

113TH CONGRESS
1ST SESSION

H. R. 2104

To amend title 18, United States Code, and the Social Security Act to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2013

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, and the Social Security Act to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, 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 “Protecting the Privacy of Social Security Numbers Act
6 of 2013”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Prohibition of the display, sale, or purchase of Social Security numbers.
- Sec. 4. Application of prohibition of the display, sale, or purchase of Social Security numbers to public records.
- Sec. 5. Rulemaking authority of the Attorney General.
- Sec. 6. Limits on personal disclosure of a Social Security number for consumer transactions.
- Sec. 7. Extension of civil monetary penalties for misuse of a Social Security number.
- Sec. 8. Criminal penalties for the misuse of a Social Security number.
- Sec. 9. Civil actions and civil penalties.
- Sec. 10. Federal injunctive authority.

3 **SEC. 2. FINDINGS.**

4 The Congress makes the following findings:

5 (1) The inappropriate display, sale, or purchase
 6 of Social Security numbers has contributed to a
 7 growing range of illegal activities, including fraud,
 8 identity theft, and, in some cases, stalking and other
 9 violent crimes.

10 (2) While financial institutions, health care pro-
 11 viders, and other entities have often used Social Se-
 12 curity numbers to confirm the identity of an indi-
 13 vidual, the general display to the public, sale, or pur-
 14 chase of these numbers has been used to commit
 15 crimes, and also can result in serious invasions of in-
 16 dividual privacy.

17 (3) The Federal Government requires virtually
 18 every individual in the United States to obtain and
 19 maintain a Social Security number in order to pay

1 taxes, to qualify for Social Security benefits, or to
2 seek employment. An unintended consequence of
3 these requirements is that Social Security numbers
4 have become one of the tools that can be used to fa-
5 cilitate crime, fraud, and invasions of the privacy of
6 the individuals to whom the numbers are assigned.
7 Because the Federal Government created and main-
8 tains this system, and because the Federal Govern-
9 ment does not permit individuals to exempt them-
10 selves from those requirements, it is appropriate for
11 the Federal Government to take steps to stem the
12 abuse of Social Security numbers.

13 (4) The display, sale, or purchase of Social Se-
14 curity numbers in no way facilitates uninhibited, ro-
15 bust, and wide-open public debate, and restrictions
16 on such display, sale, or purchase would not affect
17 public debate.

18 (5) No one should seek to profit from the dis-
19 play, sale, or purchase of Social Security numbers in
20 circumstances that create a substantial risk of phys-
21 ical, emotional, or financial harm to the individuals
22 to whom those numbers are assigned.

23 (6) Consequently, this Act provides each indi-
24 vidual that has been assigned a Social Security num-
25 ber some degree of protection from the display, sale,

1 and purchase of that number in any circumstance
 2 that might facilitate unlawful conduct.

3 **SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**
 4 **CHASE OF SOCIAL SECURITY NUMBERS.**

5 (a) PROHIBITION.—

6 (1) IN GENERAL.—Chapter 47 of title 18,
 7 United States Code, is amended by inserting after
 8 section 1028A the following:

9 **“§ 1028B. Prohibition of the display, sale, or purchase**
 10 **of Social Security numbers**

11 “(a) DEFINITIONS.—In this section:

12 “(1) DISPLAY.—The term ‘display’ means to in-
 13 tentiously communicate or otherwise make available
 14 (on the Internet or in any other manner) to the gen-
 15 eral public an individual’s Social Security number.

16 “(2) PERSON.—The term ‘person’ means any
 17 individual, partnership, corporation, trust, estate, co-
 18 operative, association, or any other entity.

19 “(3) PURCHASE.—The term ‘purchase’ means
 20 providing directly or indirectly, anything of value in
 21 exchange for a Social Security number.

22 “(4) SALE.—The term ‘sale’ means obtaining,
 23 directly or indirectly, anything of value in exchange
 24 for a Social Security number.

