

Calendar No. 382107TH CONGRESS
2^D SESSION**S. 1742**

To prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 29, 2001

Ms. CANTWELL (for herself, Mr. SCHUMER, Mr. ENZI, and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

MAY 21, 2002

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italics]

A BILL

To prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, 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.**

2 This Act may be cited as the “Restore Your Identity
3 Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) the crime of identity theft is the fastest
7 growing crime in the United States;

8 (2) the Federal Trade Commission reports that
9 between March and June of 2001, the total number
10 of identity theft victims in the Commission’s Com-
11 plaint Clearinghouse System, tallied from November
12 1999, increased from 45,593 to 69,370;

13 (3) consumer inquiries and complaints to the
14 Federal Trade Commission Identity Theft Hotline
15 increased from 68,000 to over 97,000 over the same
16 3-month period, and consumer calls into the Hotline
17 increased in the same period from 1,800 calls per
18 week to over 2,000;

19 (4) the Federal Trade Commission estimates
20 that the call volume to the Identity Theft Hotline
21 represents only 5 to 10 percent of the actual number
22 of victims of identity theft;

23 (5) victims of identity theft often have extraor-
24 dinary difficulty restoring their credit and regaining
25 control of their identity because of the viral nature
26 of identity theft;

1 (6) identity theft may be ruinous to the good
2 name and credit of consumers whose identities are
3 misappropriated; and victims of identity theft may
4 be denied otherwise well-deserved credit; may have
5 to spend enormous time, effort, and sums of money
6 to remedy their circumstances; and may suffer ex-
7 treme emotional distress including deep depression
8 founded in profound frustration as they address the
9 array of problems that may arise as a result of iden-
10 tity theft;

11 (7) victims are often required to contact numer-
12 ous Federal, State, and local law enforcement agen-
13 cies; consumer credit reporting agencies; and credi-
14 tors over many years; as each event of fraud arises;

15 (8) the Government, business entities, and cred-
16 it reporting agencies have a shared responsibility to
17 assist identity theft victims; to mitigate the harm
18 that results from fraud perpetrated in the victim's
19 name;

20 (9) victims of identity theft need a nationally
21 standardized means of—

22 (A) reporting identity theft to law enforce-
23 ment, consumer credit reporting agencies; and
24 business entities; and

1 ~~(B)~~ evidencing their true identity to busi-
2 ness entities and credit reporting agencies;

3 ~~(10)~~ one of the greatest law enforcement chal-
4 lenges posed by identity theft is that stolen identities
5 are often used to perpetrate crimes in many dif-
6 ferent localities in different States, and although
7 identity theft is a Federal crime, most often, State
8 and local law enforcement agencies are responsible
9 for investigating and prosecuting the crimes; and

10 ~~(11)~~ the Federal Government should assist
11 State and local law enforcement agencies to effec-
12 tively combat identity theft and the associated fraud.

13 **SEC. 3. DEFINITIONS.**

14 In this Act, the following definitions shall apply:

15 ~~(1)~~ **BUSINESS ENTITY.**—The term “business
16 entity” means—

17 ~~(A)~~ a creditor, as that term is defined in
18 section 103 of the Truth in Lending Act (~~15~~
19 U.S.C. 1602);

20 ~~(B)~~ any financial information repository;

21 ~~(C)~~ any financial service provider; and

22 ~~(D)~~ any corporation, trust, partnership,
23 sole proprietorship, or unincorporated associa-
24 tion (including telecommunications, utilities,
25 and other service providers).

1 (2) CONSUMER.—The term “consumer” means
2 an individual.

3 (3) FINANCIAL INFORMATION.—The term “fi-
4 nancial information” means information identifiable
5 as relating to an individual consumer that concerns
6 the amount and conditions of the assets, liabilities,
7 or credit of the consumer, including—

8 (A) account numbers and balances;

9 (B) nonpublic personal information, as
10 that term is defined in section 509 of the
11 Gramm-Leach-Bliley Act (15 U.S.C. 6809); and

12 (C) codes, passwords, social security num-
13 bers, tax identification numbers, State identifier
14 numbers issued by a State department of li-
15 censing, and other information used for the
16 purpose of account access or transaction initi-
17 ation.

18 (4) FINANCIAL INFORMATION REPOSITORY.—
19 The term “financial information repository” means
20 a person engaged in the business of providing serv-
21 ices to consumers who have a credit, deposit, trust,
22 stock, or other financial services account or relation-
23 ship with that person.

24 (5) IDENTITY THEFT.—The term “identity
25 theft” means an actual or potential violation of sec-

1 tion 1028 of title 28, United States Code, or any
2 other similar provision of Federal or State law.

3 (6) MEANS OF IDENTIFICATION.—The term
4 “means of identification” has the meanings given
5 the terms “identification document” and “means of
6 identification” in section 1028 of title 18, United
7 States Code.

