

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4151

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IN THE SENATE OF THE UNITED STATES

OCTOBER 8 (legislative day, OCTOBER 2), 1998

Received

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## AN ACT

To amend chapter 47 of title 18, United States Code,  
relating to identity fraud, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft and As-  
5 sumption Deterrence Act of 1998”.

6 **SEC. 2. CONSTITUTIONAL AUTHORITY TO ENACT THIS LEG-**  
7 **ISLATION.**

8 The constitutional authority upon which this Act  
9 rests is the power of Congress to regulate commerce with  
10 foreign nations and among the several States, and the au-  
11 thority to make all laws which shall be necessary and prop-  
12 er for carrying into execution the powers vested by the  
13 Constitution in the Government of the United States or  
14 in any department or officer thereof, as set forth in article  
15 I, section 8 of the United States Constitution.

16 **SEC. 3. IDENTITY THEFT.**

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

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

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

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

1           (4) by inserting after paragraph (6) the follow-  
2           ing:

3           “(7) knowingly transfers or uses, without lawful  
4           authority, a means of identification of another per-  
5           son with the intent to commit, or to aid or abet, any  
6           unlawful activity that constitutes a violation of Fed-  
7           eral law, or that constitutes a felony under any ap-  
8           plicable State or local law;”.

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

11           (1) in paragraph (1)—

12                   (A) in subparagraph (B), by striking “or”  
13                   at the end;

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

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

17                           “(D) an offense under paragraph (7) of  
18                           such subsection that involves the transfer or use  
19                           of 1 or more means of identification if, as a re-  
20                           sult of the offense, any individual committing  
21                           the offense obtains anything of value aggregat-  
22                           ing \$1,000 or more during any 1-year period;”;

23           (2) in paragraph (2)—

24                   (A) in subparagraph (A), by striking “or  
25                   transfer of an identification document or” and

1 inserting “, transfer, or use of a means of iden-  
2 tification, an identification document, or a”;  
3 and

4 (B) in subparagraph (B), by inserting “or  
5 (7)” after “(3)”;

6 (3) by amending paragraph (3) to read as fol-  
7 lows:

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

11 “(A) to facilitate a drug trafficking crime  
12 (as defined in section 929(a)(2));

13 “(B) in connection with a crime of violence  
14 (as defined in section 924(c)(3)); or

15 “(C) after a prior conviction under this  
16 section becomes final;”;

17 (4) in paragraph (4), by striking “and” at the  
18 end;

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

21 (6) by inserting after paragraph (4) the follow-  
22 ing:

23 “(5) in the case of any offense under subsection  
24 (a), forfeiture to the United States of any personal

1 property used or intended to be used to commit the  
2 offense; and”.

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

6 “(3) either—

7 “(A) the production, transfer, possession,  
8 or use prohibited by this section is in or affects  
9 interstate or foreign commerce; or

10 “(B) the means of identification, identifica-  
11 tion document, false identification document, or  
12 document-making implement is transported in  
13 the mail in the course of the production, trans-  
14 fer, possession, or use prohibited by this sec-  
15 tion.”.

16 (d) DEFINITIONS.—Subsection (d) of section 1028 of  
17 title 18, United States Code, is amended to read as fol-  
18 lows:

19 “(d) In this section—

20 “(1) the term ‘document-making implement’  
21 means any implement, impression, electronic device,  
22 or computer hardware or software, that is specifi-  
23 cally configured or primarily used for making an  
24 identification document, a false identification docu-  
25 ment, or another document-making implement;

1           “(2) the term ‘identification document’ means a  
2 document made or issued by or under the authority  
3 of the United States Government, a State, political  
4 subdivision of a State, a foreign government, politi-  
5 cal subdivision of a foreign government, an inter-  
6 national governmental or an international quasi-gov-  
7 ernmental organization which, when completed with  
8 information concerning a particular individual, is of  
9 a type intended or commonly accepted for the pur-  
10 pose of identification of individuals;

