

107TH CONGRESS  
1ST SESSION

# H. R. 2036

To amend the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the Social Security account number, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 25, 2001

Mr. SHAW (for himself, Mr. MATSUI, Mr. FOLEY, Mr. KLECZKA, Mr. CAMP, Ms. DUNN of Washington, Mr. HAYWORTH, Mr. SAM JOHNSON of Texas, Mr. LEWIS of Kentucky, Mr. RAMSTAD, Mr. TANNER, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Financial Services, 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 the Social Security Act to enhance privacy protections for individuals, to prevent fraudulent misuse of the Social Security account number, 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,*

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the  
 3 “Social Security Number Privacy and Identity Theft Pre-  
 4 vention Act of 2001”.

5 (b) **TABLE OF CONTENTS.**—The table of contents is  
 6 as follows:

Sec. 1. Short title and table of contents.

Sec. 2. Findings.

TITLE I—PROVISIONS RELATING TO THE SOCIAL SECURITY  
 ACCOUNT NUMBER IN THE PUBLIC SECTOR

Sec. 101. Restrictions on the sale of social security account numbers by govern-  
 mental agencies.

Sec. 102. Prohibition of the display to the general public of social security ac-  
 count numbers possessed by governmental agencies.

Sec. 103. Prohibition of the display of social security account numbers on  
 checks issued for payment by governmental agencies.

Sec. 104. Prohibition of the appearance of social security account numbers on  
 driver’s licenses or motor vehicle registrations.

Sec. 105. Prohibition of the display by governmental agencies of personal iden-  
 tification numbers.

Sec. 106. Prohibition of inmate access to social security account numbers.

Sec. 107. Independent verification of birth records provided in support of appli-  
 cations for social security account numbers.

TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY  
 ACCOUNT NUMBER IN THE PRIVATE SECTOR

Sec. 201. Prohibition of the sale, purchase, or display of the social security ac-  
 count number in the private sector.

Sec. 202. Refusal to do business without receipt of social security account num-  
 ber considered unfair or deceptive act or practice.

Sec. 203. Confidential treatment of credit header information.

TITLE III—ENFORCEMENT

Sec. 301. New criminal penalties for misuse of social security account numbers.

Sec. 302. Extension of civil monetary penalty authority.

Sec. 303. Authority for judicial orders of restitution.

7 **SEC. 2. FINDINGS.**

8 The Congress makes the following findings:

9 (1) A unique series of nine numbers assigned to  
 10 most individuals, the Social Security account num-

1       ber was created in 1936 for the sole purpose of  
2       tracking workers' earnings so that Social Security  
3       benefits could be calculated upon retirement or dis-  
4       ability.

5           (2) As a result of its uniqueness, expanded use  
6       of the Social Security account number has occurred  
7       in the public and private sectors.

8           (3) Expanded Federal use of the Social Secu-  
9       rity account number was first mandated by Presi-  
10      dent Roosevelt in 1943 with Executive Order 9397,  
11      requiring that any Federal department establishing  
12      a new system of permanent account numbers per-  
13      taining to an individual must utilize the Social Secu-  
14      rity account number exclusively, and that such per-  
15      sonal information must be kept confidential.

16          (4) Today, the Federal Government requires  
17      virtually every individual in the United States to ob-  
18      tain and maintain a Social Security account number  
19      in order to pay taxes, to qualify for Social Security  
20      benefits, or to seek employment. An unintended con-  
21      sequence of these requirements is that Social Secu-  
22      rity account numbers have become tools that can be  
23      used to facilitate crime, fraud, and invasions of the  
24      privacy of the individuals to whom the numbers are  
25      assigned. Because the Federal Government created

1 and maintains this system, and because the Federal  
2 Government does not permit persons to exempt  
3 themselves from those requirements, it is appro-  
4 priate for the Government to take steps to stem the  
5 abuse of this system.

6 (5) In the private sector, use of the Social Se-  
7 curity account number as a personal identifier has  
8 grown substantially. Many businesses require a So-  
9 cial Security account number prior to providing serv-  
10 ices or goods.

11 (6) However, under some current business prac-  
12 tices, an individual may lose control over the further  
13 sale or transfer of the Social Security account num-  
14 ber by the entity provided the number. An individ-  
15 ual's Social Security account number may be sold or  
16 transferred without the individual's knowledge or  
17 permission.

18 (7) Today, the Social Security account number  
19 is generally regarded as the single-most widely used  
20 record identifier by both government and private  
21 sectors within the United States.

22 (8) However, a Social Security account number  
23 is simply a sequence of numbers. In no meaningful  
24 sense can the number itself impart knowledge or  
25 ideas. Persons do not sell or transfer such numbers

1 in order to convey any particularized message, nor  
2 to express to the purchaser any ideas, knowledge, or  
3 thoughts.