8 (7) VICTIM.—The term “victim” means a con-
9 sumer whose means of identification or financial in-
10 formation has been used or transferred (or has been
11 alleged to have been used or transferred) without the
12 authority of that consumer with the intent to com-
13 mit, or to aid or abet, identity theft or any other vio-
14 lation of law.

15 **SEC. 4. IDENTITY THEFT TREATED AS RACKETEERING AC-**
16 **TIVITY.**

17 Section 1961(1)(B) of title 18, United States Code,
18 is amended by inserting “, or any similar offense charge-
19 able under State law” after “identification documents”).

20 **SEC. 5. TREATMENT OF IDENTITY THEFT MITIGATION.**

21 (a) INFORMATION AVAILABLE TO VICTIMS.—

22 (1) IN GENERAL.—A business entity possessing
23 information relating to an identity theft, or who may
24 have entered into a transaction, provided credit,
25 products, goods, or services, accepted payment, or

1 otherwise done business with a person that has made
2 unauthorized use of the means of identification of
3 the victim, shall, not later than 10 days after receipt
4 of a written request by the victim, provide, without
5 charge, to the victim or to any Federal, State, or
6 local governing law enforcement agency or officer
7 specified by the victim copies of all related applica-
8 tion and transaction information and any informa-
9 tion required pursuant to subsection (b).

10 (2) RULE OF CONSTRUCTION.—Nothing in this
11 section requires a business entity to disclose infor-
12 mation that the business entity is otherwise prohib-
13 ited from disclosing under any other provision of
14 Federal or State law, except that any such provision
15 of law that prohibits the disclosure of financial infor-
16 mation to third parties shall not be used to deny dis-
17 closure of information to the victim under this sec-
18 tion.

19 (b) VERIFICATION OF IDENTITY.—

20 (1) IN GENERAL.—Unless a business entity is
21 otherwise able to verify the identity of a victim mak-
22 ing a request under subsection (a)(1), the victim
23 shall provide to the business entity as proof of posi-
24 tive identification, at the election of the business
25 entity—

1 (A) a copy of a police report evidencing the
2 claim of the victim of identity theft;

3 (B) a copy of a standardized affidavit of
4 identity theft developed and made available by
5 the Federal Trade Commission; or

6 (C) any affidavit of fact that is acceptable
7 to the business entity for that purpose.

8 (e) ~~LIMITATION ON LIABILITY.~~—No business entity
9 may be held liable for an action taken in good faith to
10 provide information under this section with respect to an
11 individual in connection with an identity theft to other fi-
12 nancial information repositories, financial service pro-
13 viders, merchants, law enforcement authorities, victims, or
14 any person alleging to be a victim, if—

15 (1) the business entity complies with subsection
16 (b); and

17 (2) such action was taken—

18 (A) for the purpose of identification and
19 prosecution of identity theft; or

20 (B) to assist a victim in recovery of fines,
21 restitution, rehabilitation of the credit of the
22 victim, or such other relief as may be appro-
23 priate.

24 (d) ~~AUTHORITY TO DECLINE TO PROVIDE INFORMA-~~
25 ~~TION.~~—A business entity may decline to provide informa-

1 tion pursuant to subsection (a) if, in the exercise of good
 2 faith and reasonable judgment, the business entity believes
 3 that—

4 (1) this section does not require disclosure of
 5 the information; or

6 (2) the request for the information is based on
 7 a misrepresentation of fact by the victim relevant to
 8 the request for information.

9 (c) ~~NO NEW RECORDKEEPING OBLIGATION.~~—Noth-
 10 ing in this section creates an obligation on the part of a
 11 business entity to retain or maintain information or
 12 records that are not otherwise required to be retained or
 13 maintained in the ordinary course of its business or under
 14 other applicable law.

15 **SEC. 6. AMENDMENTS TO THE FAIR CREDIT REPORTING**
 16 **ACT.**

17 (a) ~~CONSUMER REPORTING AGENCY BLOCKING OF~~
 18 ~~INFORMATION RESULTING FROM IDENTITY THEFT.~~—
 19 Section 611 of the Fair Credit Reporting Act (15 U.S.C.
 20 1681i) is amended by adding at the end the following:

21 “(e) ~~BLOCK OF INFORMATION RESULTING FROM~~
 22 ~~IDENTITY THEFT.~~—

23 “(1) ~~BLOCK.~~—Not later than 30 days after the
 24 date of receipt of proof of the identity of a consumer
 25 and an official copy of a police report evidencing the

1 claim of the consumer of identity theft, a consumer
2 reporting agency shall permanently block the report-
3 ing of any information identified by the consumer in
4 the file of the consumer resulting from the identity
5 theft, so that the information cannot be reported,
6 except as provided in paragraph (3).

7 “(2) NOTIFICATION.—A consumer reporting
8 agency shall promptly notify the furnisher of infor-
9 mation identified by the consumer under paragraph
10 (1) that the information may be a result of identity
11 theft, that a police report has been filed, that a
12 block has been requested under this subsection, and
13 the effective date of the block.

