

110TH CONGRESS
1ST SESSION

H. R. 3046

To amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 2007

Mr. McNULTY (for himself, Mr. SAM JOHNSON of Texas, Mr. RANGEL, Mr. McCREERY, Mr. STARK, Mr. LEVIN, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. WOLF, Mr. BECERRA, Mr. DOGGETT, Mr. POMEROY, Mr. LARSON of Connecticut, Mr. EMANUEL, Mr. BLUMENAUER, Mr. PASCRELL, Mr. MEEK of Florida, Mr. HASTINGS of Washington, Ms. MATSUI, Mrs. CAPPS, Mr. FARR, Mr. RODRIGUEZ, Mr. FILNER, Ms. MCCOLLUM of Minnesota, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against 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 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 2007”.

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

- Sec. 1. Short title and table of contents.
- Sec. 2. Restrictions on the sale or display to the general public of social security account numbers by governmental entities.
- Sec. 3. Prohibition of display of social security account numbers on checks issued for payment by governmental entities.
- Sec. 4. Prohibition of the display of social security account numbers on certain government identification cards or tags.
- Sec. 5. Prohibition of inmate access to social security account numbers.
- Sec. 6. Measures to preclude unauthorized disclosure by governmental entities of social security account numbers and protect the confidentiality of such numbers.
- Sec. 7. Uniform standards for truncation of the social security account number.
- Sec. 8. Prohibition of the sale, purchase, and display to the general public of the social security account number in the private sector.
- Sec. 9. New criminal penalties for misuse of social security account numbers.
- Sec. 10. Extension of civil monetary penalty authority.
- Sec. 11. Criminal penalties for employees of the Social Security Administration who knowingly and fraudulently issue social security cards or social security account numbers.
- Sec. 12. Enhanced penalties in cases of terrorism, drug trafficking, crimes of violence, or prior offenses.
- Sec. 13. Regulatory and enforcement authority with respect to misuse of the social security account number.
- Sec. 14. Study on feasibility of banning social security account number as an authenticator.

7 **SEC. 2. RESTRICTIONS ON THE SALE OR DISPLAY TO THE**
 8 **GENERAL PUBLIC OF SOCIAL SECURITY AC-**
 9 **COUNT NUMBERS BY GOVERNMENTAL ENTI-**
 10 **TIES.**

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

1 “(x)(I) A governmental entity (as defined in sub-
2 clause (X)) may not sell or display to the general public
3 any social security account number if such number has
4 been disclosed to such governmental entity pursuant to the
5 assertion by such governmental entity to any person that
6 disclosure of such number is a statutory or regulatory re-
7 quirement. Notwithstanding the preceding sentence, such
8 number may be sold or displayed to the general public in
9 accordance with the exceptions specified in subclauses (II),
10 (III), (IV), (V), (VI), (VII), and (VIII) (and for no other
11 purpose).

12 “(II) Notwithstanding subclause (I), a social security
13 account number may be sold by a governmental entity to
14 the extent that such sale is specifically authorized by this
15 Act.

16 “(III) Notwithstanding subclause (I), a social secu-
17 rity account number may be sold by a governmental entity
18 to the extent that is necessary or appropriate for law en-
19 forcement or national security purposes, as determined
20 under regulations which shall be issued as provided in sec-
21 tion 1129C.

22 “(IV) Notwithstanding subclause (I), a social security
23 account number may be sold by a governmental entity to
24 the extent that such sale is required to comply with a tax

1 law of the United States or of any State (or political sub-
2 division thereof).

3 “(V) Notwithstanding subclause (I), a social security
4 account number may be sold by a State department of
5 motor vehicles as authorized under subsection (b) of sec-
6 tion 2721 of title 18, United States Code, if such number
7 is to be used pursuant to such sale solely for purposes
8 permitted under paragraph (1), (6), or (9) of such sub-
9 section.

10 “(VI) Notwithstanding subclause (I), a social security
11 account number may be sold or otherwise made available
12 by a governmental entity to a consumer reporting agency
13 (as defined in section 603(f) of the Fair Credit Reporting
14 Act (15 U.S.C. 1681a(f))) for use or disclosure solely for
15 permissible purposes described in section 604(a) of such
16 Act (15 U.S.C. 1681b(a)).

17 “(VII) Notwithstanding subclause (I), a social secu-
18 rity account number may be sold by a governmental entity
19 to the extent necessary for research (other than market
20 research) conducted by any governmental entity for the
21 purpose of advancing the public good, on the condition
22 that the researcher provides adequate assurances that the
23 social security account numbers will not be used to harass,
24 target, or publicly reveal information concerning any iden-
25 tifiable individuals, that information about identifiable in-

1 individuals obtained from the research will not be used to
2 make decisions that directly affect the rights, benefits, or
3 privileges of specific individuals, and that the researcher
4 has in place appropriate safeguards to protect the privacy
5 and confidentiality of any information about identifiable
6 individuals, including procedures to ensure that the social
7 security account numbers will be encrypted or otherwise
8 appropriately secured from unauthorized disclosure. In the
9 case of medical research, the Commissioner of Social Secu-
10 rity shall maintain ongoing consultation with the Office
11 for Civil Rights of the Department of Health and Human
12 Services to ensure that the sale or purchase of social secu-
13 rity account numbers which constitute personally identifi-
14 able medical information is permitted only in compliance
15 with existing Federal rules and regulations prescribed by
16 the Secretary of Health and Human Services pursuant to
17 section 264(c) of the Health Insurance Portability and Ac-
18 countability Act of 1996 (110 Stat. 2033).

19 “(VIII) Notwithstanding subclause (I), a social secu-
20 rity account number may be sold or displayed to the gen-
21 eral public by a governmental entity under such other cir-
22 cumstances as may be specified in regulations issued as
23 provided in section 1129C.

24 “(IX) This clause does not apply with respect to a
25 social security account number of a deceased individual.

1 “(X) For purposes of this clause, the term ‘govern-
2 mental entity’ means an executive, legislative, or judicial
3 agency or instrumentality of the Federal Government or
4 of a State or political subdivision thereof, a Federally rec-
5 ognized Indian tribe, or a trustee appointed in a case
6 under title 11, United States Code. Such term includes
7 a person acting as an agent of such an agency or instru-
8 mentality, Indian tribe, or trustee. For purposes of this
9 subclause, the term ‘State’ has the meaning provided in
10 subparagraph (D)(iii)(II).

11 “(XI) For purposes of this clause, the term ‘sell’
12 means, in connection with a social security account, to ob-
13 tain, directly or indirectly, anything of value in exchange
14 for such number. Such term does not include the submis-
15 sion of such number as part of the process for applying
16 for any type of Government benefits or programs (such
17 as grants, loans, or welfare or other public assistance pro-
18 grams) or as part of the administration of, or provision
19 of benefits under, an employee benefit plan.