4 (9) A Social Security account number does not  
5 contain, reflect, or convey any publicly significant in-  
6 formation or concern any public issue. The sale of  
7 such numbers in no way facilitates uninhibited, ro-  
8 bust and wide-open public debate; and restrictions  
9 on such sale would not affect public debate.

10 (10) No one should seek to profit from the sale  
11 of Social Security account numbers in circumstances  
12 that create a substantial risk of physical, emotional,  
13 or financial harm to the individuals to whom those  
14 numbers are assigned.

15 (11) The prevalence of the use of the Social Se-  
16 curity account number and the ease by which indi-  
17 viduals can obtain another person's Social Security  
18 account number have raised serious concerns over  
19 privacy and opportunities for fraud.

20 (12) Social Security cards may be counterfeited  
21 for illegal aliens and individuals use false Social Se-  
22 curity account number information to improperly  
23 apply for and receive benefits under Federal and  
24 State programs.

1           (13) Misuse of the Social Security account  
2           number is a central component of identity theft, con-  
3           sidered the fastest growing financial crime in the  
4           country. It is estimated that identity theft affects  
5           upwards of 700,000 individuals per year.

6           (14) The results of identity theft are stag-  
7           gering. Victims spend years and many dollars clear-  
8           ing up their good name and contesting charges they  
9           never authorized. It is estimated that in 1997, mon-  
10          etary losses associated with identity theft was ap-  
11          proximately \$745,000,000.

12          (15) Growing concern over fraud and privacy  
13          and the absence of a comprehensive Federal law reg-  
14          ulating the use of Social Security account numbers  
15          prompt the need for the Congress to act.

16 **TITLE I—PROVISIONS RELATING**  
17 **TO THE SOCIAL SECURITY AC-**  
18 **COUNT NUMBER IN THE PUB-**  
19 **LIC SECTOR**

20 **SEC. 101. RESTRICTIONS ON THE SALE OF SOCIAL SECU-**  
21 **RITY ACCOUNT NUMBERS BY GOVERN-**  
22 **MENTAL AGENCIES.**

23          (a) IN GENERAL.—Section 205(c)(2)(C) of the Social  
24          Security Act (42 U.S.C. 405(c)(2)(C)) is amended by add-  
25          ing at the end the following new clause:

1       “(x) No executive, legislative, or judicial agency or  
2 instrumentality of the Federal Government or of a State  
3 or a political subdivision thereof or trustee appointed in  
4 a case under title 11, United States Code (or person act-  
5 ing as an agent of such an agency or instrumentality or  
6 trustee) in possession of any individual’s social security  
7 account number may accept an item of material value in  
8 exchange for such number, or any derivative thereof. Not-  
9 withstanding the preceding sentence, such number (or de-  
10 rivative) may be made available or disclosed in such an  
11 exchange in accordance with the following exceptions (and  
12 for no other purpose):

13               “(I) Such number (or derivative) may be dis-  
14 closed in such an exchange by a State department  
15 of motor vehicles as authorized under subsection (b)  
16 of section 2721 of title 18, United States Code, if  
17 such disclosed number (or derivative) is to be used  
18 solely for the purposes permitted under paragraph  
19 (1), (6) or (9) of such subsection.

20               “(II) Such number (or derivative) may be made  
21 available in such an exchange to a consumer report-  
22 ing agency, as defined in section 603(f) of the Fair  
23 Credit Reporting Act (15 U.S.C. 1681a(f)), exclu-  
24 sively for use in accordance with such Act.

1           “(III) Such number (or derivative) may be dis-  
2           closed in such an exchange to the extent that is nec-  
3           essary or appropriate for law enforcement or na-  
4           tional security purposes, as determined under regu-  
5           lations which shall be issued by the Attorney Gen-  
6           eral of the United States.

7           “(IV) Such an exchange may occur to the ex-  
8           tent it is otherwise specifically authorized by this  
9           Act.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply with respect to violations occurring  
12 after 3 years after the date of the enactment of this Act.

13 **SEC. 102. PROHIBITION OF THE DISPLAY TO THE GENERAL**  
14 **PUBLIC OF SOCIAL SECURITY ACCOUNT NUM-**  
15 **BERS POSSESSED BY GOVERNMENTAL AGEN-**  
16 **CIES.**

17          (a) IN GENERAL.—Section 205(c)(2)(C) of the Social  
18 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by  
19 section 101) is amended further by adding at the end the  
20 following new clause:

21           “(xi)(I) No executive, legislative, or judicial agency  
22 or instrumentality of the Federal Government or of a  
23 State or a political subdivision thereof or trustee appointed  
24 in a case under title 11, United States Code (or person  
25 acting as an agent of such an agency or instrumentality

1 or trustee), may display to the general public any individ-  
2 ual’s social security account number, or any derivative of  
3 such number. Notwithstanding the preceding sentence,  
4 such number (or derivative) may be so displayed in accord-  
5 ance with the exceptions specified in subclauses (II) and  
6 (III) (and for no other purpose).