14 “(3) AUTHORITY TO DECLINE OR RESCIND.—

15 “(A) IN GENERAL.—A consumer reporting
16 agency may decline to block, or may rescind
17 any block, of consumer information under this
18 subsection if—

19 “(i) in the exercise of good faith and
20 reasonable judgment, the consumer report-
21 ing agency believes that—

22 “(I) the information was blocked
23 due to a misrepresentation of fact by
24 the consumer relevant to the request
25 to block; or

1 “(H) the consumer knowingly ob-
2 tained possession of goods, services, or
3 moneys as a result of the blocked
4 transaction or transactions, or the
5 consumer should have known that the
6 consumer obtained possession of
7 goods, services, or moneys as a result
8 of the blocked transaction or trans-
9 actions; or

10 “(ii) the consumer agrees that the
11 blocked information or portions of the
12 blocked information were blocked in error.

13 “(B) NOTIFICATION TO CONSUMER.—If
14 the block of information is declined or rescinded
15 under this paragraph, the affected consumer
16 shall be notified promptly, in the same manner
17 as consumers are notified of the reinsertion of
18 information pursuant to subsection (a)(5)(B).

19 “(C) SIGNIFICANCE OF BLOCK.—For pur-
20 poses of this paragraph, the prior presence of
21 blocked information in the file of a consumer is
22 not evidence of whether the consumer knew or
23 should have known that the consumer obtained
24 possession of any goods, services, or monies as
25 a result of the block.”

1 (b) STATUTE OF LIMITATIONS.—Section 618 of the
 2 Fair Credit Reporting Act (15 U.S.C. 1681p) is amended
 3 by striking “jurisdiction” and all that follows through
 4 “years after” and inserting “jurisdiction, not later than
 5 2 years after”.

6 **SEC. 7. COMMISSION STUDY OF COORDINATION BETWEEN**
 7 **FEDERAL, STATE, AND LOCAL AUTHORITIES**
 8 **IN ENFORCING IDENTITY THEFT LAWS.**

9 (a) MEMBERSHIP.—Section 2(b) of the Internet
 10 False Identification Prevention Act of 2000 (18 U.S.C.
 11 1028 note) is amended by inserting “the Postmaster Gen-
 12 eral, the Commissioner of the United States Customs
 13 Service,” after “Trade Commissioner”.

14 (b) CONSULTATION.—Section 2 of the Internet False
 15 Identification Prevention Act of 2000 (18 U.S.C. 1028
 16 note) is amended—

17 (1) by redesignating subsection (d) as sub-
 18 section (e); and

19 (2) by inserting after subsection (e) the fol-
 20 lowing:

21 “(d) CONSULTATION.—The coordinating committee
 22 shall consult with interested parties, including State and
 23 local law enforcement agencies, State attorneys general,
 24 representatives of business entities (as that term is defined
 25 in section 4 of the Restore Your Identity Act of 2001);

1 including telecommunications and utility companies, and
2 organizations representing consumers.”.

3 (c) REPORT CONTENTS.—Section 2(e) of the Internet
4 False Identification Prevention Act of 2000 (18 U.S.C.
5 1028 note) (as redesignated by this section) is amended—

6 (1) in subparagraph (E), by striking “and” at
7 the end; and

8 (2) by striking subparagraph (F) and inserting
9 the following:

10 “(F) a comprehensive description of Fed-
11 eral assistance to address identity theft pro-
12 vided to State and local law enforcement agen-
13 cies;

14 “(G) a comprehensive description of co-
15 ordination activities between Federal, State,
16 and local law enforcement agencies in regard to
17 addressing identity theft and recommendations,
18 if any, for legislative changes that could facili-
19 tate more effective investigation and prosecu-
20 tion of the creation and distribution of false
21 identification documents;

22 “(H) a comprehensive description of how
23 the Federal Government can best provide to
24 State and local law enforcement agencies timely
25 and current information regarding terrorists or

1 terrorist activity where such information specifi-
 2 cally relates to identity theft; and

3 “(I) recommendations, if any, for legisla-
 4 tive or administrative changes that would—

5 “(i) facilitate more effective investiga-
 6 tion and prosecution of cases involving
 7 identity theft;

8 “(ii) improve the effectiveness of Fed-
 9 eral assistance to State and local law en-
 10 forcement agencies and coordination be-
 11 tween Federal, State, and local law en-
 12 forcement agencies;

13 “(iii) simplify efforts by a person nec-
 14 essary to rectify the harm that results
 15 from the theft of the identity of the per-
 16 son; and

17 “(iv) if deemed appropriate, provide
 18 for the establishment of a Federal identity
 19 theft and false identification office or agen-
 20 cy.”.