1 “(5) STATE.—The term ‘State’ means any
2 State of the United States, the District of Columbia,
3 Puerto Rico, the Northern Mariana Islands, the
4 United States Virgin Islands, Guam, American
5 Samoa, and any territory or possession of the
6 United States.

7 “(b) LIMITATION ON DISPLAY.—Except as provided
8 in section 1028C, no person may display any individual’s
9 Social Security number to the general public without the
10 affirmatively expressed consent of the individual.

11 “(c) LIMITATION ON SALE OR PURCHASE.—Except
12 as otherwise provided in this section, no person may sell
13 or purchase any individual’s Social Security number with-
14 out the affirmatively expressed consent of the individual.

15 “(d) PREREQUISITES FOR CONSENT.—In order for
16 consent to exist under subsection (b) or (c), the person
17 displaying or seeking to display, selling or attempting to
18 sell, or purchasing or attempting to purchase, an individ-
19 ual’s Social Security number shall—

20 “(1) inform the individual of the general pur-
21 pose for which the number will be used, the types of
22 persons to whom the number may be available, and
23 the scope of transactions permitted by the consent;
24 and

1 “(2) obtain the affirmatively expressed consent
2 (electronically or in writing) of the individual.

3 “(e) EXCEPTIONS.—Nothing in this section shall be
4 construed to prohibit or limit the display, sale, or purchase
5 of a Social Security number—

6 “(1) required, authorized, or excepted under
7 any Federal law;

8 “(2) for a public health purpose, including the
9 protection of the health or safety of an individual in
10 an emergency situation;

11 “(3) for a national security purpose;

12 “(4) for a law enforcement purpose, including
13 the investigation of fraud and the enforcement of a
14 child support obligation;

15 “(5) if the display, sale, or purchase of the
16 number is for a use occurring as a result of an inter-
17 action between businesses, governments, or business
18 and government (regardless of which entity initiates
19 the interaction), including, but not limited to—

20 “(A) the prevention of fraud (including
21 fraud in protecting an employee’s right to em-
22 ployment benefits);

23 “(B) the facilitation of credit checks or the
24 facilitation of background checks of employees,
25 prospective employees, or volunteers;

1 “(C) the retrieval of other information
2 from other businesses, commercial enterprises,
3 government entities, or private nonprofit orga-
4 nizations; or

5 “(D) when the transmission of the number
6 is incidental to, and in the course of, the sale,
7 lease, franchising, or merger of all, or a portion
8 of, a business;

9 “(6) if the transfer of such a number is part of
10 a data matching program involving a Federal, State,
11 or local agency; or

12 “(7) if such number is required to be submitted
13 as part of the process for applying for any type of
14 Federal, State, or local government benefit or pro-
15 gram;

16 except that, nothing in this subsection shall be construed
17 as permitting a professional or commercial user to display
18 or sell a Social Security number to the general public.

19 “(f) LIMITATION.—Nothing in this section shall pro-
20 hibit or limit the display, sale, or purchase of Social Secu-
21 rity numbers as permitted under title V of the Gramm-
22 Leach-Bliley Act, or for the purpose of affiliate sharing
23 as permitted under the Fair Credit Reporting Act, except
24 that no entity regulated under such Acts may make Social
25 Security numbers available to the general public, as may

1 be determined by the appropriate regulators under such
 2 Acts. For purposes of this subsection, the general public
 3 shall not include affiliates or unaffiliated third-party busi-
 4 ness entities as may be defined by the appropriate regu-
 5 lators.”.

6 (2) CONFORMING AMENDMENT.—The chapter
 7 analysis for chapter 47 of title 18, United States
 8 Code, is amended by inserting after the item relating
 9 to section 1028A the following:

“1028B. Prohibition of the display, sale, or purchase of Social Security num-
 bers.”.

10 (b) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date that is 30 days
 12 after the date on which the final regulations promulgated
 13 under section 5 are published in the Federal Register.