11           “(3) the term ‘means of identification’ means  
12 any name or number that may be used, alone or in  
13 conjunction with any other information, to identify  
14 a specific individual, including any—

15           “(A) name, social security number, date of  
16 birth, official State or government issued driv-  
17 er’s license or identification number, alien reg-  
18 istration number, government passport number,  
19 employer or taxpayer identification number;

20           “(B) unique biometric data, such as finger-  
21 print, voice print, retina or iris image, or other  
22 unique physical representation;

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

1           “(D) telecommunication identifying infor-  
2           mation or access device (as defined in section  
3           1029(e));

4           “(4) the term ‘personal identification card’  
5           means an identification document issued by a State  
6           or local government solely for the purpose of identi-  
7           fication;

8           “(5) the term ‘produce’ includes alter, authen-  
9           ticate, or assemble; and

10           “(6) the term ‘State’ includes any State of the  
11           United States, the District of Columbia, the Com-  
12           monwealth of Puerto Rico, and any other common-  
13           wealth, possession, or territory of the United  
14           States.”.

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

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

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

1       “(g) FORFEITURE PROCEDURES.—The forfeiture of  
2 property under this section, including any seizure and dis-  
3 position of the property and any related judicial or admin-  
4 istrative proceeding, shall be governed by the provisions  
5 of section 413 (other than subsection (d) of that section)  
6 of the Comprehensive Drug Abuse Prevention and Control  
7 Act of 1970 (21 U.S.C. 853).”.

8       (g) RULE OF CONSTRUCTION.—Section 1028 of title  
9 18, United States Code, is amended by adding at the end  
10 the following:

11       “(h) RULE OF CONSTRUCTION.—For purpose of sub-  
12 section (a)(7), a single identification document or false  
13 identification document that contains 1 or more means of  
14 identification shall be construed to be 1 means of identi-  
15 fication.”.

16       (h) CONFORMING AMENDMENTS.—Chapter 47 of  
17 title 18, United States Code, is amended—

18           (1) in the heading for section 1028, by adding

19       “**and information**” at the end; and

20           (2) in the table of sections at the beginning of

21       the chapter, in the item relating to section 1028, by

22       adding “and information” at the end.



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

3 (a) **IN GENERAL.**—Pursuant to its authority under  
4 section 994(p) of title 28, United States Code, the United  
5 States Sentencing Commission shall review and amend the  
6 Federal sentencing guidelines and the policy statements  
7 of the Commission, as appropriate, to provide an appro-  
8 priate penalty for each offense under section 1028 of title  
9 18, United States Code, as amended by this Act.

10 (b) **FACTORS FOR CONSIDERATION.**—In carrying out  
11 subsection (a), the United States Sentencing Commission  
12 shall consider, with respect to each offense described in  
13 subsection (a)—

14 (1) the extent to which the number of victims  
15 (as defined in section 3663A(a) of title 18, United  
16 States Code) involved in the offense, including harm  
17 to reputation, inconvenience, and other difficulties  
18 resulting from the offense, is an adequate measure  
19 for establishing penalties under the Federal sentenc-  
20 ing guidelines;

21 (2) the number of means of identification, iden-  
22 tification documents, or false identification docu-  
23 ments (as those terms are defined in section 1028(d)  
24 of title 18, United States Code, as amended by this  
25 Act) involved in the offense, is an adequate measure

1 for establishing penalties under the Federal sentenc-  
2 ing guidelines;

3 (3) the extent to which the value of the loss to  
4 any individual caused by the offense is an adequate  
5 measure for establishing penalties under the Federal  
6 sentencing guidelines;

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

8 (5) the extent to which sentencing enhance-  
9 ments within the Federal sentencing guidelines and  
10 the court's authority to sentence above the applica-  
11 ble guideline range are adequate to ensure punish-  
12 ment at or near the maximum penalty for the most  
13 egregious conduct covered by the offense;

