be served  
11 at any place in the United States;

12 “(B) the action may not be brought more  
13 than 6 years after the date on which the viola-  
14 tion occurred;

15 “(C) the United States shall be required to  
16 prove each charge by a preponderance of the  
17 evidence;

18 “(D) the civil investigative demand proce-  
19 dures set forth in the Antitrust Civil Process  
20 Act (15 U.S.C. 1311 et seq.) and regulations  
21 promulgated pursuant to that Act shall apply to  
22 any investigation; and

23 “(E) the filing or resolution of a matter  
24 shall not preclude any other remedy that is

1           available to the United States or any other per-  
2           son.

3           “(d) PROHIBITION AGAINST RETALIATION.—Any  
4 person who is the subject of retaliation, either directly or  
5 indirectly, for reporting a condition that may constitute  
6 grounds for relief under this section may bring an action  
7 in an appropriate district court of the United States for  
8 damages, attorneys’ fees, and other relief.”.

9           (b) AUTHORIZED INVESTIGATIVE DEMAND PROCE-  
10 DURES.—Section 3486(a)(1) of title 18, United States  
11 Code, as amended by section 402 of this Act, is amended  
12 by inserting “, act or activity involving section 1349 of  
13 this title” after “Federal health care offense”.

14           (c) CONFORMING AMENDMENT.—The analysis for  
15 chapter 63 of title 18, United States Code, is amended  
16 by adding at the end the following:

“1349. Pattern of violations resulting in harm to residents of nursing homes and  
related facilities.”.

17 **TITLE       V—PROTECTING       THE**  
18 **RIGHTS OF ELDERLY CRIME**  
19 **VICTIMS**

20 **SEC. 501. USE OF FORFEITED FUNDS TO PAY RESTITUTION**  
21 **TO CRIME VICTIMS AND REGULATORY AGEN-**  
22 **CIES.**

23           Section 981(e) of title 18, United States Code, is  
24 amended—

1           (1) in each of paragraphs (3), (4), and (5), by  
 2           striking “in the case of property referred to in sub-  
 3           section (a)(1)(C)” and inserting “in the case of  
 4           property forfeited in connection with an offense re-  
 5           sulting in a pecuniary loss to a financial institution  
 6           or regulatory agency,”; and

7           (2) in paragraph (7), by striking “In the case  
 8           of property referred to in subsection (a)(1)(D)” and  
 9           inserting “in the case of property forfeited in con-  
 10          nection with an offense relating to the sale of assets  
 11          acquired or held by any Federal financial institution  
 12          or regulatory agency, or person appointed by such  
 13          agency, as receiver, conservator, or liquidating agent  
 14          for a financial institution”.

15 **SEC. 502. VICTIM RESTITUTION.**

16          Section 413 of the Controlled Substances Act (21  
 17          U.S.C. 853) is amended by adding at the end the fol-  
 18          lowing:

19           “(r) VICTIM RESTITUTION.—

20                   “(1) SATISFACTION OF ORDER OF RESTITU-  
 21                   TION.—

22                           “(A) IN GENERAL.—Except as provided in  
 23                           subparagraph (B), a defendant may not use  
 24                           property subject to forfeiture under this section  
 25                           to satisfy an order of restitution.

1           “(B) EXCEPTION.—If there are 1 or more  
2           identifiable victims entitled to restitution from a  
3           defendant, and the defendant has no assets  
4           other than the property subject to forfeiture  
5           with which to pay restitution to the victim or  
6           victims, the attorney for the Government may  
7           move to dismiss a forfeiture allegation against  
8           the defendant before entry of a judgment of  
9           forfeiture in order to allow the property to be  
10          used by the defendant to pay restitution in  
11          whatever manner the court determines to be ap-  
12          propriate if the court grants the motion. In  
13          granting a motion under this subparagraph, the  
14          court shall include a provision ensuring that  
15          costs associated with the identification, seizure,  
16          management, and disposition of the property  
17          are recovered by the United States.

18          “(2) RESTORATION OF FORFEITED PROP-  
19          PERTY.—

20               “(A) IN GENERAL.—If an order of for-  
21               feiture is entered pursuant to this section and  
22               the defendant has no assets other than the for-  
23               feited property to pay restitution to 1 or more  
24               identifiable victims who are entitled to restitu-  
25               tion, the Government shall restore the forfeited



1 property to the victims pursuant to subsection  
2 (i)(1) once the ancillary proceeding under sub-  
3 section (n) has been completed and the costs  
4 of the forfeiture action have been deducted.

5 “(B) DISTRIBUTION OF PROPERTY.—On a  
6 motion of the attorney for the Government, the  
7 court may enter any order necessary to facili-  
8 tate the distribution of any property restored  
9 under this paragraph.