20 “(XII) For purposes of this clause, the term ‘display
21 to the general public’ shall have the meaning provided
22 such term in section 208A(a)(3)(A). In any case in which
23 a governmental entity requires transmittal to such govern-
24 mental entity of an individual’s social security account
25 number by means of the Internet without ensuring that

1 such number is encrypted or otherwise appropriately se-
2 cured from disclosure, any such transmittal of such num-
3 ber as so required shall be treated, for purposes of this
4 clause, as a ‘display to the general public’ of such number
5 by such governmental entity for purposes of this clause.

6 “(XIII) For purposes of this clause, the term ‘social
7 security account number’ includes any derivative of such
8 number.

9 “(XIV) Nothing in the preceding subclauses of this
10 clause shall be construed as superseding, altering, or af-
11 fecting any statute, regulation, order, or interpretation in
12 effect under any other Federal or State law, except to the
13 extent that such statute, regulation, order, or interpreta-
14 tion is inconsistent with such subclauses, and then only
15 to the extent of the inconsistency. For purposes of this
16 subclause, a statute, regulation, order, or interpretation is
17 not inconsistent with the preceding subclauses of this
18 clause if the protection such statute, regulation, order, or
19 interpretation affords any person is greater than the pro-
20 tection provided under such subclauses.”.

21 (b) EFFECTIVE DATE AND RELATED RULES.—Ini-
22 tial final regulations prescribed to carry out the provisions
23 of section 205(c)(2)(C)(x) of the Social Security Act
24 (added by this section) shall be issued not later than the
25 last date of the 18th calendar month following the date

1 of the enactment of this Act. Such provisions shall take
2 effect, with respect to matters governed by such regula-
3 tions issued by the Commissioner of Social Security or any
4 other agency or instrumentality of the United States, 1
5 year after the date of the issuance of such regulations by
6 the Commissioner or such other agency or instrumentality,
7 respectively. Such provisions shall apply in the case of dis-
8 plays to the general public, as defined in section
9 208A(a)(3) of such Act (added by section 8 of this Act),
10 to such displays originally occurring after such 1-year pe-
11 riod. Such provisions shall not apply with respect to any
12 display of a record (containing a social security account
13 number (or any derivative thereof)) generated prior to the
14 close of such 1-year period.

15 **SEC. 3. PROHIBITION OF DISPLAY OF SOCIAL SECURITY AC-**
16 **COUNT NUMBERS ON CHECKS ISSUED FOR**
17 **PAYMENT BY GOVERNMENTAL ENTITIES.**

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

22 “(xi) No governmental entity (as defined in clause
23 (x)(X)) may include the social security account number
24 of any individual (or any derivative of such number) on
25 any check issued for any payment by such governmental

1 entity or on any document attached to or accompanying
2 such a check.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 this section shall apply with respect to checks (and docu-
5 ments attached to or accompanying such checks) issued
6 after 1 year after the date of the enactment of this Act.

7 **SEC. 4. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**
8 **RITY ACCOUNT NUMBERS ON CERTAIN GOV-**
9 **ERNMENT IDENTIFICATION CARDS OR TAGS.**

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 Act) is amended further by
13 adding at the end the following new clause:

14 “(xii) No governmental entity (as defined in clause
15 (x)(X)), and no other person offering benefits in connec-
16 tion with an employee benefit plan maintained by such
17 governmental entity, may display a social security account
18 number (or any derivative thereof) on any card or tag that
19 is commonly provided—

20 “(I) to employees of such governmental entity,

21 “(II) in the case of a governmental entity which
22 is an educational institution, to its students, or

23 “(III) in the case of a governmental entity
24 which is a medical institution, to its patients,

1 (or to their family members) for purposes of identification
2 or include on such card or tag a magnetic strip, bar code,
3 or other means of communication which conveys such
4 number. The requirements of this clause shall also apply
5 to the Medicare card issued by the Department of Health
6 and Human Services.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply with respect to cards or tags issued
9 after 1 year after the date of the enactment of this Act,
10 except that the last sentence of section 205(c)(2)(C)(xii)
11 (as added by this section) shall take effect 2 and one-half
12 years after the date of the enactment of this Act.

13 **SEC. 5. PROHIBITION OF INMATE ACCESS TO SOCIAL SECU-**
14 **RITY ACCOUNT NUMBERS.**

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 Act) is amended further by
18 adding at the end the following new clause:

19 “(xiii) No governmental entity (as defined in clause
20 (x)(X)) may employ, or enter into a contract for the use
21 or employment of, prisoners in any capacity that would
22 allow such prisoners access to the social security account
23 numbers of other individuals (or any derivatives of such
24 numbers). For purposes of this clause, the term ‘prisoner’

1 means an individual confined in a jail, prison, or other
2 penal institution or correctional facility.”.

3 (b) EFFECTIVE DATE.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), the amendment made by this section shall
6 apply with respect to employment of prisoners, or
7 entry into contract for the use or employment of
8 prisoners, on or after the date of the enactment of
9 this Act.

10 (2) TREATMENT OF CURRENT ARRANGE-
11 MENTS.—In the case of—

12 (A) prisoners employed as described in
13 clause (xiii) of section 205(c)(2)(C) of the So-
14 cial Security Act (as added by this section) on
15 the date of the enactment of this Act, and

16 (B) contracts described in such clause in
17 effect on such date,

18 the amendment made by this section shall take ef-
19 fect 90 days after the date of the enactment of this
20 Act.

1 **SEC. 6. MEASURES TO PRECLUDE UNAUTHORIZED DISCLO-**
2 **SURE BY GOVERNMENTAL ENTITIES OF SO-**
3 **CIAL SECURITY ACCOUNT NUMBERS AND**
4 **PROTECT THE CONFIDENTIALITY OF SUCH**
5 **NUMBERS.**

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

10 “(xiv) Except as otherwise provided in this para-
11 graph, in the case of any governmental entity (as defined
12 in clause (x)(X)) having access to an individual’s social
13 security account number—

14 “(I) no officer or employee thereof shall have
15 access to such number for any purpose other than
16 the effective administration of the statutory provi-
17 sions governing its functions,

18 “(II) such governmental entity shall restrict, to
19 the satisfaction of the Commissioner of Social Secu-
20 rity, access to social security account numbers ob-
21 tained thereby to officers and employees thereof
22 whose duties or responsibilities require access for the
23 administration or enforcement of such provisions,
24 and

25 “(III) such governmental entity shall provide
26 such other safeguards as the Commissioner deter-

1 mines to be necessary or appropriate to preclude un-
2 authorized access to the social security account num-
3 ber and to otherwise protect the confidentiality of
4 such number.

5 Nothing in this clause shall be construed to prohibit any
6 act or practice by a governmental entity undertaken in
7 compliance with section 552a(b)(3) of title 5, United
8 States Code, and the Commissioner of Social Security may
9 determine applicable restrictions and safeguards in con-
10 nection with any such act or practice. For purposes of this
11 clause the term ‘social security account number’ includes
12 any derivative thereof.’’.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect 1 year after the date of the
15 enactment of this Act.

