

105TH CONGRESS  
1ST SESSION

# S. 512

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

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IN THE SENATE OF THE UNITED STATES

MARCH 21, 1997

Mr. KYL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

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 1997”.

6 **SEC. 2. IDENTITY FRAUD.**

7 (a) ESTABLISHMENT OF OFFENSE.—

8 (1) IN GENERAL.—Chapter 47 of title 18, Unit-  
9 ed States Code, is amended by adding at the end the  
10 following:

1 **“§ 1036. Identity fraud**

2 “(a) PROHIBITION.—Whoever in interstate or foreign  
3 commerce—

4 “(1) knowingly and with intent to deceive or de-  
5 fraud, obtains, possesses, transfers, uses, or at-  
6 tempts to obtain, transfer, or use, one or more  
7 means of identification other than that issued law-  
8 fully for the use of the possessor;

9 “(2) attempts to commit an offense under para-  
10 graph (1); or

11 “(3) is a party to a conspiracy of two or more  
12 persons to commit an offense under paragraph (1),  
13 shall be punished as provided in subsection (b).

14 “(b) PUNISHMENT.—

15 “(1) IN GENERAL.—Whoever violates subsection  
16 (a) shall be fined under this title, imprisoned not  
17 more than 15 years, or both.

18 “(2) RESTITUTION.—In sentencing a defendant  
19 convicted of an offense under this section, the court  
20 may order that the defendant make restitution in ac-  
21 cordance with section 3663.

22 “(c) INVESTIGATION AUTHORITY.—In addition to  
23 any other agency having such authority, the United States  
24 Secret Service of the Department of the Treasury may in-  
25 vestigate any offense under this section.

1       “(d) DEFINITION.—In this section, the term ‘means  
2 of identification’ means any name or number that may be  
3 used, alone or in conjunction with any other information,  
4 to assume the identity of an individual, including any—

5               “(1) personal identification card (as that term  
6 is defined in section 1028); or

7               “(2) access device, counterfeit access device, or  
8 unauthorized access device (as those terms are de-  
9 fined in section 1029).”.

10              (2) SENTENCING ENHANCEMENT.—Pursuant to  
11 its authority under section 994(p) of title 28, United  
12 States Code, the United States Sentencing Commis-  
13 sion shall amend the Federal sentencing guidelines  
14 to provide for sentencing enhancements under chap-  
15 ter 2 of the Federal sentencing guidelines for a de-  
16 fendant who is convicted of an offense under section  
17 1036 of title 18, United States Code, in connection  
18 with an offense under section 513, 514, 1028, or  
19 1029 of title 18, United States Code, as follows:

20                      (A) A sentencing enhancement of 1 level,  
21 if the offense involves not more than 1 victim.

22                      (B) A sentencing enhancement of 2 levels,  
23 if the offense involves not less than 2 and not  
24 more than 4 victims.

1 (C) A sentencing enhancement of 3 levels,  
2 if the offense involves 5 or more victims.

3 (3) CLERICAL AMENDMENT.—The chapter anal-  
4 ysis for chapter 47 of title 18, United States Code,  
5 is amended by adding at the end the following:

“1036. Identity fraud.”.

6 (b) FORFEITURE OF CONTRABAND.—Section  
7 80302(a) of title 49, United States Code, is amended—

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

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

12 (3) by adding at the end the following:

13 “(7) an identification document, false identifica-  
14 tion document, or a document-making implement (as  
15 those terms are defined in section 1029 of title 18)  
16 involved in a violation of section 1029 of title 18;

17 “(8) a counterfeit access device, device-making  
18 equipment, or scanning receiver (as those terms are  
19 defined in section 1029 of title 18); or

20 “(9) a means of identification (as that term is  
21 defined in section 1036 of title 18) involved in a vio-  
22 lation of section 1036 of title 18.”.

23 (c) RESTITUTION.—Section 3663 of title 18, United  
24 States Code, is amended by adding at the end the follow-  
25 ing:

1 “(e) IDENTITY FRAUD.—

2 “(1) IN GENERAL.—In sentencing a defendant  
3 convicted of an offense under section 1028, 1029, or  
4 1036, the court may order, in addition to or in lieu  
5 of any other penalty authorized by law, that the de-  
6 fendant make restitution to any victim of the of-  
7 fense.

8 “(2) COSTS INCLUDED.—Making restitution to  
9 a victim under this subsection may include payment  
10 for any costs, including attorney fees, incurred by  
11 the victim—

12 “(A) in clearing the credit history or credit  
13 rating of the victim; or

14 “(B) in connection with any civil or admin-  
15 istrative proceeding to satisfy any debt, lien, or  
16 other obligation of the victim arising as a result  
17 of the actions of the defendant.”.

18 (d) IDENTITY FRAUD INFORMATION AND STUDY.—

19 (1) DEFINITIONS.—In this subsection—

20 (A) the term “financial institution” has  
21 the same meaning as in section 20 of title 18,  
22 United States Code; and

23 (B) the term “identity fraud” means an  
24 offense described in section 1036 of title 18,

1 United States Code (as added by subsection (a)  
2 of this section).

3 (2) IDENTITY FRAUD INFORMATION.—Begin-  
4 ning not later than 60 days after the date of enact-  
5 ment of this Act, the United States Secret Service  
6 of the Department of the Treasury shall collect and  
7 maintain information and statistical data relating  
8 to—

9 (A) the number of identity fraud offenses  
10 investigated;

11 (B) the number of prosecutions and convic-  
12 tions for identity fraud;

13 (C) any information provided to the United  
14 States Secret Service by State and local law en-  
15 forcement agencies relating to the investigation  
16 of identity fraud; and

17 (D) any information provided to the Unit-  
18 ed States Secret Service by financial institu-  
19 tions relating to the financial consequences of  
20 identity fraud.

21 (3) IDENTITY FRAUD STUDY.—Not later than  
22 18 months after the date of enactment of this Act,  
23 the Secretary of the Treasury and the Chairman of  
24 the Federal Trade Commission, shall—

25 (A) conduct a comprehensive study of—

1 (i) the nature, extent, and causes of  
2 identity fraud; and  
3 (ii) the threat posed by identity fraud  
4 to—  
5 (I) financial institutions and pay-  
6 ment systems; and  
7 (II) consumer safety and privacy;  
8 and  
9 (B) based on the results of that study,  
10 submit to Congress specific recommendations  
11 for legislation to address the problem of identity  
12 fraud.

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