

"(5) the relationship between persons in the business of organized professional baseball and umpires or other individuals who are employed in the business of organized professional baseball by such persons; or

"(6) any conduct, acts, practices or agreements of persons not in the business of organized professional major league baseball.

"(c) Only a major league baseball player has standing to sue under this section. For the purposes of this section, a major league baseball player is:

"(1) a person who is a party to a major league player's contract, or is playing baseball at the major league level; or

"(2) a person who was a party to a major league player's contract or playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

"(3) a person who has been a party to a major league player's contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player's contract by an alleged violation of the antitrust laws, provided however, that for the purposes of this paragraph, the alleged antitrust violation shall not include any conduct, acts, practices or agreements of persons in the business of organized professional baseball relating to or affect employment to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

"(4) a person who was a party to a major league player's contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last collective bargaining agreement between persons in the business of organized professional major league baseball and the exclusive collective bargaining representative of major league baseball players.

"(d)(1) As used in this section, "person" means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof. As used in this section, the National Association of Professional Baseball Leagues, its member leagues and the clubs of those leagues, are not "in the business of organized professional major league baseball."

"(2) In cases involving conduct, acts, practices or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (b) above, only those components, portions or aspects of such conduct, acts, practices or agreements that directly relate to or affect employment of major league players to play baseball at the major league level may be challenged under subsection (a) and then only to the extent that they directly relate to or affect employment of major league baseball players to play baseball at the major league level.

"(3) As used in subsection (a), interpretation of the term 'directly' shall not be governed by any interpretation of 29 U.S.C. § 151 et seq. (as amended).

"(4) Nothing in this section shall be construed to affect the application to organized professional baseball of the nonstatutory labor exemption from the antitrust laws.

"(5) The scope of the conduct, acts, practices or agreements covered by subsection (b) shall not be strictly or narrowly construed.

IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

KYL (AND OTHERS) AMENDMENT NO. 3480

Mr. JEFFORDS (for Mr. KYL for himself, Mr. LEAHY, Mr. HATCH, Mrs. FEINSTEIN, Mr. DEWINE, Mr. D'AMATO, Mr. GRASSLEY, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. HARKIN, Mr. WARNER, Mr. MURKOWSKI, and Mr. ROBB) proposed an amendment to the bill (S. 512) to amend chapter 47 of title 18, United States Code, relating to fraud, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Identity Theft and Assumption Deterrence Act of 1998".

SEC. 2. IDENTITY THEFT.

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

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by adding "or" at the end;

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

(4) by inserting after paragraph (6) the following:

"(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or otherwise promote, carry on, or facilitate any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;"

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

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following:

"(D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating \$1,000 or more during any 1-year period;"

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or transfer of an identification document or" and inserting "transfer, or use of a means of identification, an identification document, or a"; and

(B) in subparagraph (B), by inserting "or (7)" after "(3)";

(3) by striking paragraphs (3) and (4) and inserting the following:

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

"(A) to facilitate a drug trafficking crime (as defined in section 929(a)(2)); or

"(B) after a prior conviction under this section becomes final;

"(4) a fine under this title or imprisonment for not more than 25 years, or both, if the offense is committed—

"(A) to facilitate an act of international terrorism (as defined in section 2331(1)); or

"(B) in connection with a crime of violence (as defined in section 924(c)(3));"

(4) by redesignating paragraph (5) as paragraph (6); and

(5) by inserting after paragraph (4) (as added by paragraph (3) of this subsection) the following:

"(5) in the case of any offense under subsection (a), forfeiture to the United States of any personal property used or intended to be used to commit the offense; and"

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

"(3) either—

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

"(B) the means of identification, identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, possession, or use prohibited by this section."

(d) DEFINITIONS.—Section 1028 of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(d) DEFINITIONS.—In this section:

"(1) DOCUMENT-MAKING IMPLEMENT.—The term 'document-making implement' means any implement, impression, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document-making implement.