14 **SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY,**
 15 **SALE, OR PURCHASE OF SOCIAL SECURITY**
 16 **NUMBERS TO PUBLIC RECORDS.**

17 (a) PUBLIC RECORDS EXCEPTION.—

18 (1) IN GENERAL.—Chapter 47 of title 18,
 19 United States Code (as amended by section 3(a)(1)),
 20 is amended by inserting after section 1028B the fol-
 21 lowing:

1 **“§ 1028C. Display, sale, or purchase of public records**
2 **containing Social Security numbers**

3 “(a) DEFINITION.—In this section, the term ‘public
4 record’ means any governmental record that is made avail-
5 able to the general public.

6 “(b) IN GENERAL.—Except as provided in sub-
7 sections (c), (d), and (e), section 1028B shall not apply
8 to a public record.

9 “(c) PUBLIC RECORDS ON THE INTERNET OR IN AN
10 ELECTRONIC MEDIUM.—

11 “(1) IN GENERAL.—Section 1028B shall apply
12 to any public record first posted onto the Internet
13 or provided in an electronic medium by, or on behalf
14 of, a government entity after the date of the enact-
15 ment of this section, except as limited by the Attor-
16 ney General in accordance with paragraph (2).

17 “(2) EXCEPTION FOR GOVERNMENT ENTITIES
18 ALREADY PLACING PUBLIC RECORDS ON THE INTER-
19 NET OR IN ELECTRONIC FORM.—Not later than 60
20 days after the date of the enactment of this section,
21 the Attorney General shall issue regulations regard-
22 ing the applicability of section 1028B to any record
23 of a category of public records first posted onto the
24 Internet or provided in an electronic medium by, or
25 on behalf of, a government entity prior to the date
26 of the enactment of this section. The regulations will

1 determine which individual records within categories
2 of records of these government entities, if any, may
3 continue to be posted on the Internet or in electronic
4 form after the effective date of this section. In pro-
5 mulgating these regulations, the Attorney General
6 may include in the regulations a set of procedures
7 for implementing the regulations and shall consider
8 the following:

9 “(A) The cost and availability of tech-
10 nology available to a governmental entity to re-
11 dact Social Security numbers from public
12 records first provided in electronic form after
13 the effective date of this section.

14 “(B) The cost or burden to the general
15 public, businesses, commercial enterprises, non-
16 profit organizations, and to Federal, State, and
17 local governments of complying with section
18 1028B with respect to such records.

19 “(C) The benefit to the general public,
20 businesses, commercial enterprises, non-profit
21 organizations, and to Federal, State, and local
22 governments if the Attorney General were to
23 determine that section 1028B should apply to
24 such records.

1 Nothing in the regulation shall permit a public enti-
2 ty to post a category of public records on the Inter-
3 net or in electronic form after the effective date of
4 this section if such category had not been placed on
5 the Internet or in electronic form prior to such effec-
6 tive date.

7 “(d) HARVESTED SOCIAL SECURITY NUMBERS.—
8 Section 1028B shall apply to any public record of a gov-
9 ernment entity which contains Social Security numbers ex-
10 tracted from other public records for the purpose of dis-
11 playing or selling such numbers to the general public.

12 “(e) ATTORNEY GENERAL RULEMAKING ON PAPER
13 RECORDS.—

14 “(1) IN GENERAL.—Not later than 60 days
15 after the date of the enactment of this section, the
16 Attorney General shall determine the feasibility and
17 advisability of applying section 1028B to the records
18 listed in paragraph (2) when they appear on paper
19 or on another nonelectronic medium. If the Attorney
20 General deems it appropriate, the Attorney General
21 may issue regulations applying section 1028B to
22 such records.

23 “(2) LIST OF PAPER AND OTHER NONELEC-
24 TRONIC RECORDS.—The records listed in this para-
25 graph are as follows:

1 “(A) Professional or occupational licenses.

2 “(B) Marriage licenses.

3 “(C) Birth certificates.