16 **SEC. 7. UNIFORM STANDARDS FOR TRUNCATION OF THE**
17 **SOCIAL SECURITY ACCOUNT NUMBER.**

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

22 “(xv) The truncation by any governmental entity (as
23 defined in clause (x)(X)) or by any person in the private
24 sector of an individual’s social security account number
25 which is used by such governmental entity or person other-

1 wise in accordance with the requirements of this Act shall
2 be in accordance with a uniform truncation standard
3 which shall be specified in regulations prescribed by the
4 Commissioner of Social Security. Under such standard,
5 the number as truncated shall set forth not more than the
6 last 4 digits of the number. Nothing in this clause shall
7 be construed to authorize any use of the social security
8 account number which is not otherwise authorized by this
9 title or regulations prescribed thereunder.”.

10 (b) EFFECTIVE DATE.—Initial final regulations pre-
11 scribed to carry out the provisions of section
12 205(e)(2)(C)(xv) of the Social Security Act (added by this
13 section) shall be issued not later than the last date of the
14 18th calendar month following the date of the enactment
15 of this Act. Such provisions shall take effect, with respect
16 to matters governed by such regulations issued by the
17 Commissioner or any other agency or instrumentality of
18 the United States, 1 year after the date of the issuance
19 of such regulations by the Commissioner or such other
20 agency or instrumentality, respectively.

1 **SEC. 8. PROHIBITION OF THE SALE, PURCHASE, AND DIS-**
2 **PLAY TO THE GENERAL PUBLIC OF THE SO-**
3 **CIAL SECURITY ACCOUNT NUMBER IN THE**
4 **PRIVATE SECTOR.**

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

8 “PROHIBITION OF THE SALE, PURCHASE, AND DISPLAY
9 TO THE GENERAL PUBLIC OF THE SOCIAL SECURITY
10 ACCOUNT NUMBER IN THE PRIVATE SECTOR

11 “SEC. 208A. (a) DEFINITIONS.—For purposes of this
12 section:

13 “(1) PERSON.—

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

18 “(B) EXCLUSION OF GOVERNMENTAL EN-
19 TITIES.—Such term does not include a govern-
20 mental entity. Nothing in this subparagraph
21 shall be construed to authorize, in connection
22 with a governmental entity, an act or practice
23 otherwise prohibited under this section or sec-
24 tion 205(c)(2)(C).

25 “(2) SELLING AND PURCHASING.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B)—

3 “(i) SELL.—The term ‘sell’ in connec-
4 tion with a social security account number
5 means to obtain, directly or indirectly, any-
6 thing of value in exchange for such num-
7 ber.

8 “(ii) PURCHASE.—The term ‘pur-
9 chase’ in connection with a social security
10 account number means to provide, directly
11 or indirectly, anything of value in exchange
12 for such number.

13 “(B) EXCEPTIONS.—The terms ‘sell’ and
14 ‘purchase’ in connection with a social security
15 account number do not include the submission
16 of such number as part of—

17 “(i) the process for applying for any
18 type of Government benefits or programs
19 (such as grants or loans or welfare or
20 other public assistance programs),

21 “(ii) the administration of, or provi-
22 sion of benefits under, an employee benefit
23 plan, or

24 “(iii) the sale, lease, merger, transfer,
25 or exchange of a trade or business.

1 “(3) DISPLAY TO THE GENERAL PUBLIC.—

2 “(A) IN GENERAL.—The term ‘display to
3 the general public’ means, in connection with a
4 social security account number, to intentionally
5 place such number in a viewable manner on an
6 Internet site that is available to the general
7 public or to make such number available in any
8 other manner intended to provide access to such
9 number by the general public.

10 “(B) INTERNET TRANSMISSIONS.—In any
11 case in which a person requires transmittal to
12 such person of an individual’s social security ac-
13 count number by means of the Internet without
14 ensuring that such number is encrypted or oth-
15 erwise well-secured from disclosure, any such
16 transmittal of such number as so required shall
17 be treated as a ‘display to the general public’
18 of such number by such person.

19 “(4) SOCIAL SECURITY ACCOUNT NUMBER.—
20 The term ‘social security account number’ has the
21 meaning given such term in section 208(c), except
22 that such term includes any derivative of such num-
23 ber.

24 “(5) GOVERNMENTAL ENTITY.—

1 “(A) IN GENERAL.—The term ‘govern-
2 mental entity’ means an executive, legislative,
3 or judicial agency or instrumentality of the
4 Federal Government, a State or political sub-
5 division thereof, a Federally recognized Indian
6 tribe, or a trustee appointed in a case under
7 title 11, United States Code. Such term in-
8 cludes a person acting as an agent of such an
9 agency or instrumentality, Indian tribe, or
10 trustee.

11 “(B) STATE.—The term ‘State’ includes
12 the District of Columbia, the Commonwealth of
13 Puerto Rico, the Virgin Islands, Guam, the
14 Commonwealth of the Northern Marianas, and
15 the Trust Territory of the Pacific Islands.

16 “(b) PROHIBITION OF SALE, PURCHASE, AND DIS-
17 PLAY TO THE GENERAL PUBLIC.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), it shall be unlawful for any person to—

20 “(A) sell or purchase a social security ac-
21 count number or display to the general public
22 a social security account number, or

23 “(B) obtain or use any individual’s social
24 security account number for the purpose of lo-
25 cating or identifying such individual with the

1 intent to harass, harm, or physically injure such
2 individual or using the identity of such indi-
3 vidual for any illegal purpose.

4 “(2) EXCEPTIONS.—

5 “(A) IN GENERAL.—Notwithstanding para-
6 graph (1), and subject to paragraph (3), a so-
7 cial security account number may be sold or
8 purchased by any person to the extent provided
9 in this subsection (and for no other purpose) as
10 follows:

11 “(i) to the extent necessary for law
12 enforcement, including (but not limited to)
13 the enforcement of a child support obliga-
14 tion, as determined under regulations
15 issued as provided in section 1129C;

16 “(ii) to the extent necessary for na-
17 tional security purposes, as determined
18 under regulations issued as provided in
19 section 1129C;

20 “(iii) to the extent necessary for pub-
21 lic health purposes;

22 “(iv) to the extent necessary in emer-
23 gency situations to protect the health or
24 safety of 1 or more individuals;

1 “(v) to the extent that the sale or pur-
2 chase is required to comply with a tax law
3 of the United States or of any State (or
4 political subdivision thereof);

5 “(vi) to the extent that the sale or
6 purchase is to or by a consumer reporting
7 agency (as defined in section 603(f) of the
8 Fair Credit Reporting Act (15 U.S.C.
9 1681a(f))) for use or disclosure solely for
10 permissible purposes described in section
11 604(a) of such Act (15 U.S.C. 1681b(a));
12 and

13 “(vii) to the extent necessary for re-
14 search (other than market research) con-
15 ducted by an agency or instrumentality of
16 the United States or of a State or political
17 subdivision thereof (or a person acting as
18 an agent of such an agency or instrumen-
19 tality) for the purpose of advancing the
20 public good, on the condition that the re-
21 searcher provides adequate assurances
22 that—

23 “(I) the social security account
24 numbers will not be used to harass,
25 target, or publicly reveal information

1 concerning any identifiable individ-
2 uals;

3 “(II) information about identifi-
4 able individuals obtained from the re-
5 search will not be used to make deci-
6 sions that directly affect the rights,
7 benefits, or privileges of specific indi-
8 viduals; and

9 “(III) the researcher has in place
10 appropriate safeguards to protect the
11 privacy and confidentiality of any in-
12 formation about identifiable individ-
13 uals, including procedures to ensure
14 that the social security account num-
15 bers will be encrypted or otherwise ap-
16 propriately secured from unauthorized
17 disclosure.

