

S 153 ES

108th CONGRESS

1st Session

**S. 153****AN ACT**

To amend title 18, United States Code, to establish penalties for aggravated identity theft, 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 Theft Penalty Enhancement Act'.

**SEC. 2. AGGRAVATED IDENTITY THEFT.**

(a) IN GENERAL- Chapter 47 of title 18, United States Code, is amended by adding after section 1028, the following:

**'Sec. 1028A. Aggravated identity theft****'(a) OFFENSES-**

'(1) IN GENERAL- Whoever, during and in relation to any felony violation enumerated in subsection (c), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 2 years.

'(2) TERRORISM OFFENSE- Whoever, during and in relation to any felony violation enumerated in section 2332b(g)(5)(B), knowingly transfers, possesses, or uses, without lawful authority, a means of identification of another person shall, in addition to the punishment provided for such felony, be sentenced to a term of imprisonment of 5 years.

**'(b) CONSECUTIVE SENTENCE- Notwithstanding any other provision of law--**

'(1) a court shall not place on probation any person convicted of a violation of this section;

'(2) except as provided in paragraph (4), no term of imprisonment imposed on a person under this section shall run concurrently with any other term of imprisonment imposed on the person under any other provision of law, including any term of imprisonment imposed for the felony during which the means of identification was transferred, possessed, or used;

`(3) in determining any term of imprisonment to be imposed for the felony during which the means of identification was transferred, possessed, or used, a court shall not in any way reduce the term to be imposed for such crime so as to compensate for, or otherwise take into account, any separate term of imprisonment imposed or to be imposed for a violation of this section; and

`(4) a term of imprisonment imposed on a person for a violation of this section may, in the discretion of the court, run concurrently, in whole or in part, only with another term of imprisonment that is imposed by the court at the same time on that person for an additional violation of this section, provided that such discretion shall be exercised in accordance with any applicable guidelines and policy statements issued by the Sentencing Commission pursuant to section 994 of title 28.

`(c) DEFINITION- For purposes of this section, the term `felony violation enumerated in subsection (c)' means any offense that is a felony violation of--

`(1) section 664 (relating to theft from employee benefit plans);

`(2) section 911 (relating to false personation of citizenship);

`(3) section 922(a)(6) (relating to false statements in connection with the acquisition of a firearm);

`(4) any provision contained in this chapter (relating to fraud and false statements), other than this section or section 1028(a)(7);

`(5) any provision contained in chapter 63 (relating to mail, bank, and wire fraud);

`(6) any provision contained in chapter 69 (relating to nationality and citizenship);

`(7) any provision contained in chapter 75 (relating to passports and visas);

`(8) section 523 of the Gramm-Leach-Bliley Act (15 U.S.C. 6823) (relating to obtaining customer information by false pretenses);

`(9) section 243 or 266 of the Immigration and Nationality Act (8 U.S.C. 1253 and 1306) (relating to willfully failing to leave the United States after deportation and creating a counterfeit alien registration card);

`(10) any provision contained in chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) (relating to various immigration offenses); or

`(11) section 208, 1107(b), or 1128B(a) of the Social Security Act (42 U.S.C. 408, 1307(b), and 1320a-7b(a)) (relating to false statements relating to programs under the Act).'

(b) AMENDMENT TO CHAPTER ANALYSIS- The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1028 the following new item:

`1028A. Aggravated identity theft.'

**SEC. 3. AMENDMENTS TO EXISTING IDENTITY THEFT PROHIBITION.**

Section 1028 of title 18, United States Code, is amended--

(1) in subsection (a)(7)--

(A) by striking `transfers' and inserting `transfers, possesses,'; and

(B) by striking `abet,' and inserting `abet, or in connection with,';

(2) in subsection (b)(1)(D), by striking `transfer' and inserting `transfer, possession,';

(3) in subsection (b)(2), by striking `three years' and inserting `5 years'; and

(4) in subsection (b)(4), by inserting after `facilitate' the following: `an act of domestic terrorism (as defined under section 2331(5) of this title) or'.

Passed the Senate March 19, 2003.

Attest:

Secretary.

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*END*