

## ***Identity Piracy Act***

- **SECTION 1. SHORT TITLE. .... 1**
- **SEC. 2. IDENTITY THEFT AND DECEPTIVE ASSUMPTION. .... 1**

105th CONGRESS

2d Session

H. R. 3551

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

IN THE HOUSE OF REPRESENTATIVES

March 25, 1998

Ms. DELAURO introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Transportation and Infrastructure, 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

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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

### **SECTION 1. SHORT TITLE. ➔**

This Act may be cited as the `Identity Piracy Act of 1998'.

### **SEC. 2. IDENTITY THEFT AND DECEPTIVE ASSUMPTION. ➔**

(a) ESTABLISHMENT OF OFFENSE- Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

`Sec. 1036. Identity theft and deceptive assumption

`(a) PROHIBITION- Whoever knowingly and with intent to deceive or defraud--

`(1) obtains or transfers, or attempts to obtain or transfer, any personal identifier,

identification device, personal information or data, or other document or means of identification of any other entity or person;

`(2) possesses or uses, or attempts to possess or use, any personal identifier, identification device, personal information or data, or other document or means of identification of any entity or person; or

`(3) assumes or uses, or attempts to assume or use, the identity of any other entity or person;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

`(b) CONSPIRACY- Whoever is a party to a conspiracy of 2 or more persons to commit an offense under subsection (a), if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

`(c) PUNISHMENT; RESTITUTION-

`(1) PUNISHMENT- The punishment for an offense under subsection (a) or (b) is a fine under this title or imprisonment for not more than 20 years, or both.

`(2) RESTITUTION- In sentencing any defendant convicted of an offense under this section, the court may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense. Such restitution may include payment for any costs, including attorney's fees, incurred by any victim in clearing any credit history or rating relating to the victim, as well as any civil or administrative proceeding required to clear any debt, lien, or other obligation arising as a result of the defendant's activity.

`(d) INVESTIGATIVE AUTHORITY- In addition to any other agency having such authority, the United States Secret Service may investigate any offense under this section, except that the exercise of investigative authority under this paragraph shall be subject to the terms of an agreement, which shall be entered into by the Secretary of the Treasury and the Attorney General.

`(e) DEFINITIONS- As used in this section--

`(1) the term `means of identification' means any name or number that may be used, alone or in conjunction with any other information, to assume the identity of an individual, including any--

`(A) personal identification card (as that term is defined in section 1028); or

`(B) access device, counterfeit access device, or unauthorized access device (as those terms are defined in section 1029);

`(2) the term `personal identifier' means--

`(A) 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, or any access device (as that term is defined in section 1029);

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

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

`(D) any other means of identification not lawfully issued to the user;

`(3) the term `identification device' means any physical, mechanical, or electronic representation of a personal identifier or any personal information or data; and

`(4) the term `personal information or data' means any information that, when used in conjunction with a personal identifier or identification device, would facilitate a misrepresentation or assumption of the identity of another.'

(b) SEIZURE AND FORFEITURE- Section 80302(a) of title 49, United States Code, is amended--

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

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

`(7) an identification document, false identification document, or a document-making implement (as those terms are defined in sections 1028 and 1029 of title 18) involved in a violation of section 1028 or 1029 of title 18;

`(8) a counterfeit access device, device-making equipment, or scanning receiver (as those terms are defined in sections 1028 and 1029 of title 18); or

`(9) a means of identification (as that term is defined in section 1036) involved in a violation of section 1036.'

(c) ANNUAL REPORTING OF IDENTITY THEFT AND ASSUMPTION INFORMATION- Beginning not later than 60 days after the date of the enactment of this Act, the Secretary of the Treasury shall collect and maintain information and statistical data relating to--

(1) the number of identity fraud offenses investigated under section 1036 of title 18, United States Code;

(2) the number of prosecutions and convictions under section 1036 of title 18, United States Code;

(3) any information provided to the Department of the Treasury by State and local law enforcement agencies relating to the investigation of identity fraud offenses; and

(4) any information provided to the Department of the Treasury by financial institutions relating to identity fraud or the financial consequences of identity fraud offenses.

(d) IDENTITY FRAUD STUDY- Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in conjunction with the Chairperson of the Federal Trade Commission, shall complete a comprehensive study of the extent, nature, and causes of identity fraud, and the threats posed to the Nation's financial institutions and payment systems, and consumer safety and privacy, and submit to Congress specific legislative recommendations to address these matters.

(e) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

`1036. Identity theft and deceptive assumption.'.