14 (6) the extent to which Federal sentencing  
15 guidelines sentences for the offense have been con-  
16 strained by statutory maximum penalties;

17 (7) the extent to which Federal sentencing  
18 guidelines for the offense adequately achieve the  
19 purposes of sentencing set forth in section  
20 3553(a)(2) of title 18, United States Code; and

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

1 **SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDU-**  
2 **CATION SERVICE FOR VICTIMS OF IDENTITY**  
3 **THEFT.**

4 (a) **IN GENERAL.**—Not later than 1 year after the  
5 date of enactment of this Act, the Federal Trade Commis-  
6 sion shall establish procedures to—

7 (1) log and acknowledge the receipt of com-  
8 plaints by individuals who certify that they have a  
9 reasonable belief that 1 or more of their means of  
10 identification (as defined in section 1028 of title 18,  
11 United States Code, as amended by this Act) have  
12 been assumed, stolen, or otherwise unlawfully ac-  
13 quired in violation of section 1028 of title 18, United  
14 States Code, as amended by this Act;

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

17 (3) refer complaints described in paragraph (1)  
18 to appropriate entities, which may include referral  
19 to—

20 (A) the 3 major national consumer report-  
21 ing agencies; and

22 (B) appropriate law enforcement agencies  
23 for potential law enforcement action.

24 (b) **AUTHORIZATION OF APPROPRIATIONS.**—There  
25 are authorized to be appropriated such sums as may be  
26 necessary to carry out this section.

1 **SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED**  
2 **STATES CODE.**

3 (a) **TECHNICAL CORRECTION RELATING TO CRIMI-**  
4 **NAL FORFEITURE PROCEDURES.**—Section 982(b)(1) of  
5 title 18, United States Code, is amended to read as fol-  
6 lows: “(1) The forfeiture of property under this section,  
7 including any seizure and disposition of the property and  
8 any related judicial or administrative proceeding, shall be  
9 governed by the provisions of section 413 (other than sub-  
10 section (d) of that section) of the Comprehensive Drug  
11 Abuse Prevention and Control Act of 1970 (21 U.S.C.  
12 853).”.

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

18 **SEC. 7. REDACTION OF ETHICS REPORTS FILED BY JUDI-**  
19 **CIAL OFFICERS AND EMPLOYEES.**

20 Section 105(b) of the Ethics in Government Act of  
21 1978 (5 U.S.C. App) is amended by adding at the end  
22 the following new paragraph:

23 “(3)(A) This section does not require the immediate  
24 and unconditional availability of reports filed by an indi-  
25 vidual described in section 109(8) or 109(10) of this Act  
26 if a finding is made by the Judicial Conference, in con-

1 sultation with United States Marshall Service, that reveal-  
2 ing personal and sensitive information could endanger that  
3 individual.

4 “(B) A report may be redacted pursuant to this para-  
5 graph only—

6 “(i) to the extent necessary to protect the indi-  
7 vidual who filed the report; and

8 “(ii) for as long as the danger to such individ-  
9 ual exists.

10 “(C) The Administrative Office of the United States  
11 Courts shall submit to the Committees on the Judiciary  
12 of the House of Representatives and of the Senate an an-  
13 nual report with respect to the operation of this paragraph  
14 including—

15 “(i) the total number of reports redacted pursu-  
16 ant to this paragraph;

17 “(ii) the total number of individuals whose re-  
18 ports have been redacted pursuant to this para-  
19 graph; and

20 “(iii) the types of threats against individuals  
21 whose reports are redacted, if appropriate.

22 “(D) The Judicial Conference, in consultation with  
23 the Department of Justice, shall issue regulations setting  
24 forth the circumstances under which redaction is appro-

1 piate under this paragraph and the procedures for redac-  
2 tion.

3 “(E) This paragraph shall expire on December 31,  
4 2001, and apply to filings through calendar year 2001.”.

Passed the House of Representatives October 7,  
1998.

Attest:

ROBIN H. CARLE,  
*Clerk.*