18 “(B) MEDICAL RESEARCH.—In the case of
19 research referred to in subparagraph (A)(vii)
20 consisting of medical research, the Commis-
21 sioner of Social Security shall maintain ongoing
22 consultation with the Office for Civil Rights of
23 the Department of Health and Human Services
24 to ensure that the sale or purchase of social se-
25 curity account numbers which constitute per-

1 sonally identifiable medical information is per-
2 mitted only in compliance with existing Federal
3 rules and regulations prescribed by the Sec-
4 retary of Health and Human Services pursuant
5 to section 264(c) of the Health Insurance Port-
6 ability and Accountability Act of 1996 (110
7 Stat. 2033).

8 “(3) CONSENT AND OTHER CIRCUMSTANCES
9 DETERMINED BY REGULATION.—Notwithstanding
10 paragraph (1), a social security account number as-
11 signed to an individual may be sold or purchased by
12 any person—

13 “(A) to the extent consistent with such in-
14 dividual’s voluntary and affirmative written
15 consent to the sale or purchase, but only if—

16 “(i) the terms of the consent and the
17 right to refuse consent are presented to the
18 individual in a clear, conspicuous, and un-
19 derstandable manner,

20 “(ii) the individual is placed under no
21 obligation to provide consent to any such
22 sale or purchase, and

23 “(iii) the terms of the consent author-
24 ize the individual to limit the sale or pur-
25 chase to purposes directly associated with

1 the transaction with respect to which the
2 consent is sought, and

3 “(B) under such circumstances as may be
4 deemed appropriate in regulations issued as
5 provided under section 1129C.

6 “(c) PROHIBITION OF DISPLAY ON CHECKS.—It shall
7 be unlawful for any person to include the social security
8 account number of any other individual on any check
9 issued for any payment by such person or on any docu-
10 ment attached to or accompanying such a check.

11 “(d) PROHIBITION OF UNAUTHORIZED DISCLOSURE
12 TO GOVERNMENT AGENCIES OR INSTRUMENTALITIES.—

13 “(1) IN GENERAL.—It shall be unlawful for any
14 person to communicate by any means to any agency
15 or instrumentality of the United States or of any
16 State or political subdivision thereof the social secu-
17 rity account number of any individual other than
18 such person without the written permission of such
19 individual, unless the number was requested by the
20 agency or instrumentality. In the case of an indi-
21 vidual who is legally incompetent, permission pro-
22 vided by the individual’s legal representatives shall
23 be deemed to be permission provided by such indi-
24 vidual.

1 “(2) EXCEPTIONS.—Paragraph (1) shall not
2 apply to the extent necessary—

3 “(A) for law enforcement, including (but
4 not limited to) the enforcement of a child sup-
5 port obligation, or

6 “(B) for national security purposes,
7 as determined under regulations issued as provided
8 under section 1129C.

9 “(e) PROHIBITION OF THE DISPLAYS ON CARDS OR
10 TAGS REQUIRED FOR ACCESS TO GOODS, SERVICES, OR
11 BENEFITS.—No person may display a social security ac-
12 count number on any card or tag issued to any other per-
13 son for the purpose of providing such other person access
14 to any goods, services, or benefits or include on such card
15 or tag a magnetic strip, bar code, or other means of com-
16 munication which conveys such number.

17 “(f) PROHIBITION OF THE DISPLAYS ON EMPLOYEE
18 IDENTIFICATION CARDS OR TAGS.—No person that is an
19 employer, and no other person offering benefits in connec-
20 tion with an employee benefit plan maintained by such em-
21 ployer or acting as an agent of such employer, may display
22 a social security account number on any card or tag that
23 is commonly provided to employees of such employer (or
24 to their family members) for purposes of identification or
25 include on such card or tag a magnetic strip, bar code,

1 or other means of communication which conveys such
2 number.

3 “(g) MEASURES TO PRECLUDE UNAUTHORIZED DIS-
4 CLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS AND
5 PROTECT THE CONFIDENTIALITY OF SUCH NUMBERS.—

6 Subject to the preceding provisions of this section, any
7 person having access to the social security account number
8 of any individual other than such person shall, to the ex-
9 tent that such access is maintained for the conduct of such
10 person’s trade or business—

11 “(1) ensure that no officer or employee thereof
12 has access to such number for any purpose other
13 than as necessary for the conduct of such person’s
14 trade or business,

15 “(2) restrict, in accordance with regulations of
16 the Commissioner of Social Security, access to social
17 security account numbers obtained thereby to offi-
18 cers and employees thereof whose duties or respon-
19 sibilities require access for the conduct of such per-
20 son’s trade or business, and

21 “(3) provide such safeguards as may be speci-
22 fied, in regulations of the Commissioner of Social
23 Security, to be necessary or appropriate to preclude
24 unauthorized access to the social security account

1 number and to otherwise protect the confidentiality
2 of such number.

3 “(h) DECEASED INDIVIDUALS.—This section does
4 not apply with respect to the social security account num-
5 ber of a deceased individual.

6 “(i) APPLICABILITY OF OTHER PROTECTIONS.—
7 Nothing in the preceding subsections of this section shall
8 be construed as superseding, altering, or affecting any
9 statutory provision, regulation, order, or interpretation in
10 effect under any other Federal or State law, except to the
11 extent that such statutory provision, regulation, order, or
12 interpretation is inconsistent with such subsections, and
13 then only to the extent of the inconsistency. For purposes
14 of this subclause, a statutory provision, regulation, order,
15 or interpretation is not inconsistent with the preceding
16 subsections of this section if the protection such statutory
17 provision, regulation, order, or interpretation affords any
18 person is greater than the protection provided under such
19 subsections.”.