4 “(D) Death certificates.

5 “(E) Other short public documents that
6 display a Social Security number in a routine
7 and consistent manner on the face of the docu-
8 ment.

9 “(3) CRITERIA FOR ATTORNEY GENERAL RE-
10 VIEW.—In determining whether section 1028B
11 should apply to the records listed in paragraph (2),
12 the Attorney General shall consider the following:

13 “(A) The cost or burden to the general
14 public, businesses, commercial enterprises, non-
15 profit organizations, and to Federal, State, and
16 local governments of complying with section
17 1028B.

18 “(B) The benefit to the general public,
19 businesses, commercial enterprises, non-profit
20 organizations, and to Federal, State, and local
21 governments if the Attorney General were to
22 determine that section 1028B should apply to
23 such records.”.

24 (2) CONFORMING AMENDMENT.—The chapter
25 analysis for chapter 47 of title 18, United States

1 Code (as amended by section 3(a)(2)), is amended
2 by inserting after the item relating to section 1028B
3 the following:

“1028C. Display, sale, or purchase of public records containing Social Security numbers.”.

4 (b) EFFECTIVE DATE.—The prohibition with respect
5 to electronic versions of new classes of public records
6 under section 1028C(b) of title 18, United States Code
7 (as added by subsection (a)(1)) shall not take effect until
8 the date that is 60 days after the date of the enactment
9 of this Act.

10 **SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GEN-**
11 **ERAL.**

12 (a) IN GENERAL.—Except as provided in subsection
13 (b), the Attorney General may prescribe such rules and
14 regulations as the Attorney General deems necessary to
15 carry out the provisions of section 1028B(e)(5) of title 18,
16 United States Code (as added by section 3(a)(1)).

17 (b) DISPLAY, SALE, OR PURCHASE RULEMAKING
18 WITH RESPECT TO INTERACTIONS BETWEEN BUSI-
19 NESSES, GOVERNMENTS, OR BUSINESS AND GOVERN-
20 MENT.—

21 (1) IN GENERAL.—Not later than 1 year after
22 the date of the enactment of this Act, the Attorney
23 General, in consultation with the Commissioner of
24 Social Security, the Chairman of the Federal Trade

1 Commission, and such other heads of Federal agen-
2 cies as the Attorney General determines appropriate,
3 shall conduct such rulemaking procedures in accord-
4 ance with subchapter II of chapter 5 of title 5,
5 United States Code, as are necessary to promulgate
6 regulations to implement and clarify the uses occur-
7 ring as a result of an interaction between businesses,
8 governments, or business and government (regard-
9 less of which entity initiates the interaction) per-
10 mitted under section 1028B(e)(5) of title 18, United
11 States Code (as added by section 3(a)(1)).

12 (2) FACTORS TO BE CONSIDERED.—In promul-
13 gating the regulations required under paragraph (1),
14 the Attorney General shall, at a minimum, consider
15 the following:

16 (A) The benefit to a particular business, to
17 customers of the business, and to the general
18 public of the display, sale, or purchase of an in-
19 dividual's Social Security number.

20 (B) The costs that businesses, customers
21 of businesses, and the general public may incur
22 as a result of prohibitions on the display, sale,
23 or purchase of Social Security numbers.

24 (C) The risk that a particular business
25 practice will promote the use of a Social Secu-

1 rity number to commit fraud, deception, or
2 crime.

3 (D) The presence of adequate safeguards,
4 procedures, and technologies to prevent—

5 (i) misuse of Social Security numbers
6 by employees within a business; and

7 (ii) misappropriation of Social Secu-
8 rity numbers by the general public, while
9 permitting internal business uses of such
10 numbers.

11 (E) The presence of procedures to prevent
12 identity thieves, stalkers, and other individuals
13 with ill intent from posing as legitimate busi-
14 nesses to obtain Social Security numbers.

15 (F) The impact of such uses on privacy.

