

# SEC. 207. USE OF FULL INTERSTATE AND FOREIGN COMMERCE POWER FOR CRIMINAL PENALTIES.

Section 1030(e)(2)(B) of title 18, United States Code, is amended by inserting "or affecting" after "which is used in".

# SEC. 208. FORFEITURE FOR SECTION 1030 VIOLATIONS.

Section 1030 of title 18, United States Code, is amended by adding at the end the following:

"(i)(1) The court, in imposing sentence on any person convicted of a violation of this section, or convicted of conspiracy to violate this section, shall order, in addition to any other sentence imposed and irrespective of any provision of State law, that such person forfeit to the United States—

"(A) such person's interest in any personal property that was used or intended to be used to commit or to facilitate the commission of such violation; and

"(B) any property, real or personal, constituting or derived from, any proceeds that such person obtained, directly or indirectly, as a result of such violation.

"(2) The criminal forfeiture of property under this subsection, any seizure and disposition thereof, and any judicial proceeding in relation thereto, shall be governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.

"(j) For purposes of subsection (i), the following shall be subject to forfeiture to the United States and no property right shall exist in them:

"(1) Any personal property used or intended to be used to commit or to facilitate the commission of any violation of this section, or a conspiracy to violate this section.

"(2) Any property, real or personal, which constitutes or is derived from proceeds traceable to any violation of this section, or a conspiracy to violate this section".

# SEC. 209. DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.

(a) DIRECTIVE.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review its guidelines and policy statements applicable to persons convicted of offenses under sections 1028, 1028A, 1030, 2511, and 2701 of title 18, United States Code, and any other relevant provisions of law, in order to reflect the intent of Congress that such penalties be increased in comparison to those currently provided by such guidelines and policy statements.

(b) REQUIREMENTS.—In determining its guidelines and policy statements on the appropriate sentence for the crimes enumerated in subsection (a), the United States Sentencing Commission shall consider the extent to which the guidelines and policy statements may or may not account for the following factors in order to create an effective deterrent to computer crime and the theft or misuse of personally identifiable data:

(1) The level of sophistication and planning involved in such offense.

(2) Whether such offense was committed for purpose of commercial advantage or private financial benefit.

(3) The potential and actual loss resulting from the offense including—

(A) the value of information obtained from a protected computer, regardless of whether the owner was deprived of use of the information; and

(B) where the information obtained constitutes a trade secret or other proprietary information, the cost the victim incurred developing or compiling the information.

(4) Whether the defendant acted with intent to cause either physical or property harm in committing the offense.

(5) The extent to which the offense violated the privacy rights of individuals.

(6) The effect of the offense upon the operations of an agency of the United States Government, or of a State or local government.

(7) Whether the offense involved a computer used by the United States Government, a State, or a local government in furtherance of national defense, national security, or the administration of justice.

(8) Whether the offense was intended to, or had the effect of, significantly interfering with or disrupting a critical infrastructure.

(9) Whether the offense was intended to, or had the effect of, creating a threat to public health or safety, causing injury to any person, or causing death.

(10) Whether the defendant purposefully involved a juvenile in the commission of the offense.

(11) Whether the defendant's intent to cause damage or intent to obtain personal information should be disaggregated and considered separately from the other factors set forth in USSG 2B1.1(b)(14).

(12) Whether the term "victim" as used in USSG 2B1.1, should include individuals whose privacy was violated as a result of the offense in addition to individuals who suffered monetary harm as a result of the offense.

(13) Whether the defendant disclosed personal information obtained during the commission of the offense.

(c) ADDITIONAL REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(2) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(3) make any conforming changes to the sentencing guidelines; and

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 5938), as amended, was read the third time, and passed.

# MAKING MINORITY PARTY APPOINTMENTS FOR THE 110TH CONGRESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 635, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 635) making minority party appointments for the 110th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. PRYOR. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 635) was agreed to, as follows:

S. RES. 635

*Resolved.* That the following be the minority membership on the following committee for the remainder of the 110th Congress, or until their successors are appointed:

Committee on Commerce, Science and Transportation: Mrs. Hutchison, Mr. Stevens, Mr. McCain, Ms. Snowe, Mr. Smith, Mr. Ensign, Mr. Sununu, Mr. DeMint, Mr. Vitter, Mr. Thune, Mr. Wicker.

# MEASURE PLACED ON THE CALENDAR—S. 3348

Mr. PRYOR. Mr. President, I understand that S. 3348 is at the desk and due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the second time.

The assistant legislative clerk read as follows:

A bill (S. 3348) to provide for the investigation of certain unsolved civil rights crimes, and for other purposes.

Mr. PRYOR. I object to any further proceedings with respect to the bill.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

# ORDERS FOR THURSDAY, JULY 31, 2008

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow, July 31; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to a period for the transaction of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the second half. I further ask unanimous consent that following morning business, the Senate resume consideration of the motion to proceed to S. 3001, the Department of Defense authorization bill. Finally, I ask unanimous consent that the time from 10:30 a.m. to 12:30 p.m. be controlled in alternating 30-minute blocks of time between the majority and Republican sides, with the Republicans controlling the first 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

# PROGRAM

Mr. PRYOR. Mr. President, tomorrow we expect to turn to the consideration of the Consumer Product Safety Commission conference report and the higher education conference report. Therefore, Senators should expect votes throughout the day.

# ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. PRYOR. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:58 p.m., adjourned until Thursday, July 31, 2008, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF ENERGY

JAMES A. SLUTZ, OF OHIO, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY), VICE JEFFREY D. JARRETT, RESIGNED.

### DEPARTMENT OF VETERANS AFFAIRS

PATRICK W. DUNNE, OF NEW YORK, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS, VICE DANIEL L. COOPER, RESIGNED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be lieutenant colonel*

SARAH C. L. SCULLION

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be lieutenant colonel*

RICHARD E. CUTTS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be major*

KARL L. BROWN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

#### *To be major*

ANDREW T. HARKREADER  
TARIS S. HAWKINS

### IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

#### *To be colonel*

STEPHEN E. HUSKEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

#### *To be colonel*

JENNIFER A. HISGEN  
VIVIAN C. SHAFER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

#### *To be colonel*

KORD H. BASNIGHT  
DAVID C. CANNON  
DANNY M. CHAPPELL  
PATRICK L. CUMMINGS  
KURT A. DIDIER  
PHILLIP N. FOSTER  
THOMAS L. FRANKFURT  
DEREK GILMAN  
URAL D. GLANVILLE  
JON L. HALL  
JOYCE A. HAMEL  
JAMES M. HEATON  
MARK E. JOHNSON  
JEFFREY G. KLAUVENS  
GERALD P. KOHNS  
GERALD J. LANGAN, JR.  
THOMAS A. LINCOLN  
WILLIAM W. MCQUADE  
EDYE L. MORAN  
JOHN K. MORONEY  
ROGER E. NELL  
ALAN OTT  
LON S. PLATT  
CYNTHIA J. RAPP  
ANTHONY P. RICCI  
CHRISTOPHER W. ROYER  
ANDREW SQUIRE  
ANTHONY R. TEMPESTA  
DAVID K. TRAUTMAN  
WILLIAM W. WAY  
FRANK D. WHITNEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY DENTAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be major*

BRADLEY AEBI

JAMES ANDERSON  
JAMES P. ARNOLD  
TRAVIS J. AUSTIN  
CHAD BANGERTER  
SAMUEL BELAU  
BENJAMIN BELFIGLIO  
JOSEPH BOWLES  
CLINTON CABLE  
CHUN Y. CHAN  
DAVID CIESLA  
STAN CLARK  
JARED DEAN  
MARK ERICSON  
MICHAEL FORAN  
LACEY GREEN  
THOMAS R. GUNNELL  
KRISTOPHER HART  
GARTH W. HATCH  
DANIEL HENDRICKS  
KELLY J. JOHNSON  
THOMAS M. JOHNSON  
DANIEL D. KERSTEN  
KIRBY S. KJAR  
SUSAN O. KOAGEL  
JACQUELINE KORMANN  
SOOMO LEE  
MICHAEL R. MANSELL  
ROBERT MANSMAN  
DAVIN E. MELLUS  
JASON M. MICHEL  
MAX H. MOLGARD, JR.  
DAVID D. NELSON  
THAO NGUYEN  
LISA NORBY  
KEVIN PARKER  
LOKEN M. PATEL  
MATTHEW E. ROBERTSON  
GREGORY S. RUSSELL  
RAND RUSSELL  
JERROD L. SANDERS  
JILL E. SANDERS  
DANIEL C. SHIN  
DANIELLE SIM  
RYAN STRATTON  
GYULA TAKACS  
DAVID TUCKER  
AZURE L. UTLEY  
MARK VAGNETTI  
PHILIP VANCE  
KEVYN WETZEL  
CLAYTON B. WILLIAMS  
KEITRA T. WILSON  
KYUNGHEE K. YOO  
JONATHAN YUN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