20 (b) EFFECTIVE DATE AND RELATED RULES.—Ini-
21 tial final regulations prescribed to carry out the provisions
22 of section 208A of the Social Security Act (added by this
23 section) shall be issued not later than the last date of the
24 18th calendar month following the date of the enactment
25 of this Act. Such provisions shall take effect, with respect

1 to matters governed by such regulations issued by the
2 Commissioner of Social Security or any other agency or
3 instrumentality of the United States, 1 year after the date
4 of the issuance of such regulations by the Commissioner
5 of Social Security or such other agency or instrumentality,
6 respectively. Section 208A(b) of such Act shall apply in
7 the case of displays to the general public (as defined in
8 section 208A(a)(3) of such Act) to such displays to the
9 general public originally occurring after such 1-year pe-
10 riod. Such provisions shall not apply with respect to any
11 such display to the general public of a record (containing
12 a social security account number (or any derivative there-
13 of)) generated prior to the close of such 1-year period.

14 **SEC. 9. NEW CRIMINAL PENALTIES FOR MISUSE OF SOCIAL**
15 **SECURITY ACCOUNT NUMBERS.**

16 (a) IN GENERAL.—Section 208 of the Social Security
17 Act (42 U.S.C. 408) is amended—

18 (1) in subsection (a), by inserting “or” at the
19 end of paragraph (8) and by inserting after para-
20 graph (8) the following new paragraph:

21 “(9) willfully acts or fails to act so as to cause
22 a violation of section 208A(b)(1)(B);”.

23 (2) by redesignating subsections (b) through (e)
24 as subsections (c) through (f), respectively;

1 (3) in subsection (c)(1) (as so redesignated), by
2 inserting “or (b)” after “subsection (a)”; and

3 (4) by inserting after subsection (a) the fol-
4 lowing new subsection:

5 “(b)(1) Whoever—

6 “(A) knowingly, and with intent to commit, or
7 to aid or abet, any activity that constitutes a viola-
8 tion of Federal law, or a violation of any applicable
9 law of a State or political subdivision thereof if the
10 maximum penalty of such applicable law includes
11 imprisonment for at least 5 years—

12 “(i) possesses a social security account
13 number of another individual without lawful au-
14 thority, or

15 “(ii) possesses a social security card, know-
16 ing that the social security account number or
17 other identifying information displayed on the
18 card has been altered, counterfeited, or forged
19 or that the card was falsely made, stolen, or ob-
20 tained from the Social Security Administration
21 by use of false information;

22 “(B) being—

23 “(i) an officer or employee of any govern-
24 mental entity (as defined in section
25 205(c)(2)(C)(x)(X)), or

1 “(ii) a person acting as an agent of a gov-
2 ernmental entity (as so defined),
3 willfully acts or fails to act so as to cause a violation
4 of clause (vi)(II), (xi), (xii), or (xv) of section
5 205(c)(2)(C);

6 “(C) being a trustee appointed in a case under
7 title 11, United States Code (or an officer or em-
8 ployee thereof or a person acting as an agent there-
9 of), willfully acts or fails to act so as to cause a vio-
10 lation of clause (xi) or (xv) of section 205(c)(2)(C);
11 or

12 “(D) willfully acts or fails to act so as to cause
13 a violation of subsection (c), (d), (e), or (f) of sec-
14 tion 208A or, as a person in the private sector, will-
15 fully acts or fails to act so as to cause a violation
16 of section 205(c)(2)(C)(xv);

17 shall be guilty of a misdemeanor and upon conviction
18 thereof shall be fined under title 18, United States Code,
19 or imprisoned for not more than 1 year, or both.

20 “(2)(A) Whoever—

21 “(i) with intent to deceive, discloses, sells, or
22 transfers his own social security account number, as-
23 signed to him by the Commissioner of Social Secu-
24 rity (in the exercise of the Commissioner’s authority

1 under section 205(c)(2) to establish and maintain
2 records), to any person;

3 “(ii) without lawful authority, offers, for a fee,
4 to acquire for any individual, or to assist in acquiring
5 for any individual, an additional social security
6 account number or a number that is purported to be
7 a social security account number;

8 “(iii) being—

9 “(I) an officer or employee of any govern-
10 mental entity (as defined in section
11 205(c)(2)(C)(x)(X)), or

12 “(II) a person acting as an agent of a gov-
13 ernmental entity (as so defined),

14 willfully acts or fails to act so as to cause a violation
15 of clause (x), (xiii), or (xiv) of section 205(c)(2)(C);

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

22 “(v) willfully acts or fails to act so as to cause
23 a violation of subsection (b)(1)(A) or (g) of section
24 208A;

1 shall be fined, imprisoned, or both, as provided in subpara-
2 graph (B).

3 “(B) A person convicted of a violation described
4 in subparagraph (A) shall—

5 “(i) be fined under title 18, United States
6 Code, imprisoned not more than 1 year, or
7 both; and

8 “(ii) if the offense is committed under false
9 pretenses or for commercial advantage, personal
10 gain, or malicious harm, be fined under title 18,
11 United States Code, imprisoned not more than
12 5 years, or both.”.

13 (b) EFFECTIVE DATES.—The amendments made by
14 this section shall apply with respect to each violation oc-
15 ccurring after the date of the enactment of this Act, except
16 that subparagraphs (B), (C), and (D) of section 208(b)(1)
17 of such Act and clauses (iii), (iv), and (v) of section
18 208(b)(2)(A) of such Act (added by subsection (a)(3))
19 shall apply, in connection with violations of clause (x), (xi),
20 (xii), (xiii), (xiv), or (xv) of section 205(c)(2)(C) or section
21 208A, with respect to each violation occurring on or after
22 the effective date applicable with respect to such violation
23 under section 2, 3, 4, 5, 6, 7, or 8.

1 **SEC. 10. EXTENSION OF CIVIL MONETARY PENALTY AU-**
2 **THORITY.**

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

7 (1) by redesignating paragraphs (2) and (3) as
8 paragraphs (4) and (5), respectively;

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

12 (3) by inserting after paragraph (2) (as des-
13 igned under paragraph (2) of this subsection) the
14 following:

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

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

24 “(B) falsely represents a number to be the so-
25 cial security account number assigned by the Com-
26 missioner of Social Security to any individual, when

1 such person knows or should know that such number
2 is not the social security account number assigned
3 by the Commissioner to such individual;

4 “(C) with intent to deceive, alters a social secu-
5 rity card that the person knows or should know was
6 issued by the Commissioner of Social Security, or
7 possesses such a card with intent to alter it;

8 “(D) buys or sells a card that such person
9 knows or should know is, or is purported to be, a
10 card issued by the Commissioner of Social Security,
11 or possesses such a card with intent to buy or sell
12 it;

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

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

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

1 lishment and maintenance of the records provided
2 for in section 205(c)(2);

3 “(H) without lawful authority, offers, for a fee,
4 to acquire for any individual, or to assist in acquiring
5 for any individual, an additional social security
6 account number or a number which is purported to
7 be a social security account number;

8 “(I) with intent to deceive, discloses, sells, or
9 transfers his own social security account number, as-
10 signed to him by the Commissioner of Social Secu-
11 rity under section 205(c)(2)(B), to any person;