21 **SEC. 8. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

22 (a) IN GENERAL.—

23 (1) CIVIL ACTIONS.—In any case in which the
 24 attorney general of a State has reason to believe
 25 that an interest of the residents of that State has

1 been or is threatened or adversely affected by the
2 engagement of any person in a practice that is pro-
3 hibited under this Act or under any amendment
4 made by this Act, the State, as *parens patriae*, may
5 bring a civil action on behalf of the residents of the
6 State in a district court of the United States of ap-
7 propriate jurisdiction to—

8 (A) enjoin that practice;

9 (B) enforce compliance with this Act or the
10 amendments made by this Act;

11 (C) obtain damage, restitution, or other
12 compensation on behalf of residents of the
13 State; or

14 (D) obtain such other relief as the court
15 may consider to be appropriate.

16 (2) NOTICE.—

17 (A) IN GENERAL.—Before filing an action
18 under paragraph (1), the attorney general of
19 the State involved shall provide to the Attorney
20 General of the United States—

21 (i) written notice of the action; and

22 (ii) a copy of the complaint for the ac-
23 tion.

24 (B) EXEMPTION.—

1 (i) IN GENERAL.—Subparagraph (A)
2 shall not apply with respect to the filing of
3 an action by an attorney general of a State
4 under this subsection, if that attorney gen-
5 eral determines that it is not feasible to
6 provide the notice described in subpara-
7 graph (A) before the filing of the action.

8 (ii) NOTIFICATION.—In an action de-
9 scribed in clause (i), the attorney general
10 of a State shall provide notice and a copy
11 of the complaint to the Attorney General
12 of the United States at the same time as
13 the action is filed.

14 (b) INTERVENTION.—

15 (1) IN GENERAL.—On receiving notice of an ac-
16 tion under subsection (a)(2), the Attorney General
17 of the United States shall have the right to intervene
18 in that action.

19 (2) EFFECT OF INTERVENTION.—If the Attor-
20 ney General of the United States intervenes in an
21 action under subsection (a), the Attorney General
22 shall have the right to be heard with respect to any
23 matter that arises in that action.

24 (c) CONSTRUCTION.—For purposes of bringing any
25 civil action under subsection (a), nothing in this Act or

1 the amendments made by this Act shall be construed to
2 prevent an attorney general of a State from exercising the
3 powers conferred on such attorney general by the laws of
4 that State—

5 (1) to conduct investigations;

6 (2) to administer oaths or affirmations; or

7 (3) to compel the attendance of witnesses or the
8 production of documentary and other evidence.

9 (d) ACTIONS BY THE ATTORNEY GENERAL OF THE
10 UNITED STATES.—In any case in which an action is insti-
11 tuted by or on behalf of the Attorney General of the
12 United States for violation of a practice that is prohibited
13 under this Act or under any amendment made by this Act,
14 no State may, during the pendency of that action, institute
15 an action under subsection (a) against any defendant
16 named in the complaint in that action for violation of that
17 practice.

18 (e) VENUE; SERVICE OF PROCESS.—

19 (1) VENUE.—Any action brought under sub-
20 section (a) may be brought in the district court of
21 the United States that meets applicable require-
22 ments relating to venue under section 1391 of title
23 28, United States Code.

1 (2) SERVICE OF PROCESS.—In an action
2 brought under subsection (a), process may be served
3 in any district in which the defendant—

4 (A) is an inhabitant; or

5 (B) may be found.

6 **SECTION 1. SHORT TITLE.**

7 *This Act may be cited as the “Identity Theft Victims*
8 *Assistance Act of 2002”.*

9 **SEC. 2. FINDINGS.**

10 *Congress finds that—*

11 (1) *the crime of identity theft is the fastest grow-*
12 *ing crime in the United States;*

13 (2) *victims of identity theft often have extraor-*
14 *dinary difficulty restoring their credit and regaining*
15 *control of their identity because of the viral nature of*
16 *identity theft;*

17 (3) *identity theft may be ruinous to the good*
18 *name and credit of consumers whose identities are*
19 *misappropriated, and victims of identity theft may be*
20 *denied otherwise well-deserved credit, may have to*
21 *spend enormous time, effort, and sums of money to*
22 *remedy their circumstances, and may suffer extreme*
23 *emotional distress including deep depression founded*
24 *in profound frustration as they address the array of*
25 *problems that may arise as a result of identity theft;*

1 (4) *victims are often required to contact numer-*
2 *ous Federal, State, and local law enforcement agen-*
3 *cies, consumer credit reporting agencies, and creditors*
4 *over many years, as each event of fraud arises;*

5 (5) *the Government, business entities, and credit*
6 *reporting agencies have a shared responsibility to as-*
7 *ist identity theft victims, to mitigate the harm that*
8 *results from fraud perpetrated in the victim's name;*

9 (6) *victims of identity theft need a nationally*
10 *standardized means of—*

11 (A) *reporting identity theft to consumer*
12 *credit reporting agencies and business entities;*
13 *and*

14 (B) *evidencing their true identity and*
15 *claim of identity theft to consumer credit report-*
16 *ing agencies and business entities;*