16 **SEC. 6. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL**
17 **SECURITY NUMBER FOR CONSUMER TRANS-**
18 **ACTIONS.**

19 (a) IN GENERAL.—Part A of title XI of the Social
20 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
21 ing at the end the following:

1 **“SEC. 1150C. LIMITS ON PERSONAL DISCLOSURE OF A SO-**
2 **CIAL SECURITY NUMBER FOR CONSUMER**
3 **TRANSACTIONS.**

4 “(a) IN GENERAL.—A commercial entity may not re-
5 quire an individual to provide the individual’s Social Secu-
6 rity number when purchasing a commercial good or service
7 or deny an individual the good or service for refusing to
8 provide that number except—

9 “(1) for any purpose relating to—

10 “(A) obtaining a consumer report for any
11 purpose permitted under the Fair Credit Re-
12 porting Act;

13 “(B) a background check of the individual
14 conducted by a landlord, lessor, employer, vol-
15 untary service agency, or other entity as deter-
16 mined by the Attorney General;

17 “(C) law enforcement; or

18 “(D) a Federal, State, or local law require-
19 ment; or

20 “(2) if the Social Security number is necessary
21 to verify the identity of the consumer to effect, ad-
22 minister, or enforce the specific transaction re-
23 quested or authorized by the consumer, or to prevent
24 fraud.

1 “(b) APPLICATION OF CIVIL MONEY PENALTIES.—
2 A violation of this section shall be deemed to be a violation
3 of section 1129(a)(3)(F).

4 “(c) APPLICATION OF CRIMINAL PENALTIES.—A vio-
5 lation of this section shall be deemed to be a violation of
6 section 208(a)(8).

7 “(d) LIMITATION ON CLASS ACTIONS.—No class ac-
8 tion alleging a violation of this section shall be maintained
9 under this section by an individual or any private party
10 in Federal or State court.

11 “(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

12 “(1) IN GENERAL.—

13 “(A) CIVIL ACTIONS.—In any case in
14 which the attorney general of a State has rea-
15 son to believe that an interest of the residents
16 of that State has been or is threatened or ad-
17 versely affected by the engagement of any per-
18 son in a practice that is prohibited under this
19 section, the State, as *parens patriae*, may bring
20 a civil action on behalf of the residents of the
21 State in a district court of the United States of
22 appropriate jurisdiction to—

23 “(i) enjoin that practice;

24 “(ii) enforce compliance with such
25 section;

1 “(iii) obtain damages, restitution, or
2 other compensation on behalf of residents
3 of the State; or

4 “(iv) obtain such other relief as the
5 court may consider appropriate.

6 “(B) NOTICE.—

7 “(i) IN GENERAL.—Before filing an
8 action under subparagraph (A), the attor-
9 ney general of the State involved shall pro-
10 vide to the Attorney General—

11 “(I) written notice of the action;

12 and

13 “(II) a copy of the complaint for
14 the action.

15 “(ii) EXEMPTION.—

16 “(I) IN GENERAL.—Clause (i)
17 shall not apply with respect to the fil-
18 ing of an action by an attorney gen-
19 eral of a State under this subsection,
20 if the State attorney general deter-
21 mines that it is not feasible to provide
22 the notice described in such subpara-
23 graph before the filing of the action.

24 “(II) NOTIFICATION.—With re-
25 spect to an action described in sub-

1 clause (I), the attorney general of a
2 State shall provide notice and a copy
3 of the complaint to the Attorney Gen-
4 eral at the same time as the State at-
5 torney general files the action.

6 “(2) INTERVENTION.—

7 “(A) IN GENERAL.—On receiving notice
8 under paragraph (1)(B), the Attorney General
9 shall have the right to intervene in the action
10 that is the subject of the notice.

11 “(B) EFFECT OF INTERVENTION.—If the
12 Attorney General intervenes in the action under
13 paragraph (1), the Attorney General shall have
14 the right to be heard with respect to any matter
15 that arises in that action.