7 “(II) Such number (or derivative) may be so dis-  
8 played to a consumer reporting agency, as defined in sec-  
9 tion 603(f) of the Fair Credit Reporting Act (15 U.S.C.  
10 1681a(f)), exclusively for use in accordance with such Act.

11 “(III) Such number (or derivative) may be so dis-  
12 played to the extent that is necessary or appropriate for  
13 law enforcement or national security purposes, as deter-  
14 mined under regulations which shall be issued by the At-  
15 torney General of the United States.

16 “(IV) For purposes of this clause, the term ‘display  
17 to the general public’ in connection with a social security  
18 account number, or a derivative thereof, means the inten-  
19 tional placing of such number or derivative in a viewable  
20 manner on an Internet site that is available to the general  
21 public or in any other manner intended to provide access  
22 to such number or derivative by the general public. Each  
23 such agency or instrumentality or trustee shall ensure that  
24 access to such numbers, and any derivative of such num-

1 bers, is restricted to persons who may obtain them in ac-  
2 cordance with this clause and other applicable law.”.

3 (b) EFFECTIVE DATE.—Agencies and instrumental-  
4 ities and trustees (and agents thereof) shall comply with  
5 the requirements of clause (xi) of section 205(c)(2)(C) of  
6 the Social Security Act (added by this section) as soon  
7 as practicable after the date of the enactment of this Act.  
8 Such clause (xi) shall apply with respect to all displays  
9 originally occurring after 3 years after the date of the en-  
10 actment of this Act.

11 **SEC. 103. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**  
12 **RITY ACCOUNT NUMBERS ON CHECKS**  
13 **ISSUED FOR PAYMENT BY GOVERNMENTAL**  
14 **AGENCIES.**

15 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social  
16 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the  
17 preceding provisions of this title) is amended further by  
18 adding at the end the following new clause:

19 “(xii) No executive, legislative, or judicial agency or  
20 instrumentality of the Federal Government or of a State  
21 or a political subdivision thereof or trustee appointed in  
22 a case under title 11, United States Code (or person act-  
23 ing as an agent of such an agency or instrumentality or  
24 trustee) may include the social security account number  
25 of any individual on any check issued for any payment

1 by the Federal Government, any State or political subdivi-  
2 sion thereof, or any agency or instrumentality thereof, or  
3 such trustee or on any document attached to or accom-  
4 panying such a check.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply with respect to violations occurring  
7 after 3 years after the date of the enactment of this Act.

8 **SEC. 104. PROHIBITION OF THE APPEARANCE OF SOCIAL**  
9 **SECURITY ACCOUNT NUMBERS ON DRIVER’S**  
10 **LICENSES OR MOTOR VEHICLE REGISTRA-**  
11 **TIONS.**

12 (a) IN GENERAL.—Section 205(c)(2)(C)(vi) of the  
13 Social Security Act (42 U.S.C. 405(c)(2)(C)(vi)) is  
14 amended—

15 (1) by inserting “(I)” after “(vi)”; and

16 (2) by adding at the end the following new sub-  
17 clause:

18 “(II) A State or political subdivision thereof (and any  
19 person acting as an agent of such an agency or instrumen-  
20 tality), in the administration of any driver’s license or  
21 motor vehicle registration law within its jurisdiction, may  
22 not disclose the social security account numbers issued by  
23 the Commissioner of Social Security, or any derivative of  
24 such numbers, on any driver’s license or motor vehicle reg-  
25 istration or any other document issued by such State or

1 political subdivision to an individual for purposes of identi-  
2 fication of such individual.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply with respect to licenses, registra-  
5 tions, and other documents issued or reissued after 3  
6 years after the date of the enactment of this Act.

7 **SEC. 105. PROHIBITION OF THE DISPLAY BY GOVERN-**  
8 **MENTAL AGENCIES OF PERSONAL IDENTI-**  
9 **FICATION NUMBERS.**

10 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social  
11 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the  
12 preceding provisions of this title) is amended further by  
13 adding at the end the following new clause:

14 “(xiii) No executive, legislative, or judicial agency or  
15 instrumentality of the Federal Government or of a State  
16 or political subdivision thereof (or person acting as an  
17 agent of such an agency or instrumentality) may display  
18 the social security account number, or any derivative of  
19 such number, on any card or tag that is commonly pro-  
20 vided to employees for purposes of identification and that  
21 is to be maintained for continual, open display by the em-  
22 ployees.”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply with respect to violations occurring  
25 after 3 years after the date of the enactment of this Act.

