

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
SIMEON W. ASHWORTH
MEAGAN M. BACHARACH
TERRENCE BARRETT
CRAIG H. BARSTOW
ERIC BASS
NICHOLAS K. BATCHELOR
SLAVA M. BELENKIY
DANIEL A. BELLIN
NIDHI BHATIA
FAMELA 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. BULKENHOOPER
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. CUDA
SCOTT P. CUDA
RACHEL A. CULENCA
MARTHA E. CULPEPPER
MATTHEW CURNUITTE
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
GUYON J. HILL
MICAH HILL
MARY K. HINKLE
MICHAEL HITE
AARON HOBLET
COURTNEY A. HOLLAND
MITCHEL HOLM
TODD R. HOWLAND
JAMES T. HSU
KEVIN G. HUEMAN
EDWARD A. HULTEN
MELISSA IGLESIAS
RICHARD K. INAE
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. KELLMAN
JEFFREY KELLY
JOSEPH F. KELLY
KEVIN M. KELLY
JOHN Y. KING
ROBERT S. KING
STEPHANIE L. KIRBY
AARON D. KIRKPATRICK
RANDY KJORSTAD
PETER KREISHMAN
ADRIAN T. KRESS
MICALAH KUZMA
ANTOINETTE P. LACAP
JEFFREY N. LACKEY
JEFFREY T. LACZEK
KIMBERLY F. LAIBET
DOUGLAS R. 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 A. 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. MCGINTOSH
CAROL MCLAUGHLIN
JOSEPH C. MCLEAN
NEIL MCMULLIN
KEVIN MCPHERSON