16 “(3) CONSTRUCTION.—For purposes of bring-
17 ing any civil action under paragraph (1), nothing in
18 this section shall be construed to prevent an attor-
19 ney general of a State from exercising the powers
20 conferred on such attorney general by the laws of
21 that State to—

22 “(A) conduct investigations;

23 “(B) administer oaths or affirmations; or

1 “(C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 “(4) ACTIONS BY THE ATTORNEY GENERAL OF
5 THE UNITED STATES.—In any case in which an ac-
6 tion is instituted by or on behalf of the Attorney
7 General for violation of a practice that is prohibited
8 under this section, no State may, during the pend-
9 ency of that action, institute an action under para-
10 graph (1) against any defendant named in the com-
11 plaint in that action for violation of that practice.

12 “(5) VENUE; SERVICE OF PROCESS.—

13 “(A) VENUE.—Any action brought under
14 paragraph (1) may be brought in the district
15 court of the United States that meets applicable
16 requirements relating to venue under section
17 1391 of title 28, United States Code.

18 “(B) SERVICE OF PROCESS.—In an action
19 brought under paragraph (1), process may be
20 served in any district in which the defendant—

21 “(i) is an inhabitant; or

22 “(ii) may be found.

23 “(f) SUNSET.—This section shall not apply on or
24 after the date that is 6 years after the effective date of
25 this section.”.

1 (b) EVALUATION AND REPORT.—Not later than the
2 date that is 6 years and 6 months after the date of the
3 enactment of this Act, the Attorney General, in consulta-
4 tion with the chairman of the Federal Trade Commission,
5 shall issue a report evaluating the effectiveness and effi-
6 ciency of section 1150C of the Social Security Act (as
7 added by subsection (a)) and shall make recommendations
8 to the Congress as to any legislative action determined to
9 be necessary or advisable with respect to such section, in-
10 cluding a recommendation regarding whether to reauthor-
11 ize such section.

12 (c) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to requests to provide a Social
14 Security number occurring after the date that is 1 year
15 after the date of the enactment of this Act.

16 **SEC. 7. EXTENSION OF CIVIL MONETARY PENALTIES FOR**
17 **MISUSE OF A SOCIAL SECURITY NUMBER.**

18 (a) APPLICATION OF CIVIL MONEY PENALTIES TO
19 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
20 of the Social Security Act (42 U.S.C. 1320a–8(a)) is
21 amended—

22 (1) by redesignating paragraphs (2) and (3) as
23 paragraphs (4) and (5), respectively;

1 (2) by designating the last sentence of para-
2 graph (1) as paragraph (2) and inserting such para-
3 graph after paragraph (1); and

4 (3) by inserting after paragraph (2) (as so des-
5 ignated and inserted under paragraph (2) of this
6 subsection) the following:

7 “(3) Any person (including an organization, agency,
8 or other entity) who—

9 “(A) uses a Social Security account number
10 that such person knows or should know has been as-
11 signed by the Commissioner of Social Security (in an
12 exercise of authority under section 205(c)(2) to es-
13 tablish and maintain records) on the basis of false
14 information furnished to the Commissioner by any
15 person;

16 “(B) falsely represents a number to be the So-
17 cial Security account number assigned by the Com-
18 missioner of Social Security to any individual, when
19 such person knows or should know that such number
20 is not the Social Security account number assigned
21 by the Commissioner to such individual;

22 “(C) knowingly alters a Social Security card
23 issued by the Commissioner of Social Security, or
24 possesses such a card with intent to alter it;

1 “(D) knowingly displays, sells, or purchases a
2 card that is, or is purported to be, a card issued by
3 the Commissioner of Social Security, or possesses
4 such a card with intent to display, purchase, or sell
5 it;

6 “(E) counterfeits a Social Security card, or pos-
7 sesses a counterfeit Social Security card with intent
8 to display, sell, or purchase it;