1 **SEC. 106. PROHIBITION OF INMATE ACCESS TO SOCIAL SE-**  
2 **CURITY ACCOUNT NUMBERS.**

3 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social  
4 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the  
5 preceding provisions of this title) is amended further by  
6 adding at the end the following new clause:

7 “(xiv) No executive, legislative, or judicial agency or  
8 instrumentality of the Federal Government or of a State  
9 or political subdivision thereof (or person acting as an  
10 agent of such an agency or instrumentality) may employ,  
11 or enter into a contract for the use or employment of, pris-  
12 oners in any capacity that would allow such prisoners ac-  
13 cess to the social security account numbers of other indi-  
14 viduals. For purposes of this clause, the term ‘prisoner’  
15 means an individual confined in a jail, prison, or other  
16 penal institution or correctional facility pursuant to such  
17 individual’s conviction of a criminal offense.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall apply with respect to employment of pris-  
20 oners, or entry into contract with prisoners, after 1 year  
21 after the date of the enactment of this Act.

1 **SEC. 107. INDEPENDENT VERIFICATION OF BIRTH**  
2 **RECORDS PROVIDED IN SUPPORT OF APPLI-**  
3 **CATIONS FOR SOCIAL SECURITY ACCOUNT**  
4 **NUMBERS.**

5 (a) **IN GENERAL.**—Section 205(c)(2)(B)(ii) of the  
6 Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) is amend-  
7 ed by adding at the end the following new sentence: “With  
8 respect to an application for a social security account  
9 number for an individual other than for purposes of enu-  
10 meration at birth, the Commissioner shall require inde-  
11 pendent verification of any birth record provided by the  
12 applicant in support of the application.”.

13 (b) **EFFECTIVE DATE.**—The amendment made by  
14 subsection (a) shall apply with respect to applications filed  
15 after 1 year after the date of the enactment of this Act.

16 (c) **REPORT ON ENUMERATION OF ALIENS AT AD-**  
17 **MISSION.**—Not later than 1 year after the date of the en-  
18 actment of this Act, the Commissioner of Social Security  
19 and the Attorney General of the United States shall jointly  
20 submit a report detailing the progress of the Social Secu-  
21 rity Administration and the Immigration and Naturaliza-  
22 tion Service in implementing a process, at the admission  
23 of aliens to the United States, for enumeration of those  
24 aliens who have need of a social security account number.  
25 Such report shall be submitted to the Committee on Ways  
26 and Means and the Committee on the Judiciary of the

1 House of Representatives and the Committee on Finance  
2 and the Committee on the Judiciary of the Senate.

3 **TITLE II—PROVISIONS RELAT-**  
4 **ING TO THE SOCIAL SECUR-**  
5 **RITY ACCOUNT NUMBER IN**  
6 **THE PRIVATE SECTOR**

7 **SEC. 201. PROHIBITION OF THE SALE, PURCHASE, OR DIS-**  
8 **PLAY OF THE SOCIAL SECURITY ACCOUNT**  
9 **NUMBER IN THE PRIVATE SECTOR.**

10 (a) IN GENERAL.—Title II of the Social Security Act  
11 is amended by inserting after section 208 (42 U.S.C. 408)  
12 the following new section:

13 “PROHIBITION OF THE SALE, PURCHASE, OR DISPLAY OF  
14 THE SOCIAL SECURITY ACCOUNT NUMBER

15 “SEC. 208A. (a) DEFINITIONS.—In this section:

16 “(1) PERSON.—

17 “(A) IN GENERAL.—Subject to subpara-  
18 graph (B), the term ‘person’ means any indi-  
19 vidual, partnership, corporation, trust, estate,  
20 cooperative, association, or any other entity.

21 “(B) GOVERNMENTAL ENTITIES.—Such  
22 term does not include a governmental entity.  
23 Nothing in this subparagraph shall be con-  
24 strued to authorize, in connection with a gov-  
25 ernmental entity, an act or practice otherwise

1 prohibited under this section or section  
2 205(c)(2)(C).

3 “(2) SALE.—The term ‘sell’ in connection with  
4 a social security account number means to obtain,  
5 directly or indirectly, anything of value in exchange  
6 for such number. Such term does not include the  
7 submission of such number as part of the process  
8 for applying for any type of Government benefits or  
9 programs (such as grants or loans or welfare or  
10 other public assistance programs).

11 “(3) PURCHASE.—The term ‘purchase’ in con-  
12 nection with a social security account number means  
13 to provide, directly or indirectly, anything of value in  
14 exchange for such number. Such term does not in-  
15 clude the submission of such number as part of the  
16 process for applying for any type of Government  
17 benefit or programs (such as grant or loan applica-  
18 tions or welfare or other public assistance pro-  
19 grams).