12 “(J) knowingly, and with intent to commit, or
13 to aid or abet, any activity that constitutes a viola-
14 tion of Federal law, or a violation of any applicable
15 law of a State or political subdivision thereof if the
16 maximum penalty of such applicable law includes
17 imprisonment for at least 5 years—

18 “(i) possesses a social security account
19 number of another individual without lawful au-
20 thority, or

21 “(ii) possesses a social security card, know-
22 ing that the social security account number or
23 other identifying information displayed on the
24 card has been altered, counterfeited, or forged
25 or that the card was falsely made, stolen, or ob-

1 tained from the Social Security Administration
2 by use of false information;

3 “(K) being—

4 “(i) an officer or employee of a govern-
5 mental entity (as defined in section
6 205(c)(2)(C)(x)(X)), or

7 “(ii) a person acting as an agent of a gov-
8 ernmental entity (as so defined),

9 willfully acts or fails to act so as to cause a violation
10 of clause (vi)(II), (x), (xi), (xii), (xiii), (xiv), or (xv)
11 of section 205(c)(2)(C);

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

18 “(M) violates section 208A (relating to prohibi-
19 tion of the sale, purchase, or display of the social se-
20 curity account number in the private sector) or, as
21 a person in the private sector, violates section
22 205(c)(2)(C)(xv); or

23 “(N) violates section 208(g) (relating to fraud
24 by social security administration employees);

1 shall be subject to, in addition to any other penalties that
2 may be prescribed by law, a civil money penalty of not
3 more than \$5,000 for each violation. Such person shall
4 also be subject to an assessment, in lieu of damages sus-
5 tained by the United States resulting from such violation,
6 of not more than twice the amount of any benefits or pay-
7 ments paid as a result of such violation.”.

8 (b) EFFECTIVE DATES.—The amendments made by
9 this section shall apply with respect to violations com-
10 mitted after the date of the enactment of this Act, except
11 that subparagraphs (J), (K), (L), and (M) of section
12 1129(a)(3) of the Social Security Act (added by subsection
13 (a)) shall apply with respect to violations of the provisions
14 of clause (x), (xi), (xii), (xiii), (xiv), or (xv) of section
15 205(e)(2)(C) or section 208A occurring on or after the
16 applicable effective date provided in connection with such
17 provisions under section 2, 3, 4, 5, 6, 7, or 8 of this Act.

18 **SEC. 11. CRIMINAL PENALTIES FOR EMPLOYEES OF THE**
19 **SOCIAL SECURITY ADMINISTRATION WHO**
20 **KNOWINGLY AND FRAUDULENTLY ISSUE SO-**
21 **CIAL SECURITY CARDS OR SOCIAL SECURITY**
22 **ACCOUNT NUMBERS.**

23 (a) IN GENERAL.—Section 208 of the Social Security
24 Act (as amended by section 9) is amended further by add-
25 ing at the end the following new subsection:

1 “(g)(1) Whoever is an employee of the Social Security
2 Administration and knowingly and fraudulently sells or
3 transfers one or more social security account numbers or
4 social security cards shall be guilty of a felony and upon
5 conviction thereof shall be fined under title 18, United
6 States Code, imprisoned as provided in paragraph (2), or
7 both.

8 “(2) Imprisonment for a violation described in para-
9 graph (1) shall be for—

10 “(A) not more than 5 years, in the case of an
11 employee of the Social Security Administration who
12 has fraudulently sold or transferred not more than
13 50 social security account numbers or social security
14 cards,

15 “(B) not more than 10 years, in the case of an
16 employee of the Social Security Administration who
17 has fraudulently sold or transferred more than 50,
18 but not more than 100, social security account num-
19 bers or social security cards, or

20 “(C) not more than 20 years, in the case of an
21 employee of the Social Security Administration who
22 has fraudulently sold or transferred more than 100
23 social security account numbers or social security
24 cards.

25 “(3) For purposes of this subsection—

1 “(A) The term ‘social security employee’ means
2 any State employee of a State disability determina-
3 tion service, any officer, employee, or contractor of
4 the Social Security Administration, any employee of
5 such a contractor, or any volunteer providing serv-
6 ices or assistance in any facility of the Social Secu-
7 rity Administration.

8 “(B) The term ‘social security account number’
9 means a social security account number assigned by
10 the Commissioner of Social Security under section
11 205(c)(2)(B) or another number that has not been
12 so assigned but is purported to have been so as-
13 signed.

14 “(C) The term ‘social security card’ means a
15 card issued by the Commissioner of Social Security
16 under section 205(c)(2)(G), another card which has
17 not been so issued but is purported to have been so
18 issued, and banknote paper of the type described in
19 section 205(c)(2)(G) prepared for the entry of social
20 security account numbers, whether fully completed
21 or not.

22 “(4) Any employee of the Social Security Administra-
23 tion who attempts or conspires to commit any violation
24 of this subsection shall be subject to the same penalties

1 as those prescribed for the violation the commission of
2 which was the object of the attempt or conspiracy.”.

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

6 **SEC. 12. ENHANCED PENALTIES IN CASES OF TERRORISM,**
7 **DRUG TRAFFICKING, CRIMES OF VIOLENCE,**
8 **OR PRIOR OFFENSES.**

9 (a) **AMENDMENTS TO TITLE II.**—Section 208 of the
10 Social Security Act (as amended by the preceding provi-
11 sions of this Act) is amended further—

12 (1) in subsection (a), by striking “shall be
13 fined” and all that follows and inserting the fol-
14 lowing: “shall be fined, imprisoned, or both, as pro-
15 vided in subsection (c).”;

16 (2) in subsection (b)(2)(B)(ii) (as added by sec-
17 tion 9), by striking “shall be fined” and all that fol-
18 lows and inserting the following: “shall be fined, im-
19 prisoned, or both, as provided in subsection (c).”;

20 (3) by striking subsection (d);

21 (4) by redesignating subsection (c) as sub-
22 section (d); and

23 (5) by inserting after subsection (b) the fol-
24 lowing new subsection:

1 “(c) A person convicted of a violation described in
2 subsection (a) or a violation described in subsection
3 (b)(2)(A) which is subject to subsection (b)(2)(B)(ii) shall
4 be—

5 “(1) fined under title 18, United States Code,
6 or imprisoned for not more than 5 years, or both,
7 in the case of an initial violation, subject to para-
8 graphs (3) and (4),

9 “(2) fined under title 18, United States Code,
10 or imprisoned for not more than 10 years, or both,
11 in the case of a violation which occurs after a prior
12 conviction for another offense under subsection (a)
13 becomes final, subject to paragraphs (3) and (4),

14 “(3) fined under title 18, United States Code,
15 or imprisoned for not more than 20 years, in the
16 case of a violation which is committed to facilitate
17 a drug trafficking crime (as defined in section
18 929(a)(2) of title 18, United States Code) or in con-
19 nection with a crime of violence (as defined in sec-
20 tion 924(c)(3) of title 18, United States Code), sub-
21 ject to paragraph (4), and

22 “(4) fined under title 18, United States Code,
23 or imprisoned for not more than 25 years, in the
24 case of a violation which is committed to facilitate
25 an act of international or domestic terrorism (as de-

1 fined in paragraphs (1) and (5), respectively, of sec-
2 tion 2331 of title 18, United States Code).”.