#### *To be major*

JULIE A. AKE  
KEVIN S. AKERS  
SHAWN M. ALDERMAN  
ASNA A. AMIN  
SAMUEL ANAYA  
ZACHARY ARTHURS  
ADAM ASH  
SIMMON W. ASHWORTH  
MEAGAN M. BACHARACH  
TERRENCE BARRETT  
CRAIG H. BARSTOW  
ERIC BASS  
NICHOLAS K. BATCHELOR  
SLAVA M. BELENKIY  
DANIEL A. BELLIN  
NIDHI BHATIA  
PAMELA BLAND  
MATTHEW A. BORGMAN  
FLETCHER M. BOULWARE  
PETER BRANDRUP  
JOANNA G. BRANSTETTER  
ELIZABETH L. BRENT  
DONNA BRISTER  
ADAM L. BROWN  
DOUGLAS N. BROWN  
JAMIE D. BULKENHOVER  
ELIZABETH R. BURCHARD  
TIFFANY BURNETT  
KAREN CALLAGHAN  
ELIZABETH A. CALLEN  
MATTHEW R. CAMPBELL  
DEBRA CARSON  
DANIEL S. CASE  
DAVID M. CHATWIN  
JOSEPH G. CHEATHAM  
ERIC CHIN  
SUNGHUN CHO  
TIMOTHY H. CHO  
EUGENE J. CHUNG  
PAUL CLARK  
JASON E. COHEN  
DANIEL V. CORDARO  
CHRISTIAN COX  
AMANDA S. CUDIA  
SCOTT P. CUDIA  
RACHEL A. CUENCA  
MARTHA B. CULPEPPER  
MATTHEW CURNUTTE  
CLIFTON R. DABBS  
NEIL B. DAVIDS  
DAVID C. DEBLASIO  
SEAN DEMARS  
CHAD A. DEROSA  
PETER A. DESOCIO  
MARK DEVENPORT  
AARON N. DEWEES

JAY M. DINTAMAN  
BRAD M. DOLINSKY  
BENJAMIN J. DUFFY  
DUANE DUKE  
WILLIAM DUKE  
ELIZABETH H. DUQUE  
AARON P. EDWARDS  
TANJA S. EPLEY  
JUDE T. ESCANO  
EDUARDO ESCOBAR  
CLIFFORD J. EVANS  
LEE A. EVANS  
EDWIN A. FARNELL IV  
ASHLEY A. FEAVER  
JOCELYN FIGUEROA  
COLLIN J. FISCHER  
ZACHARY E. FISHER  
KEVIN FITZPATRICK  
ERIN FLAHERTY  
SHANNON K. FLOODNICHOLS  
TOBY FOSTER  
ALLISON J. FRANKLIN  
ERIC C. GARGES  
DENA L. GEORGE  
JEREMY GIBSON  
BRUCE GILBERT  
JENNIFER GILBERT  
JEFFREY R. GIULIANI  
TRISA A. GIULIANI  
DAVID GLIDDEN  
JESSICA F. GOLD  
SCOTT T. GOODRICH  
TIMOTHY W. GOODRICH  
JASON A. GRASSBAUGH  
DAVID L. GREENBURG  
GARTH T. GREENWELL  
CHRISTINA D. HAHN  
JASMINE J. HAN  
JENNIFER C. HANOWELL  
UEL D. HANSEN  
SCOTT HARRINGTON  
MARK L. HARSHANY  
NIDAL M. HASAN  
PATRICK C. HAYES  
EREK K. HELSETH  
MARC W. HERR  
JENNIFER R. HEWITT  
ROBERT HICKS  
GUTON J. HILL  
MICAH HILL  
MARY K. HINKLE  
MICHAEL HITE  
AARON HOBLET  
COURTNEY A. HOLLAND  
MITCHEL HOLM  
TODD R. HOWLAND  
JAMES T. HSU  
KEVIN G. HUAMAN  
EDWARD A. HULTEN  
MELISSA IGLESIAS  
RICHARD K. IDAE  
DAVID JAMISON  
DOROTA J. JANIEC  
CHESTER C. JEAN  
RALPH E. JENSEN  
ERICA N. JOHNSON  
KATHRYN JOHNSON  
ROBIN JOHNSON  
SHAWN E. JOHNSON  
WILLIAM J. JORDAN  
DANIEL JOYCE  
DAVID KAYLOR  
CLINTON G. KEILMAN  
JEFFREY KELLY  
JOSEPH F. KELLY  
KEVIN M. KELLY  
JOHN Y. KIM  
ROBERT S. KING  
STEPHANIE L. KIRBY  
AARON D. KIRKPATRICK  
RANDY KJORSTAD  
PETER KREISHMAN  
ADRIAN T. KRESS  
MICAH KUZMA  
ANTON P. LACAP  
JEFFREY N. LACKEY  
JEFFREY T. LACZEK  
KIMBERLY F. LAIRET  
DOUGLAS B. LANGFORD  
JEFFREY B. LANIER  
ABIGAIL J. LEE  
KANG H. LEE  
SUKHYUNG LEE  
KIMBERLY A. LEHMAN  
LUCAS R. LEONARD  
SARA LOKSTAD  
SCOTT A. LUKE  
RANDY LUNDELL  
REBECCA B. LURIA  
NICK M. LY  
DUSTEN MACDONALD  
MICHAEL A. MAHLON  
ASHLEY MARANICH  
KATHARINE W. MARKELL  
SCOTT A. MARSHALL, JR.  
MICHAEL C. MARTE  
JENNIFER MATHIEU  
ROSS M. MATHIEU  
JAMES MAUTNER  
DUSTIN M. MCDERMOTT  
MICHAEL J. MCDONALD  
CAMILLE F. MCGANN  
ROBERT W. MCINTOSH  
CAROL MCCLAUGHLIN  
JOSEPH C. MCLEAN  
NEIL MCMULLIN  
KEVIN MCPHERSON