9 “(F) discloses, uses, compels the disclosure of,
10 or knowingly displays, sells, or purchases the Social
11 Security account number of any person in violation
12 of the laws of the United States;

13 “(G) with intent to deceive the Commissioner of
14 Social Security as to such person’s true identity (or
15 the true identity of any other person) furnishes or
16 causes to be furnished false information to the Com-
17 missioner with respect to any information required
18 by the Commissioner in connection with the estab-
19 lishment and maintenance of the records provided
20 for in section 205(c)(2);

21 “(H) offers, for a fee, to acquire for any indi-
22 vidual, or to assist in acquiring for any individual,
23 an additional Social Security account number or a
24 number which is or is purported to be a Social Secu-
25 rity account number; or

1 “(I) being an officer or employee of a Federal,
2 State, or local agency in possession of any individ-
3 ual’s Social Security account number, willfully acts
4 or fails to act so as to cause a violation by such
5 agency of section 205(c)(2)(C)(vi)(II) (relating to
6 prohibition of display of Social Security account
7 numbers on driver’s licenses, motor vehicle registra-
8 tions, and personal identification cards) or section
9 205(c)(2)(C)(x) (added by Public Law 111–318 and
10 relating to prohibition of display of Social Security
11 account numbers on checks issued for payment by
12 Federal, State, or local agencies),
13 shall be subject to, in addition to any other penalties that
14 may be prescribed by law, a civil money penalty of not
15 more than \$5,000 for each violation. Such person shall
16 also be subject to an assessment, in lieu of damages sus-
17 tained by the United States resulting from such violation,
18 of not more than twice the amount of any benefits or pay-
19 ments paid as a result of such violation.”.

20 (b) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply with respect to violations of section 1129
24 of the Social Security Act (42 U.S.C. 1320–8), as

1 amended by this section, committed after the date of
2 the enactment of this Act.

3 (2) VIOLATIONS BY GOVERNMENT AGENTS IN
4 POSSESSION OF SOCIAL SECURITY NUMBERS.—Sec-
5 tion 1129(a)(3)(I) of the Social Security Act (42
6 U.S.C. 1320a–8(a)(3)(I)), as added by subsection
7 (a), shall apply with respect to violations of that sec-
8 tion occurring on or after the effective date de-
9 scribed in section 3(c).

10 **SEC. 8. CRIMINAL PENALTIES FOR THE MISUSE OF A SO-**
11 **CIAL SECURITY NUMBER.**

12 (a) PROHIBITION OF WRONGFUL USE AS PERSONAL
13 IDENTIFICATION NUMBER.—No person may obtain any
14 individual’s Social Security number for purposes of locat-
15 ing or identifying an individual with the intent to phys-
16 ically injure, harm, or use the identity of the individual
17 for any illegal purpose.

18 (b) CRIMINAL SANCTIONS.—Section 208(a) of the
19 Social Security Act (42 U.S.C. 408(a)) is amended—

20 (1) in paragraph (8), by adding “or” after the
21 semicolon; and

22 (2) by inserting after paragraph (8) the fol-
23 lowing:

24 “(9) except as provided in subsections (e) and
25 (f) of section 1028B of title 18, United States Code,

1 knowingly and willfully displays, sells, or purchases
 2 (as those terms are defined in section 1028B(a) of
 3 title 18, United States Code) any individual's Social
 4 Security account number without having met the
 5 prerequisites for consent under section 1028B(d) of
 6 title 18, United States Code; or

7 “(10) obtains any individual's Social Security
 8 number for the purpose of locating or identifying the
 9 individual with the intent to injure or to harm that
 10 individual, or to use the identity of that individual
 11 for an illegal purpose;”.