17 (7) *one of the greatest law enforcement challenges*
18 *posed by identity theft is that stolen identities are*
19 *often used to perpetrate crimes in many different lo-*
20 *calities in different States, and although identity theft*
21 *is a Federal crime, most often, State and local law*
22 *enforcement agencies are responsible for investigating*
23 *and prosecuting the crimes; and*

1 (8) *the Federal Government should assist State*
2 *and local law enforcement agencies to effectively com-*
3 *bat identity theft and the associated fraud.*

4 **SEC. 3. DEFINITIONS.**

5 *In this Act, the following definitions shall apply:*

6 (1) *BUSINESS ENTITY.*—*The term “business enti-*
7 *ty” means—*

8 (A) *a creditor, as that term is defined in*
9 *section 103 of the Truth in Lending Act (15*
10 *U.S.C. 1602);*

11 (B) *any financial information repository;*

12 (C) *any financial service provider; and*

13 (D) *any corporation, trust, partnership, sole*
14 *proprietorship, or unincorporated association*
15 *(including telecommunications, utilities, and*
16 *other service providers).*

17 (2) *CONSUMER.*—*The term “consumer” means*
18 *an individual.*

19 (3) *FINANCIAL INFORMATION.*—*The term “finan-*
20 *cial information” means information identifiable as*
21 *relating to an individual consumer that concerns the*
22 *amount and conditions of the assets, liabilities, or*
23 *credit of the consumer, including—*

24 (A) *account numbers and balances;*

1 (B) nonpublic personal information, as that
2 term is defined in section 509 of the Gramm-
3 Leach-Bliley Act (15 U.S.C. 6809); and

4 (C) codes, passwords, social security num-
5 bers, tax identification numbers, State identifier
6 numbers issued by a State department of licens-
7 ing, and other information used for the purpose
8 of account access or transaction initiation.

9 (4) *FINANCIAL INFORMATION REPOSITORY.*—The
10 term “financial information repository” means a per-
11 son engaged in the business of providing services to
12 consumers who have a credit, deposit, trust, stock, or
13 other financial services account or relationship with
14 that person.

15 (5) *IDENTITY THEFT.*—The term “identity theft”
16 means an actual or potential violation of section 1028
17 of title 18, United States Code, or any other similar
18 provision of Federal or State law.

19 (6) *MEANS OF IDENTIFICATION.*—The term
20 “means of identification” has the meanings given the
21 terms “identification document” and “means of iden-
22 tification” in section 1028 of title 18, United States
23 Code.

24 (7) *VICTIM.*—The term “victim” means a con-
25 sumer whose means of identification or financial in-

1 *formation has been used or transferred (or has been*
2 *alleged to have been used or transferred) without the*
3 *authority of that consumer with the intent to commit,*
4 *or to aid or abet, identity theft or any other violation*
5 *of law.*

6 **SEC. 4. TREATMENT OF IDENTITY THEFT MITIGATION.**

7 *Section 1028 of title 18, United States Code, is amend-*
8 *ed by adding at the end the following:*

9 “(i) *TREATMENT OF IDENTITY THEFT MITIGATION.—*

10 “(1) *INFORMATION AVAILABLE TO VICTIMS.—*

11 “(A) *IN GENERAL.—A business entity that*
12 *possesses information relating to an alleged iden-*
13 *tity theft, or that has entered into a transaction,*
14 *provided credit, products, goods, or services, ac-*
15 *cepted payment, or otherwise done business with*
16 *a person that has made unauthorized use of the*
17 *means of identification of the victim, shall, not*
18 *later than 20 days after the receipt of a written*
19 *request by the victim under paragraph (2), pro-*
20 *vide, without charge, a copy of all application*
21 *and transaction information related to the trans-*
22 *action being alleged as a potential or actual*
23 *identity theft to—*

24 “(i) *the victim;*

1 “(ii) any Federal, State, or local gov-
2 erning law enforcement agency or officer
3 specified by the victim; or

4 “(iii) any law enforcement agency in-
5 vestigating the identity theft and authorized
6 by the victim to take receipt of records pro-
7 vided under this subsection.

8 “(B) *RULE OF CONSTRUCTION.*—

9 “(i) *IN GENERAL.*—No provision of
10 Federal or State law prohibiting the disclo-
11 sure of financial information to third par-
12 ties shall be used to deny disclosure of infor-
13 mation to the victim under this subsection.

14 “(ii) *LIMITATION.*—Except as provided
15 in clause (i), nothing in this subsection re-
16 quires a business entity to disclose informa-
17 tion that the business entity is otherwise
18 prohibited from disclosing under any other
19 provision of Federal or State law.