20 “(4) DISPLAY.—The term ‘display’ means, in  
21 connection with a social security account number,  
22 the intentional placing of such number, or a deriva-  
23 tive thereof, in a viewable manner on an Internet  
24 site that is available to the general public or in any

1 other manner intended to provide access to such  
2 number or derivative by the general public.

3 “(5) SOCIAL SECURITY ACCOUNT NUMBER.—

4 The term ‘social security account number’ has the  
5 meaning given such term in section 208(c).

6 “(b) PROHIBITION.—Except as provided in sub-  
7 section (c), it shall be unlawful for any person to—

8 “(1) sell, purchase, or display a social security  
9 account number, or

10 “(2) obtain or use any individual’s social secu-  
11 rity account number for the purpose of locating or  
12 identifying such individual with the intent to phys-  
13 ically injure or harm such individual or using the  
14 identity of such individual for any illegal purpose.

15 “(c) EXCEPTIONS.—Subsection (b)(1) shall not apply  
16 with respect to any sale, purchase, or display of social se-  
17 curity account numbers solely to the extent provided in  
18 this subsection (and for no other purpose) as follows:

19 “(1) to the extent necessary for law enforce-  
20 ment, including (but not limited to) the enforcement  
21 of a child support obligation;

22 “(2) to the extent necessary for national secu-  
23 rity purposes;

24 “(3) to the extent necessary for public health  
25 purposes;

1           “(4) to the extent necessary in emergency situa-  
2           tions to protect the health or safety of 1 or more in-  
3           dividuals;

4           “(5) to the extent necessary for research con-  
5           ducted for the purpose of advancing public knowl-  
6           edge, on the condition that the researcher provides  
7           adequate assurances that—

8                   “(A) the social security account numbers  
9                   will not be used to harass, target, or publicly  
10                  reveal information concerning any identifiable  
11                  individuals;

12                  “(B) information about identifiable individ-  
13                  uals obtained from the research will not be used  
14                  to make decisions that directly affect the rights,  
15                  benefits, or privileges of specific individuals;  
16                  and

17                  “(C) the researcher has in place appro-  
18                  priate safeguards to protect the privacy and  
19                  confidentiality of any information about identi-  
20                  fiable individuals;

21           “(6) to the extent consistent with an individ-  
22           ual’s voluntary and affirmative written consent to  
23           the sale, purchase, or display of a social security ac-  
24           count number that has been assigned to that indi-  
25           vidual; and

1           “(7) under such other appropriate cir-  
2           cumstances as the Attorney General of the United  
3           States may determine appropriate, in consultation  
4           with the Commissioner of Social Security, the Fed-  
5           eral Trade Commission, State attorneys general, and  
6           such other governmental agencies or instrumental-  
7           ities as the Attorney General of the United States  
8           considers appropriate.

9           “(d) CRIMINAL PENALTY.—Any person who violates  
10          this section shall be guilty of a felony and upon conviction  
11          thereof shall be fined under title 18, United States Code,  
12          or imprisoned for not more than 5 years, or both.”.

13          (b) EFFECTIVE DATE.—The amendment made by  
14          this section shall apply with respect to violations occurring  
15          after 30 days after the date of the issuance by the Attor-  
16          ney General of the United States of final regulations  
17          under section (c).

18          (c) RULEMAKING BY THE ATTORNEY GENERAL.—

19                 (1) IN GENERAL.—Not later than 180 days  
20                 after the date of the enactment of this Act, the At-  
21                 torney General of the United States shall promul-  
22                 gate regulations in accordance with section 553 of  
23                 title 5, United States Code, under section 208A of  
24                 the Social Security Act (added by this section).

25                 (2) FACTORS FOR CONSIDERATION.—

1 (A) IN GENERAL.—In promulgating the  
2 regulations described in paragraph (1), the At-  
3 torney General shall impose restrictions and  
4 conditions on the sale, purchase, and display of  
5 social security account numbers, and on any  
6 unfair or deceptive acts or practices in connec-  
7 tion with the sale, purchase, or display of social  
8 security account numbers, to the extent  
9 necessary—

10 (i) to provide reasonable assurances  
11 that social security account numbers will  
12 not be used to commit or facilitate fraud,  
13 deception, or crime, or

14 (ii) to prevent an undue risk of bodily,  
15 emotional, or financial harm to an indi-  
16 vidual,

17 except that any such restriction or condition  
18 shall be no broader than necessary to accom-  
19 plish such purpose described in clause (i) or  
20 (ii).

21 (B) REQUIRED CONSIDERATIONS FOR PRE-  
22 VENTION OF UNDUE RISK.—For purposes of  
23 subparagraph (A)(ii), the Attorney General  
24 shall consider—

1 (i) the nature, likelihood, and severity  
2 of the anticipated harm;

3 (ii) the nature, likelihood, and extent  
4 of any benefits that could be realized from  
5 the sale, purchase, or display of social se-  
6 curity account numbers; and

7 (iii) any other relevant factors.