12 **SEC. 9. CIVIL ACTIONS AND CIVIL PENALTIES.**

13 (a) CIVIL ACTION IN STATE COURTS.—

14 (1) IN GENERAL.—Any individual aggrieved by
 15 an act of any person in violation of this Act, any
 16 amendments made by this Act, or clause (x) or (xi)
 17 of section 205(c)(2)(C) of the Social Security Act
 18 (added by the Social Security Number Protection
 19 Act of 2010 (Public Law 111–318)) may, if other-
 20 wise permitted by the laws or rules of the court of
 21 a State, bring in an appropriate court of that
 22 State—

23 (A) an action to enjoin such violation;

24 (B) an action to recover for actual mone-
 25 tary loss from such a violation, or to receive up

1 to \$500 in damages for each such violation,
2 whichever is greater; or

3 (C) both such actions.

4 It shall be an affirmative defense in any action
5 brought under this paragraph that the defendant
6 has established and implemented, with due care, rea-
7 sonable practices and procedures to effectively pre-
8 vent violations of the provisions of this Act, the
9 amendments made by this Act, such clause (x) or
10 (xi), or regulations prescribed under this Act, such
11 amendments, or such clause. If the court finds that
12 the defendant willfully or knowingly violated any
13 such provision, the court may, in its discretion, in-
14 crease the amount of the award to an amount equal
15 to not more than 3 times the amount available
16 under subparagraph (B).

17 (2) STATUTE OF LIMITATIONS.—An action may
18 be commenced under this subsection not later than
19 the earlier of—

20 (A) 5 years after the date on which the al-
21 leged violation occurred; or

22 (B) 3 years after the date on which the al-
23 leged violation was or should have been reason-
24 ably discovered by the aggrieved individual.

1 (3) NONEXCLUSIVE REMEDY.—The remedy pro-
2 vided under this subsection shall be in addition to
3 any other remedies available to the individual.

4 (b) CIVIL PENALTIES.—

5 (1) IN GENERAL.—Any person who the Attor-
6 ney General determines has violated any provision of
7 this Act, the amendments made by this Act, or
8 clause (x) or (xi) of section 205(c)(2)(C) of the So-
9 cial Security Act (added by the Social Security
10 Number Protection Act of 2010 (Public Law 111–
11 318)) shall be subject, in addition to any other pen-
12 alties that may be prescribed by law—

13 (A) to a civil penalty of not more than
14 \$5,000 for each such violation; and

15 (B) to a civil penalty of not more than
16 \$50,000, if the violations have occurred with
17 such frequency as to constitute a general busi-
18 ness practice.

19 (2) DETERMINATION OF VIOLATIONS.—Any
20 willful violation committed contemporaneously with
21 respect to the Social Security numbers of two or
22 more individuals by means of mail, telecommuni-
23 cation, or otherwise, shall be treated as a separate
24 violation with respect to each such individual.

1 (3) ENFORCEMENT PROCEDURES.—The provi-
2 sions of section 1128A of the Social Security Act
3 (42 U.S.C. 1320a–7a), other than subsections (a),
4 (b), (f), (h), (i), (j), (m), and (n) and the first sen-
5 tence of subsection (c) of such section, and the pro-
6 visions of subsections (d) and (e) of section 205 of
7 such Act (42 U.S.C. 405) shall apply to a civil pen-
8 alty action under this subsection in the same man-
9 ner as such provisions apply to a penalty or pro-
10 ceeding under section 1128A(a) of such Act (42
11 U.S.C. 1320a–7a(a)), except that, for purposes of
12 this paragraph, any reference in section 1128A of
13 such Act (42 U.S.C. 1320a–7a) to the Secretary
14 shall be deemed to be a reference to the Attorney
15 General.

16 **SEC. 10. FEDERAL INJUNCTIVE AUTHORITY.**

17 In addition to any other enforcement authority con-
18 ferred under this Act or the amendments made by this
19 Act, the Federal Government shall have injunctive author-
20 ity with respect to any violation by a public entity of any
21 provision of this Act, of any amendments made by this
22 Act, or of clause (x) or (xi) of section 205(c)(2)(C) of the
23 Social Security Act (added by the Social Security Number
24 Protection Act of 2010 (Public Law 111–318)).

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