20 “(2) *VERIFICATION OF IDENTITY AND CLAIM.*—

21 Unless a business entity, at its discretion, is otherwise
22 able to verify the identity of a victim making a re-
23 quest under subsection (a)(1), the victim shall provide
24 to the business entity—

25 “(A) as proof of positive identification—

1 “(i) the presentation of a government-
2 issued identification card;

3 “(ii) if providing proof by mail, a
4 copy of a government-issued identification
5 card; or

6 “(iii) upon the request of the person
7 seeking business records, the business entity
8 may inform the requesting person of the
9 categories of identifying information that
10 the unauthorized person provided the busi-
11 ness entity as personally identifying infor-
12 mation, and may require the requesting
13 person to provide identifying information
14 in those categories; and

15 “(B) as proof of a claim of identity theft,
16 at the election of the business entity—

17 “(i) a copy of a police report evidenc-
18 ing the claim of the victim of identity theft;

19 “(ii) a copy of a standardized affidavit
20 of identity theft developed and made avail-
21 able by the Federal Trade Commission; or

22 “(iii) any affidavit of fact that is ac-
23 ceptable to the business entity for that pur-
24 pose.

1 “(3) *LIMITATION ON LIABILITY.*—No business en-
2 tity may be held liable for a disclosure, made in good
3 faith and reasonable judgment, to provide informa-
4 tion under this section with respect to an individual
5 in connection with an identity theft to other financial
6 information repositories, financial service providers,
7 merchants, law enforcement authorities, victims, or
8 any person alleging to be a victim, if—

9 “(A) the business entity complies with para-
10 graph (2); and

11 “(B) such disclosure was made—

12 “(i) for the purpose of detection, inves-
13 tigation, or prosecution of identity theft; or

14 “(ii) to assist a victim in recovery of
15 fines, restitution, rehabilitation of the credit
16 of the victim, or such other relief as may be
17 appropriate.

18 “(4) *AUTHORITY TO DECLINE TO PROVIDE IN-*
19 *FORMATION.*—A business entity may decline to pro-
20 vide information pursuant to paragraph (1) if, in the
21 exercise of good faith and reasonable judgment, the
22 business entity believes that—

23 “(A) this subsection does not require disclo-
24 sure of the information; or

1 “(B) *the request for the information is based*
2 *on a misrepresentation of fact by the victim rel-*
3 *evant to the request for information.*

4 “(5) *NO NEW RECORDKEEPING OBLIGATION.—*
5 *Nothing in this subsection creates an obligation on*
6 *the part of a business entity to obtain, retain, or*
7 *maintain information or records that are not other-*
8 *wise required to be retained or maintained in the or-*
9 *inary course of its business or under other applicable*
10 *law.*

11 “(6) *NOTIFICATION SYSTEM.—*

12 “(A) *IN GENERAL.—A business entity may*
13 *establish and maintain a notification system for*
14 *the business entity to comply with this sub-*
15 *section, including a toll-free telephone number*
16 *and a mailing address.*

17 “(B) *REQUIREMENTS.—A notification sys-*
18 *tem under subparagraph (A) shall permit any*
19 *person to make a request to, or to correspond*
20 *with, the business entity under this subsection,*
21 *provided that—*

22 “(i) *the business entity informs the*
23 *person—*

24 “(I) *that any person may request*
25 *information under this subsection; and*

1 “(II) of the address and toll-free
2 telephone number established and
3 maintained for this purpose; and

4 “(ii) a person representing the business
5 entity—

6 “(I) responds to an information
7 request through the toll-free number
8 within 3 business days of receiving the
9 request; and

10 “(II) facilitates the provision of
11 such information to the person who
12 initiated the request.”.

13 **SEC. 5. AMENDMENTS TO THE FAIR CREDIT REPORTING**
14 **ACT.**

15 (a) **CONSUMER REPORTING AGENCY BLOCKING OF IN-**
16 **FORMATION RESULTING FROM IDENTITY THEFT.**—Section
17 *611 of the Fair Credit Reporting Act (15 U.S.C. 1681i) is*
18 *amended by adding at the end the following:*

19 “(e) **BLOCK OF INFORMATION RESULTING FROM IDEN-**
20 **TITY THEFT.**—

21 “(1) **BLOCK.**—*Except as provided in paragraph*
22 *(3) and not later than 30 days after the date of re-*
23 *ceipt of proof of the identity of a consumer and an*
24 *official copy of a police report evidencing the claim*
25 *of the consumer of identity theft, a consumer report-*

1 *ing agency shall permanently block the reporting of*
 2 *any information identified by the consumer in the file*
 3 *of the consumer resulting from the identity theft, so*
 4 *that the information cannot be reported, except as*
 5 *provided in paragraph (3).*

6 *“(2) NOTIFICATION.—A consumer reporting*
 7 *agency shall promptly notify the furnisher of infor-*
 8 *mation identified by the consumer under paragraph*
 9 *(1)—*

10 *“(A) that the information may be a result*
 11 *of identity theft;*

12 *“(B) that a police report has been filed;*

13 *“(C) that a block has been requested under*
 14 *this subsection; and*

15 *“(D) of the effective date of the block.*

16 *“(3) AUTHORITY TO DECLINE OR RESCIND.—*

17 *“(A) IN GENERAL.—A consumer reporting*
 18 *agency may decline to block, or may rescind any*
 19 *block, of consumer information under this sub-*
 20 *section if—*