10 “(3) VICTIM DEFINED.—In this subsection, the  
11 term ‘victim’—

12 “(A) means a person other than a person  
13 with a legal right, title, or interest in the for-  
14 feited property sufficient to satisfy the standing  
15 requirements of subsection (n)(2) who may be  
16 entitled to restitution from the forfeited funds  
17 pursuant to section 9.8 of part 9 of title 28,  
18 Code of Federal Regulations (or any successor  
19 to that regulation); and

20 “(B) includes any person who is the victim  
21 of the offense giving rise to the forfeiture, or of  
22 any offense that was part of the same scheme,  
23 conspiracy, or pattern of criminal activity, in-  
24 cluding, in the case of a money laundering of-

1           fense, any offense constituting the underlying  
2           specified unlawful activity.”.

3 **SEC. 503. BANKRUPTCY PROCEEDINGS NOT USED TO**  
4                   **SHIELD ILLEGAL GAINS FROM FALSE**  
5                   **CLAIMS.**

6           (a) CERTAIN ACTIONS NOT STAYED BY BANK-  
7    RUPTCY PROCEEDINGS.—

8           (1) IN GENERAL.—Notwithstanding any other  
9           provision of law, the commencement or continuation  
10          of an action under section 3729 of title 31, United  
11          States Code, does not operate as a stay under sec-  
12          tion 105(a) or 362(a)(1) of title 11, United States  
13          Code.

14          (2) CONFORMING AMENDMENT.—Section  
15          362(b) of title 11, United States Code, is  
16          amended—

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

19                (B) in paragraph (18), by striking the pe-  
20                riod at the end and inserting “; or”; and

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

22                “(19) the commencement or continuation of an  
23                action under section 3729 of title 31.”.

1 (b) CERTAIN DEBTS NOT DISCHARGEABLE IN BANK-  
 2 RUPTCY.—Section 523 of title 11, United States Code, is  
 3 amended by adding at the end the following:

4 “(f) A discharge under section 727, 1141, 1228(a),  
 5 1228(b), or 1328(b) does not discharge a debtor from a  
 6 debt owed for violating section 3729 of title 31.”.

7 (c) REPAYMENT OF CERTAIN DEBTS CONSIDERED  
 8 FINAL.—

9 (1) IN GENERAL.—Chapter 1 of title 11, United  
 10 States Code, is amended by adding at the end the  
 11 following:

12 **“§ 111. False claims**

13 “No transfer on account of a debt owed to the United  
 14 States for violating section 3729 of title 31, or under a  
 15 compromise order or other agreement resolving such a  
 16 debt may be avoided under section 544, 545, 547, 548,  
 17 549, 553(b), or 742(a).”.

18 (2) CONFORMING AMENDMENT.—The analysis  
 19 for chapter 1 of title 11, United States Code, is  
 20 amended by adding at the end the following:

“111. False claims.”.

21 **SEC. 504. FORFEITURE FOR RETIREMENT OFFENSES.**

22 (a) CRIMINAL FORFEITURE.—Section 982(a) of title  
 23 18, United States Code, is amended by adding at the end  
 24 the following:

25 “(9) CRIMINAL FORFEITURE.—

1           “(A) IN GENERAL.—The court, in imposing a  
 2           sentence on a person convicted of a retirement of-  
 3           fense, shall order the person to forfeit property, real  
 4           or personal, that constitutes or that is derived, di-  
 5           rectly or indirectly, from proceeds traceable to the  
 6           commission of the offense.

7           “(B) RETIREMENT OFFENSE DEFINED.—In  
 8           this paragraph, if a violation, conspiracy, or sollicita-  
 9           tion relates to a retirement arrangement (as defined  
 10          in section 1348 of title 18, United States Code), the  
 11          term ‘retirement offense’ means a violation of—

12                   “(i) section 664, 1001, 1027, 1341, 1343,  
 13                   1348, 1951, 1952, or 1954 of title 18, United  
 14                   States Code; or

15                   “(ii) section 411, 501, or 511 of the Em-  
 16                   ployee Retirement Income Security Act of 1974  
 17                   (29 U.S.C. 1111, 1131, 1141).”.

18          (b) CIVIL FORFEITURE.—Section 981(a)(1) of title  
 19          18, United States Code, is amended by adding at the end  
 20          the following:

21                   “(H) Any property, real or personal, that con-  
 22                   stitutes or is derived, directly or indirectly, from pro-  
 23                   ceeds traceable to the commission of, criminal con-  
 24                   spiracy to violate, or solicitation to commit a crime

1 of violence involving, a retirement offense (as de-  
2 fined in section 982(a)(9)(B)).”.

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