3 (b) AMENDMENTS TO TITLE VIII.—Section 811 of
4 such Act (42 U.S.C. 1011) is amended—

5 (1) in subsection (a), by striking “shall be
6 fined” and all that follows and inserting “shall be
7 fined, imprisoned, or both, as provided in subsection
8 (b).”;

9 (2) by redesignating subsection (b) as sub-
10 section (c); and

11 (3) by inserting after subsection (a) the fol-
12 lowing new subsection:

13 “(b) PUNISHMENT.—A person convicted of a viola-
14 tion described in subsection (a) shall be—

15 “(1) fined under title 18, United States Code,
16 or imprisoned for not more than 5 years, or both,
17 in the case of an initial violation, subject to para-
18 graphs (3) and (4),

19 “(2) fined under title 18, United States Code,
20 or imprisoned for not more than 10 years, or both,
21 in the case of a violation which occurs after a prior
22 conviction for another offense under subsection (a)
23 becomes final, subject to paragraphs (3) and (4),

24 “(3) fined under title 18, United States Code,
25 or imprisoned for not more than 20 years, in the

1 case of a violation which is committed to facilitate
2 a drug trafficking crime (as defined in section
3 929(a)(2) of title 18, United States Code) or in con-
4 nection with a crime of violence (as defined in sec-
5 tion 924(c)(3) of title 18, United States Code), sub-
6 ject to paragraph (4), and

7 “(4) fined under title 18, United States Code,
8 or imprisoned for not more than 25 years, in the
9 case of a violation which is committed to facilitate
10 an act of international or domestic terrorism (as de-
11 fined in paragraphs (1) and (5), respectively, of sec-
12 tion 2331 of title 18, United States Code).”.

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

15 (1) in subsection (a), by striking “shall be
16 fined” and all that follows and inserting “shall be
17 fined, imprisoned, or both, as provided in subsection
18 (b).”;

19 (2) by redesignating subsections (b) and (c) as
20 subsections (c) and (d), respectively; and

21 (3) by inserting after subsection (a) the fol-
22 lowing new subsection:

23 “(b) A person convicted of a violation described in
24 subsection (a) shall be—

1 “(1) fined under title 18, United States Code,
2 or imprisoned for not more than 5 years, or both,
3 in the case of an initial violation, subject to para-
4 graphs (3) and (4),

5 “(2) fined under title 18, United States Code,
6 or imprisoned for not more than 10 years, or both,
7 in the case of a violation which occurs after a prior
8 conviction for another offense under subsection (a)
9 becomes final, subject to paragraphs (3) and (4),

10 “(3) fined under title 18, United States Code,
11 or imprisoned for not more than 20 years, in the
12 case of a violation which is committed to facilitate
13 a drug trafficking crime (as defined in section
14 929(a)(2) of title 18, United States Code) or in con-
15 nection with a crime of violence (as defined in sec-
16 tion 924(c)(3) of title 18, United States Code), sub-
17 ject to paragraph (4), and

18 “(4) fined under title 18, United States Code,
19 or imprisoned for not more than 25 years, in the
20 case of a violation which is committed to facilitate
21 an act of international or domestic terrorism (as de-
22 fined in paragraphs (1) and (5), respectively, of sec-
23 tion 2331 of title 18, United States Code).”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to violations occurring
3 after the date of the enactment of this Act.

4 **SEC. 13. REGULATORY AND ENFORCEMENT AUTHORITY**
5 **WITH RESPECT TO MISUSE OF THE SOCIAL**
6 **SECURITY ACCOUNT NUMBER.**

7 Title XI of the Social Security Act is amended by
8 inserting after section 1129B (42 U.S.C. 1320a–7b) the
9 following new section:

10 “REGULATORY AND ENFORCEMENT AUTHORITY WITH RE-
11 SPECT TO MISUSE OF THE SOCIAL SECURITY AC-
12 COUNT NUMBER

13 “SEC. 1129C. (a) REGULATORY AUTHORITY.—

14 “(1) IN GENERAL.—The Commissioner of So-
15 cial Security shall prescribe regulations to carry out
16 the provisions of clauses (vi)(II), (x), (xi), (xii),
17 (xiii), (xiv), and (xv) of section 205(c)(2)(C) and
18 section 208A. Such regulations shall be issued in
19 consultation with the Federal Trade Commission,
20 the Attorney General of the United States, the Sec-
21 retary of Homeland Security, the Secretary of
22 Health and Human Services, the Secretary of the
23 Treasury, the Federal banking agencies (as defined
24 in section 3 of the Federal Deposit Insurance Act),
25 the National Credit Union Administration, the Secu-
26 rities and Exchange Commission, State attorneys

1 general, and such representatives of the State insur-
2 ance commissioners as may be designated by the
3 National Association of Insurance Commissioners.

4 “(2) TREATMENT OF MATTERS RELATING TO
5 LAW ENFORCEMENT AND NATIONAL SECURITY.—In
6 issuing the regulations described in paragraph (1)
7 with respect to the provisions of
8 205(c)(2)(C)(x)(III), paragraph (A) or (B) of sec-
9 tion 208A(b)(2), or section 208A(c)(2) (relating to
10 law enforcement and national security), the sale or
11 purchase of Social Security account numbers may be
12 authorized only if the Commissioner (or the agency
13 or instrumentality delegated authority to issue such
14 regulations under paragraph (5)) determines that—

15 “(A) such sale or purchase would serve a
16 compelling public interest that cannot reason-
17 ably be served through alternative measures,
18 and

19 “(B) such sale or purchase will not pose an
20 unreasonable risk of identity theft, or bodily,
21 emotional, or financial harm to an individual
22 (taking into account any restrictions and condi-
23 tions that the agency or instrumentality issuing
24 the regulations imposes on the sale, purchase,
25 or disclosure).

1 “(3) TREATMENT OF OTHER MATTERS IN GEN-
2 ERAL DISCRETION OF THE COMMISSIONER.—

3 “(A) IN GENERAL.—In issuing the regula-
4 tions described in paragraph (1) with respect to
5 the provisions of section 205(c)(2)(C)(x)(VIII)
6 or section 208A(b)(3)(B), the sale, purchase, or
7 display to the general public of social security
8 account numbers may be authorized only after
9 considering, among other relevant factors—

10 “(i) the extent to which the authoriza-
11 tion of the sale, purchase, or display of the
12 social security account number would serve
13 a compelling public interest that cannot
14 reasonably be served through alternative
15 measures,

16 “(ii) the associated cost or burden of
17 the authorization to the general public,
18 businesses, commercial enterprises, non-
19 profit organizations, and Federal, State,
20 and local governments; and

21 “(iii) the associated benefit of the au-
22 thorization to the general public, busi-
23 nesses, commercial enterprises, non-profit
24 associations, and Federal, State, and local
25 governments.