21 *“(i) in the exercise of good faith and*
 22 *reasonable judgment, the consumer report-*
 23 *ing agency believes that—*

24 *“(I) the information was blocked*
 25 *due to a misrepresentation of fact by*

1 *the consumer relevant to the request to*
2 *block; or*

3 *“(II) the consumer knowingly ob-*
4 *tained possession of goods, services, or*
5 *moneys as a result of the blocked trans-*
6 *action or transactions, or the consumer*
7 *should have known that the consumer*
8 *obtained possession of goods, services,*
9 *or moneys as a result of the blocked*
10 *transaction or transactions; or*

11 *“(ii) the consumer agrees that the*
12 *blocked information or portions of the*
13 *blocked information were blocked in error.*

14 *“(B) NOTIFICATION TO CONSUMER.—If the*
15 *block of information is declined or rescinded*
16 *under this paragraph, the affected consumer*
17 *shall be notified promptly, in the same manner*
18 *as consumers are notified of the reinsertion of in-*
19 *formation under subsection (a)(5)(B).*

20 *“(C) SIGNIFICANCE OF BLOCK.—For pur-*
21 *poses of this paragraph, the prior presence of*
22 *blocked information in the file of a consumer is*
23 *not evidence of whether the consumer knew or*
24 *should have known that the consumer obtained*

1 *possession of any goods, services, or monies as a*
 2 *result of the block.*

3 “(4) *EXCEPTION.—A consumer reporting agency*
 4 *shall not be required to comply with this subsection*
 5 *when the agency is issuing information for authoriza-*
 6 *tions, for the purpose of approving or processing ne-*
 7 *gotiable instruments, electronic funds transfers, or*
 8 *similar methods of payment, based solely on negative*
 9 *information, including—*

10 “(A) *dishonored checks;*

11 “(B) *accounts closed for cause;*

12 “(C) *substantial overdrafts;*

13 “(D) *abuse of automated teller machines; or*

14 “(E) *other information which indicates a*
 15 *risk of fraud occurring.”.*

16 (b) *FALSE CLAIMS.—Section 1028 of title 18, United*
 17 *States Code, is amended by adding at the end the following:*

18 “(j) *Whoever knowingly falsely claims to be a victim*
 19 *of identity theft for the purpose of obtaining the blocking*
 20 *of information by a consumer reporting agency under sec-*
 21 *tion 611(e)(1) of the Fair Credit Reporting Act (15 U.S.C.*
 22 *1681i(e)(1)) shall be fined under this title, imprisoned not*
 23 *more than 3 years, or both.”.*

1 “(1) the plaintiff is the victim of an identity
2 theft; or

3 “(2) the plaintiff—

4 “(A) has reasonable grounds to believe that
5 the plaintiff is the victim of an identity theft;
6 and

7 “(B) has not materially and willfully mis-
8 represented such a claim.”.

9 **SEC. 6. COMMISSION STUDY OF COORDINATION BETWEEN**
10 **FEDERAL, STATE, AND LOCAL AUTHORITIES**
11 **IN ENFORCING IDENTITY THEFT LAWS.**

12 (a) *MEMBERSHIP; TERM.*—Section 2 of the Internet
13 False Identification Prevention Act of 2000 (18 U.S.C. 1028
14 note) is amended—

15 (1) in subsection (b), by striking “and the Com-
16 missioner of Immigration and Naturalization” and
17 inserting “the Commissioner of Immigration and
18 Naturalization, the Chairman of the Federal Trade
19 Commission, the Postmaster General, and the Com-
20 missioner of the United States Customs Service,”; and

21 (2) in subsection (c), by striking “2 years” and
22 inserting “6 years”.

23 (b) *CONSULTATION.*—Section 2 of the Internet False
24 Identification Prevention Act of 2000 (18 U.S.C. 1028 note)
25 is amended—

1 (1) *by redesignating subsection (d) as subsection*
2 *(e); and*

3 (2) *by inserting after subsection (c) the fol-*
4 *lowing:*

5 “(d) *CONSULTATION.—The coordinating committee*
6 *shall consult with interested parties, including State and*
7 *local law enforcement agencies, State attorneys general, rep-*
8 *resentatives of business entities (as that term is defined in*
9 *section 4 of the Identity Theft Victims Assistance Act of*
10 *2002), including telecommunications and utility compa-*
11 *nies, and organizations representing consumers.”.*

12 (c) *REPORT CONTENTS.—Section 2(e) of the Internet*
13 *False Identification Prevention Act of 2000 (18 U.S.C. 1028*
14 *note) (as redesignated by this section) is amended—*

15 (1) *in subparagraph (E), by striking “and” at*
16 *the end; and*

17 (2) *by striking subparagraph (F) and inserting*
18 *the following:*

19 “(F) *a comprehensive description of Federal*
20 *assistance provided to State and local law en-*
21 *forcement agencies to address identity theft;*