8 **SEC. 202. REFUSAL TO DO BUSINESS WITHOUT RECEIPT OF**  
9 **SOCIAL SECURITY ACCOUNT NUMBER CON-**  
10 **SIDERED UNFAIR OR DECEPTIVE ACT OR**  
11 **PRACTICE.**

12 (a) IN GENERAL.—Any person who refuses to do  
13 business with an individual because the individual will not  
14 consent to the receipt by such person of the social security  
15 account number of such individual shall be considered to  
16 have committed an unfair or deceptive act or practice in  
17 violation of section 5 of the Federal Trade Commission  
18 Act (15 U.S.C. 45). Action may be taken under such sec-  
19 tion 5 against such a person.

20 (b) EXCEPTION.—Subsection (a) shall not apply to  
21 any person in any case in which such person is required  
22 under Federal law, in connection with doing business with  
23 an individual, to submit to the Federal Government such  
24 individual's Social Security account number.

1 **SEC. 203. CONFIDENTIAL TREATMENT OF CREDIT HEADER**  
2 **INFORMATION.**

3 (a) IN GENERAL.—Section 603 of the Fair Credit  
4 Reporting Act (15 U.S.C. 1681a) is amended by adding  
5 at the end the following new subsection:

6 “(q) CONFIDENTIAL TREATMENT OF CREDIT HEAD-  
7 ER INFORMATION.—Information regarding the social se-  
8 curity account number of the consumer, or any derivative  
9 thereof, may not be furnished to any person by a consumer  
10 reporting agency other than in a full consumer report fur-  
11 nished in accordance with section 604 and other require-  
12 ments of this title.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 this section shall take effect 90 days after the date of the  
15 enactment of this Act.

16 **TITLE III—ENFORCEMENT**

17 **SEC. 301. NEW CRIMINAL PENALTIES FOR MISUSE OF SO-**  
18 **CIAL SECURITY ACCOUNT NUMBERS.**

19 (a) IN GENERAL.—Section 208(a) of the Social Secu-  
20 rity Act (42 U.S.C. 408(a)) is amended—

21 (1) in paragraph (8), by adding “or” at the  
22 end; and

23 (2) by inserting after paragraph (8) the fol-  
24 lowing new paragraphs:

25 “(9) offers, for a fee, to acquire for any indi-  
26 vidual, or to assist in acquiring for any individual,

1 an additional social security account number or a  
2 number that purports to be a social security account  
3 number; or

4 “(10) being an officer or employee of any execu-  
5 tive, legislative, or judicial agency or instrumen-  
6 tality of the Federal Government or of a State or  
7 political subdivision thereof (or a person acting as  
8 an agent of such an agency or instrumentality) in  
9 possession of any individual’s social security account  
10 number (or an officer or employee thereof or a per-  
11 son acting as an agent thereof), willfully acts or fails  
12 to act so as to cause a violation of clause (vi)(II),  
13 (x), (xi), (xii), or (xiv) of section 205(c)(2)(C); or

14 “(11) being a trustee appointed in a case under  
15 title 11, United States Code (or an officer or em-  
16 ployee thereof or a person acting as an agent there-  
17 of), willfully acts or fails to act so as to cause a vio-  
18 lation of clause (x), (xi), or (xii) of section  
19 205(c)(2)(C);”.

20 (b) EFFECTIVE DATES.—Section 208(a)(9) of the  
21 Social Security Act (added by subsection (a)(2)) shall  
22 apply with respect to each violation occurring after the  
23 date of the enactment of this Act. Paragraphs (10) and  
24 (11) of section 208(a) of such Act (added by subsection  
25 (a)(2)) shall apply with respect to each violation occurring

1 on or after the effective date applicable with respect to  
2 such violation under title I.

3 **SEC. 302. EXTENSION OF CIVIL MONETARY PENALTY AU-**  
4 **THORITY.**

5 (a) APPLICATION OF CIVIL MONEY PENALTIES TO  
6 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)  
7 of the Social Security Act (42 U.S.C. 1320a–8(a)) is  
8 amended—

9 (1) by redesignating paragraph (2) as para-  
10 graph (4);

11 (2) by designating the last sentence of para-  
12 graph (1) as a new paragraph (2), appearing after  
13 and below paragraph (1); and

14 (3) by inserting after paragraph (2) (as des-  
15 ignated under paragraph (2) of this subsection) the  
16 following:

17 “(3) Any person (including an organization, agency,  
18 or other entity) who—

19 “(A) uses a social security account number that  
20 such person knows or should know has been as-  
21 signed by the Commissioner of Social Security (in an  
22 exercise of authority under section 205(c)(2) to es-  
23 tablish and maintain records) on the basis of false  
24 information furnished to the Commissioner by any  
25 person;