"(2) IDENTIFICATION DOCUMENT.—The term 'identification document' means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"(3) MEANS OF IDENTIFICATION.—The term 'means of identification' means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any—

"(A) name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

"(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;

"(C) unique electronic identification number, address, or routing code; or

"(D) telecommunication identifying information or access device (as defined in section 1029(e)).

"(4) PERSONAL IDENTIFICATION CARD.—The term 'personal identification card' means an identification document issued by a State or local government solely for the purpose of identification.

"(5) PRODUCE.—The term 'produce' includes alter, authenticate, or assemble.

"(6) STATE.—The term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States."

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

"(f) ATTEMPT AND CONSPIRACY.—Any person who attempts or conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy."

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

"(g) FORFEITURE PROCEDURES.—The forfeiture of property under this section, including

any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853)."

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

"(h) **RULE OF CONSTRUCTION.**—For purpose of subsection (a)(7), a single identification document or false identification document that contains 1 or more means of identification shall be construed to be 1 means of identification."

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

(1) in section 1028, by striking "or attempts to do so,";

(2) in the heading for section 1028, by adding "and information" at the end; and

(3) in the analysis for the chapter, in the item relating to section 1028, by adding "and information" at the end.

SEC. 3. RESTITUTION.

Section 3663A of title 18, United States Code, is amended—

(1) in subsection (c)(1)(A)—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking "and" at the end and inserting "or"; and

(C) by adding at the end the following:

"(iv) an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents); and"; and

(2) by adding at the end the following:

"(e) **FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS AND INFORMATION.**—Making restitution to a victim under this section for an offense described in section 1028 (relating to fraud and related activity in connection with means of identification or identification documents) may include payment for any costs, including attorney fees, incurred by the victim, including any costs incurred—

"(1) in clearing the credit history or credit rating of the victim; or

"(2) in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant."

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER SECTION 1028.

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

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

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

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense, is an adequate measure for establishing penalties under the Federal sentencing guidelines;

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

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

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines and the court's authority to sentence above the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(6) the extent to which Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

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

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

SEC. 5. CENTRALIZED COMPLAINT AND CONSUMER EDUCATION SERVICE FOR VICTIMS OF IDENTITY THEFT.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) log and acknowledge the receipt of complaints by individuals who certify that they have a reasonable belief that 1 or more of their means of identification (as defined in section 1028 of title 18, United States Code, as amended by this Act) have been assumed, stolen, or otherwise unlawfully acquired in violation of section 1028 of title 18, United States Code, as amended by this Act;

(2) provide informational materials to individuals described in paragraph (1); and

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

(A) the 3 major national consumer reporting agencies; and

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

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

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

(a) **TECHNICAL CORRECTION RELATING TO CRIMINAL FORFEITURE PROCEDURES.**—Section 982(b)(1) of title 18, United States Code, is amended to read as follows: "(1) The forfeiture of property under this section, including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853)."

(b) **ECONOMIC ESPIONAGE AND THEFT OF TRADE SECRETS AS PREDICATE OFFENSES FOR WIRE INTERCEPTION.**—Section 2516(1)(a) of title 18, United States Code, is amended by inserting "chapter 90 (relating to protection of trade secrets)," after "to espionage."

BORDER IMPROVEMENT AND IMMIGRATION ACT OF 1998

ABRAHAM AMENDMENT NO. 3481

Mr. JEFFORDS (for Mr. ABRAHAM) proposed an amendment to the bill (S. 1360) to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the

requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Border Improvement and Immigration Act of 1998".

SEC. 2. AMENDMENT OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) **IN GENERAL.**—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

"(a) **SYSTEM.**—

"(1) **IN GENERAL.**—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

"(A) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States; and

"(B) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

"(2) **EXCEPTION.**—The system under paragraph (1) shall not collect a record of arrival or departure—

"(A) at a land border or seaport of the United States for any alien; or

"(B) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State under section 212(d)(4)(B) of the Immigration and Nationality Act."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-546).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) **REQUIREMENT.**—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien's arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) **CONTENTS OF REPORT.**—Such report shall—

(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were limited to certain aliens arriving at airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(B) the feasibility of the Attorney General, in consultation with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;