22 “(G) *a comprehensive description of coordi-*
23 *nation activities between Federal, State, and*
24 *local law enforcement agencies that address iden-*
25 *entity theft;*

1 “(H) a comprehensive description of how
2 the Federal Government can best provide State
3 and local law enforcement agencies with timely
4 and current information regarding terrorists or
5 terrorist activity where such information specifi-
6 cally relates to identity theft; and

7 “(I) recommendations in the discretion of
8 the President, if any, for legislative or adminis-
9 trative changes that would—

10 “(i) facilitate more effective investiga-
11 tion and prosecution of—

12 “(I) cases involving identity theft;
13 and

14 “(II) the creation and distribution
15 of false identification documents;

16 “(ii) improve the effectiveness of Fed-
17 eral assistance to State and local law en-
18 forcement agencies and coordination be-
19 tween Federal, State, and local law enforce-
20 ment agencies;

21 “(iii) simplify efforts by a person nec-
22 essary to rectify the harm that results from
23 the theft of the identity of such person; and

24 “(iv) if deemed appropriate, provide
25 for the establishment of a Federal identity

1 *theft and false identification office or agen-*
2 *cy.”.*

3 **SEC. 7. ENFORCEMENT.**

4 *(a) IN GENERAL.—*

5 *(1) CIVIL ACTIONS.—In any case in which the*
6 *attorney general of a State has reason to believe that*
7 *an interest of the residents of that State has been, or*
8 *is threatened to be, adversely affected by a violation*
9 *of section 4 of this Act by any business entity, the*
10 *State, as parens patriae, may bring a civil action on*
11 *behalf of the residents of the State in a district court*
12 *of the United States of appropriate jurisdiction to—*

13 *(A) enjoin that practice;*

14 *(B) enforce compliance with this Act or the*
15 *amendments made by this Act;*

16 *(C) obtain damages—*

17 *(i) in the sum of actual damages, res-*
18 *titution, and other compensation on behalf*
19 *of the residents of the State; and*

20 *(ii) punitive damages, if the violation*
21 *is willful or intentional; and*

22 *(D) obtain such other equitable relief as the*
23 *court may consider to be appropriate.*

24 *(2) NOTICE.—Before filing an action under*
25 *paragraph (1), the attorney general of the State in-*

1 *involved shall provide to the Attorney General of the*
2 *United States—*

3 *(A) written notice of the action; and*

4 *(B) a copy of the complaint for the action.*

5 *(b) INTERVENTION.—*

6 *(1) IN GENERAL.—On receiving notice of an ac-*
7 *tion under subsection (a)(2), the Attorney General of*
8 *the United States shall have the right to intervene in*
9 *that action.*

10 *(2) EFFECT OF INTERVENTION.—If the Attorney*
11 *General of the United States intervenes in an action*
12 *under subsection (a), the Attorney General shall have*
13 *the right to be heard with respect to any matter that*
14 *arises in that action.*

15 *(3) SERVICE OF PROCESS.—Upon request of the*
16 *Attorney General of the United States, the attorney*
17 *general of a State that has filed an action under sub-*
18 *section (a) shall, pursuant to Rule 4(d)(4) of the Fed-*
19 *eral Rules of Civil Procedure, serve the Government*
20 *with—*

21 *(A) a copy of the complaint; and*

22 *(B) written disclosure of substantially all*
23 *material evidence and information in the posses-*
24 *sion of the attorney general of the state.*

1 (c) *CONSTRUCTION.*—*For purposes of bringing any*
2 *civil action under subsection (a), nothing in this Act or the*
3 *amendments made by this Act shall be construed to prevent*
4 *an attorney general of a State from exercising the powers*
5 *conferred on such attorney general by the laws of that*
6 *State—*

7 (1) *to conduct investigations;*

8 (2) *to administer oaths or affirmations; or*

9 (3) *to compel the attendance of witnesses or the*
10 *production of documentary and other evidence.*

11 (d) *ACTIONS BY THE ATTORNEY GENERAL OF THE*
12 *UNITED STATES.*—*In any case in which an action is insti-*
13 *tuted by or on behalf of the Attorney General of the United*
14 *States for a violation of section 4, no State may, during*
15 *the pendency of that action, institute an action under sub-*
16 *section (a) against any defendant named in the complaint*
17 *in that action for violation of that practice.*

18 (e) *VENUE; SERVICE OF PROCESS.*—

19 (1) *VENUE.*—*Any action brought under sub-*
20 *section (a) may be brought in the district court of the*
21 *United States—*

22 (A) *where the defendant resides;*

23 (B) *where the defendant is doing business;*

24 *or*

1 (C) that meets applicable requirements re-
2 lating to venue under section 1391 of title 28,
3 United States Code.

4 (2) SERVICE OF PROCESS.—In an action brought
5 under subsection (a), process may be served in any
6 district in which the defendant—

7 (A) resides;

8 (B) is doing business; or

9 (B) may be found.

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A BILL

To prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

MAY 21, 2002

Reported with an amendment