

108TH CONGRESS  
1ST SESSION

# H. R. 858

To amend title 18, United States Code, to establish penalties for aggravated identity theft, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2003

Mr. TANNER (for himself, Mr. BOYD, Mr. JOHN, Mr. STENHOLM, and Mr. DAVIS of Tennessee) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to establish penalties for aggravated identity theft, 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 Penalty  
5 Enhancement Act”.

6 **SEC. 2. AGGRAVATED IDENTITY THEFT.**

7 (a) IN GENERAL.—Chapter 47 of title 18, United  
8 States Code, is amended by adding after section 1028, the  
9 following:

1 **“§ 1028A. Aggravated identity theft**

2 “(a) OFFENSES.—

3 “(1) IN GENERAL.—Whoever, during and in re-  
4 lation to any felony violation enumerated in sub-  
5 section (c), knowingly transfers, possesses, or uses,  
6 without lawful authority, a means of identification of  
7 another person shall, in addition to the punishment  
8 provided for such felony, be sentenced to a term of  
9 imprisonment of 2 years.

10 “(2) TERRORISM OFFENSE.—Whoever, during  
11 and in relation to any felony violation enumerated in  
12 section 2332b(g)(5)(B), knowingly transfers, pos-  
13 sesses, or uses, without lawful authority, a means of  
14 identification of another person shall, in addition to  
15 the punishment provided for such felony, be sen-  
16 tenced to a term of imprisonment of 5 years.

17 “(b) CONSECUTIVE SENTENCE.—Notwithstanding  
18 any other provision of law—

19 “(1) a court shall not place on probation any  
20 person convicted of a violation of this section;

21 “(2) except as provided in paragraph (4), no  
22 term of imprisonment imposed on a person under  
23 this section shall run concurrently with any other  
24 term of imprisonment imposed on the person under  
25 any other provision of law, including any term of im-  
26 prisonment imposed for the felony during which the

1 means of identification was transferred, possessed,  
2 or used;

3 “(3) in determining any term of imprisonment  
4 to be imposed for the felony during which the means  
5 of identification was transferred, possessed, or used,  
6 a court shall not in any way reduce the term to be  
7 imposed for such crime so as to compensate for, or  
8 otherwise take into account, any separate term of  
9 imprisonment imposed or to be imposed for a viola-  
10 tion of this section; and

11 “(4) a term of imprisonment imposed on a per-  
12 son for a violation of this section may, in the discre-  
13 tion of the court, run concurrently, in whole or in  
14 part, only with another term of imprisonment that  
15 is imposed by the court at the same time on that  
16 person for an additional violation of this section,  
17 provided that such discretion shall be exercised in  
18 accordance with any applicable guidelines and policy  
19 statements issued by the Sentencing Commission  
20 pursuant to section 994 of title 28.

21 “(c) DEFINITION.—For purposes of this section, the  
22 term ‘felony violation enumerated in subsection (c)’ means  
23 any offense that is a felony violation of—

24 “(1) section 664 (relating to theft from em-  
25 ployee benefit plans);

1           “(2) section 911 (relating to false personation  
2 of citizenship);

3           “(3) any provision contained in this chapter (re-  
4 lating to fraud and false statements), other than this  
5 section or section 1028(a)(7);

6           “(4) any provision contained in chapter 63 (re-  
7 lating to mail, bank, and wire fraud);

8           “(5) any provision contained in chapter 69 (re-  
9 lating to nationality and citizenship);

10          “(6) any provision contained in chapter 75 (re-  
11 lating to passports and visas);

12          “(7) section 523 of the Gramm-Leach-Bliley  
13 Act (15 U.S.C. 6823) (relating to obtaining cus-  
14 tomer information by false pretenses);

15          “(8) section 243 or 266 of the Immigration and  
16 Nationality Act (8 U.S.C. 1253 and 1306) (relating  
17 to willfully failing to leave the United States after  
18 deportation and creating a counterfeit alien registra-  
19 tion card);

20          “(9) any provision contained in chapter 8 of  
21 title II of the Immigration and Nationality Act (8  
22 U.S.C. 1321 et seq.) (relating to various immigra-  
23 tion offenses); or

24          “(10) section 208, 1107(b), or 1128B(a) of the  
25 Social Security Act (42 U.S.C. 408, 1307(b), and

1 1320a–7b(a)) (relating to false statements relating  
2 to programs under the Act).”.

3 (b) AMENDMENT TO CHAPTER ANALYSIS.—The table  
4 of sections for chapter 47 of title 18, United States Code,  
5 is amended by inserting after the item relating to section  
6 1028 the following new item:

“1028A. Aggravated identity theft.”.

7 **SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PRO-**  
8 **HIBITION.**

9 Section 1028 of title 18, United States Code, is  
10 amended—

11 (1) in subsection (a)(7)—

12 (A) by striking “transfers” and inserting  
13 “transfers, possesses,”; and

14 (B) by striking “abet,” and inserting  
15 “abet, or in connection with,”;

16 (2) in subsection (b)(1)(D), by striking “trans-  
17 fer” and inserting “transfer, possession,”;

18 (3) in subsection (b)(2), by striking “three  
19 years” and inserting “5 years”; and

20 (4) in subsection (b)(4), by inserting after “fa-  
21 cilitate” the following: “an act of domestic terrorism  
22 (as defined under section 2331(5) of this title) or”.

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