1           “(B) falsely represents a number to be the so-  
2           cial security account number assigned by the Com-  
3           missioner of Social Security to any individual, when  
4           such person knows or should know that such number  
5           is not the social security account number assigned  
6           by the Commissioner to such individual;

7           “(C) knowingly alters a social security card  
8           issued by the Commissioner of Social Security, or  
9           possesses such a card with intent to alter it;

10           “(D) knowingly buys or sells a card that is, or  
11           purports to be, a card issued by the Commissioner  
12           of Social Security, or possesses such a card with in-  
13           tent to buy or sell it;

14           “(E) counterfeits a social security card, or pos-  
15           sesses a counterfeit social security card with intent  
16           to buy or sell it;

17           “(F) discloses, uses, compels the disclosure of,  
18           or knowingly sells or purchases the social security  
19           account number of any person in violation of the  
20           laws of the United States;

21           “(G) with intent to deceive the Commissioner of  
22           Social Security as to such person’s true identity (or  
23           the true identity of any other person), furnishes or  
24           causes to be furnished false information to the Com-  
25           missioner with respect to any information required

1 by the Commissioner in connection with the estab-  
2 lishment and maintenance of the records provided  
3 for in section 205(c)(2);

4 “(H) offers, for a fee, to acquire for any indi-  
5 vidual, or to assist in acquiring for any individual,  
6 an additional social security account number or a  
7 number which purports to be a social security ac-  
8 count number;

9 “(I) being an officer or employee of any execu-  
10 tive, legislative, or judicial agency or instrumentality  
11 of the Federal Government or of a State or political  
12 subdivision thereof (or a person acting as an agent  
13 of such an agency or instrumentality) (or an officer  
14 or employee thereof or a person acting as an agent  
15 thereof), in possession of any individual’s social se-  
16 curity account number, willfully acts or fails to act  
17 so as to cause a violation of clause (vi)(II), (x), (xi),  
18 (xii), or (xiv) of section 205(c)(2)(C);

19 “(J) being a trustee appointed in a case under  
20 title 11, United States Code (or an officer or em-  
21 ployee thereof or a person acting as an agent there-  
22 of), willfully acts or fails to act so as to cause a vio-  
23 lation of clause (x), (xi), or (xiii) of section  
24 205(c)(2)(C); or

1           “(K) violates section 208A (relating to prohibi-  
2           tion of the sale, purchase, or display of the social se-  
3           curity account number in the private sector);  
4 shall be subject to, in addition to any other penalties that  
5 may be prescribed by law, a civil money penalty of not  
6 more than \$5,000 for each violation. Such person shall  
7 also be subject to an assessment, in lieu of damages sus-  
8 tained by the United States resulting from such violation,  
9 of not more than twice the amount of any benefits or pay-  
10 ments paid as a result of such violation.”.

11           (b) EFFECTIVE DATES.—The amendments made by  
12 this section shall apply with respect to violations com-  
13 mitted after the date of the enactment of this Act, except  
14 that subparagraphs (I) and (J) of section 1129(a)(3) of  
15 the Social Security Act (added by subsection (a)) shall  
16 apply with respect to violations occurring on or after the  
17 effective date provided in connection with such violations  
18 under title I.

19 **SEC. 303. AUTHORITY FOR JUDICIAL ORDERS OF RESTITU-**  
20 **TION.**

21           (a) AMENDMENTS TO TITLE II.—Title II of the So-  
22 cial Security Act is amended—

23           (1) in section 208 (42 U.S.C. 408) (as amended  
24           by section 301 of this Act)—

1 (A) by redesignating subsections (b), (c),  
2 and (d) as subsections (c), (d), and (e), respec-  
3 tively; and

4 (B) by inserting after subsection (a) the  
5 following new subsection:

6 “(b)(1) Any Federal court, when sentencing a defend-  
7 ant convicted of an offense under subsection (a), may  
8 order, in addition to or in lieu of any other penalty author-  
9 ized by law, that the defendant make restitution to the  
10 Social Security Administration.

11 “(2) Sections 3612, 3663, and 3664 of title 18,  
12 United States Code, shall apply with respect to the  
13 issuance and enforcement of orders of restitution under  
14 this subsection. In so applying such sections, the Social  
15 Security Administration shall be considered the victim.

16 “(3) If the court does not order restitution, or orders  
17 only partial restitution, under this subsection, the court  
18 shall state on the record the reasons therefor.”; and

19 (2) in section 208A (added by section 201 of  
20 this Act)—

21 (A) by striking “section 208(c)” in sub-  
22 section (a)(5) and inserting “section 208(d)”;  
23 and

24 (B) by adding at the end the following new  
25 subsection:

1 “(e) COURT ORDER FOR RESTITUTION.—

2 “(1) IN GENERAL.—Any Federal court, when  
3 sentencing a defendant convicted of an offense under  
4 subsection (a), may order, in addition to or in lieu  
5 of any other penalty authorized by law, that the de-  
6 fendant make restitution to the Social Security Ad-  
7 ministration.

8 “(2) RELATED PROVISIONS.—Sections 3612,  
9 3663, and 3664 of title 18, United States Code,  
10 shall apply with respect to the issuance and enforce-  
11 ment of orders of restitution under this subsection.  
12 In so applying such sections, the Social Security Ad-  
13 ministration shall be considered the victim.

14 “(3) STATED REASONS FOR NOT ORDERING  
15 RESTITUTION.—If the court does not order restitu-  
16 tion, or orders only partial restitution, under this  
17 subsection, the court shall state on the record the  
18 reasons therefor.”.

19 (b) AMENDMENTS TO TITLE VIII.—Section 807(i) of  
20 such Act (42 U.S.C. 1007(i)) is amended—

21 (1) by striking “(i) RESTITUTION.—In any case  
22 where” and inserting the following:

23 “(i) RESTITUTION.—

24 “(1) IN GENERAL.—In any case where”; and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(2) COURT ORDER FOR RESTITUTION.—

4           “(A) IN GENERAL.—Any Federal court,  
5 when sentencing a defendant convicted of an of-  
6 fense under subsection (a), may order, in addi-  
7 tion to or in lieu of any other penalty author-  
8 ized by law, that the defendant make restitution  
9 to the Social Security Administration.

10           “(B) RELATED PROVISIONS.—Sections  
11 3612, 3663, and 3664 of title 18, United States  
12 Code, shall apply with respect to the issuance  
13 and enforcement of orders of restitution under  
14 this paragraph. In so applying such sections,  
15 the Social Security Administration shall be con-  
16 sidered the victim.

17           “(C) STATED REASONS FOR NOT ORDER-  
18 ING RESTITUTION.—If the court does not order  
19 restitution, or orders only partial restitution,  
20 under this paragraph, the court shall state on  
21 the record the reasons therefor.”.

22           (c) AMENDMENTS TO TITLE XVI.—Section 1632 of  
23 such Act (42 U.S.C. 1383a) is amended—

24           (1) by redesignating subsection (b) as sub-  
25 section (c); and

1           (2) by inserting after subsection (a) the fol-  
2           lowing new subsection:

3           “(b)(1) Any Federal court, when sentencing a defend-  
4           ant convicted of an offense under subsection (a), may  
5           order, in addition to or in lieu of any other penalty author-  
6           ized by law, that the defendant make restitution to the  
7           Social Security Administration.

8           “(2) Sections 3612, 3663, and 3664 of title 18,  
9           United States Code, shall apply with respect to the  
10          issuance and enforcement of orders of restitution under  
11          this subsection. In so applying such sections, the Social  
12          Security Administration shall be considered the victim.

13          “(3) If the court does not order restitution, or orders  
14          only partial restitution, under this subsection, the court  
15          shall state on the record the reasons therefor.”.

16          (d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITU-  
17          TION PAYMENTS.—Section 704(b) of such Act (42 U.S.C.  
18          904(b)) is amended by adding at the end the following  
19          new paragraph:

20          “(3)(A) Except as provided in subparagraph (B),  
21          amounts received by the Social Security Administration  
22          pursuant to an order of restitution under section 208(b),  
23          208A(e), 807(i), or 1632(b) shall be credited to a special  
24          fund established in the Treasury of the United States for  
25          amounts so received or recovered. The amounts so cred-

1 ited, to the extent and in the amounts provided in advance  
2 in appropriations Acts, shall be available to defray ex-  
3 penses incurred in carrying out titles II, VIII, and XVI.

4 “(B) Subparagraph (A) shall not apply with respect  
5 to amounts received in connection with misuse by a rep-  
6 resentative payee (within the meaning of sections 205(j),  
7 807, and 1631(a)(2)) of funds paid as benefits under title  
8 II, VIII, or XVI. Such amounts received in connection  
9 with misuse of funds paid as benefits under title II shall  
10 be transferred to the Managing Trustee of the Federal  
11 Old-Age and Survivors Insurance Trust Fund or the Fed-  
12 eral Disability Insurance Trust Fund, as determined ap-  
13 propriate by the Commissioner of Social Security, and  
14 such amounts shall be deposited by the Managing Trustee  
15 into such Trust Fund. All other such amounts shall be  
16 deposited by the Commissioner into the general fund of  
17 the Treasury as miscellaneous receipts.”.

18 (e) EFFECTIVE DATE.—The amendments made by  
19 subsections (a) and (b) shall apply with respect to viola-  
20 tions occurring on or after the date of the enactment of  
21 this Act.

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