1 “(B) RESTRICTIONS AND CONDITIONS.—If,
2 after considering the factors in subparagraph
3 (A), the sale, purchase, or display to the gen-
4 eral public of social security account numbers is
5 authorized under regulations referred to in sub-
6 paragraph (A), the Commissioner (or the agen-
7 cy or instrumentality delegated authority to
8 issue such regulations under paragraph (5))
9 shall impose restrictions and conditions on the
10 sale, purchase, or display to the general public
11 to the extent necessary—

12 “(i) to provide reasonable assurances
13 that social security account numbers will
14 not be used to commit or facilitate fraud,
15 deceptions, or crime, and

16 “(ii) to prevent an unreasonable risk
17 of identity theft or bodily, emotional, or fi-
18 nancial harm to any individual, considering
19 the nature, likelihood, and severity of the
20 anticipated harm that could result from
21 the sale, purchase, or display to the gen-
22 eral public of social security account num-
23 bers, together with the nature, likelihood,
24 and extent of any benefits that could be re-
25 alized.

1 “(C) 5-YEAR EXPIRATION DATE FOR REGU-
2 LATIONS.—At the end of the 5-year period be-
3 ginning on the effective date of any final regu-
4 lations issued pursuant to this paragraph—

5 “(i) such regulations shall expire, and

6 “(ii) new regulations may be issued
7 pursuant to this paragraph.

8 “(4) ADMINISTRATIVE PROCEDURE.—In the
9 issuance of regulations pursuant to this subsection,
10 notice shall be provided as described in paragraphs
11 (1), (2), and (3) of section 553(b) of title 5, United
12 States Code, and opportunity to participate in the
13 rule making shall be provided in accordance with
14 section 553(c) of such title.

15 “(5) DELEGATION TO OTHER AGENCIES.—Any
16 agency or instrumentality of the United States may
17 exercise the authority of the Commissioner under
18 this subsection, with respect to matters otherwise
19 subject to regulation by such agency or instrumen-
20 tality, to the extent determined appropriate in regu-
21 lations of the Commissioner.

22 “(6) CONSULTATION AND COORDINATION.—
23 Each agency and instrumentality exercising author-
24 ity to issue regulations under this subsection shall
25 consult and coordinate with the other such agencies

1 and instrumentalities for the purposes of assuring,
2 to the extent possible, that the regulations pre-
3 scribed by each such agency or instrumentality are
4 consistent and comparable, as appropriate, with the
5 regulations prescribed by the other such agencies
6 and instrumentalities. The Commissioner shall un-
7 dertake to facilitate such consultation and coordina-
8 tion.

9 “(7) DEFINITIONS AND SPECIAL RULES.—

10 “(A) For purposes of this subsection, the
11 terms ‘sell’, ‘purchase’, and ‘display to the gen-
12 eral public’ shall have the meanings provided
13 such terms under section 205(c)(2)(C)(x) or
14 section 208A(a), as applicable.

15 “(B) For purposes of this subsection, sec-
16 tion 205(c)(2)(C)(x)(XI) shall apply.

17 “(b) COORDINATION OF ENFORCEMENT WITH
18 OTHER AGENCIES.—The Commissioner may provide, by
19 regulation, for enforcement by any other agency or instru-
20 mentality of the United States of the provisions of section
21 208A and regulations prescribed pursuant to subsection
22 (a)(1) with respect to section 208A.

23 “(c) ACTIONS BY STATES WITH RESPECT TO MISUSE
24 IN PRIVATE SECTOR OR BY STATE AND LOCAL GOVERN-
25 MENTS.—

1 “(1) CIVIL ACTIONS.—In any case in which the
2 attorney general of a State (as defined in section
3 205(c)(2)(C)(x)(X)) has reason to believe that an in-
4 terest of the residents of that State has been or is
5 threatened or adversely affected by an act or prac-
6 tice described in paragraph (2), the State, as *parens*
7 *patriae*, may bring a civil action on behalf of the
8 residents of the State in a district court of the
9 United States of appropriate jurisdiction, to—

10 “(A) enjoin that act or practice;

11 “(B) enforce compliance with the regula-
12 tion;

13 “(C) obtain civil penalties in an amount of
14 \$11,000 per violation not to exceed a total of
15 \$5,000,000; or

16 “(D) obtain such other legal and equitable
17 relief as the district court may consider to be
18 appropriate.

19 Before filing an action under this subsection, the at-
20 torney general of the State involved shall provide to
21 the Commissioner of Social Security and the Attor-
22 ney General of the United States a written notice of
23 that action and a copy of the complaint for that ac-
24 tion. If the State attorney general determines that
25 it is not feasible to provide the notice described in

1 this subparagraph before the filing of the action, the
2 State attorney general shall provide the written no-
3 tice and the copy of the complaint as soon after the
4 filing of the complaint as practicable. Any reference
5 in this subsection to the attorney general of a State
6 shall be deemed also to be a reference to any equiva-
7 lent official of such State.

8 “(2) ACTS OR PRACTICES SUBJECT TO EN-
9 FORCEMENT.—An act or practice described in this
10 paragraph is—

11 “(A) an act or practice by an executive,
12 legislative, or judicial agency or instrumentality
13 of the State involved or a political subdivision
14 thereof, a person acting as an agent thereof, or
15 any officer or employee of the foregoing or per-
16 son acting as an agent of the foregoing that
17 violates clause (vi)(II), (x), (xi), (xii), (xiii),
18 (xiv), or (xv) of section 205(c)(2)(C) or any
19 regulation promulgated thereunder, or

20 “(B) an act or practice by any person that
21 violates section 208A or any regulation promul-
22 gated thereunder.

23 “(3) ATTORNEY GENERAL AUTHORITY.—On re-
24 ceiving notice under paragraph (1), the Attorney
25 General of the United States shall have the right—

1 “(A) to move to stay the action, pending
2 the final disposition of a pending Federal mat-
3 ter as described in subparagraph (C);

4 “(B) to intervene in an action under sub-
5 paragraph (A);

6 “(C) upon so intervening, to be heard on
7 all matters arising therein; and

8 “(D) to file petitions for appeal.

9 “(4) PENDING CRIMINAL PROCEEDINGS.—If the
10 Attorney General of the United States has instituted
11 a criminal proceeding under section 208 alleging an
12 act or practice described in paragraph (2) in connec-
13 tion with any State, such State may not, during the
14 pendency of such proceeding or action, bring an ac-
15 tion under this subsection against any defendant
16 named in the criminal proceeding or civil action al-
17 leging such act or practice.

18 “(5) RULE OF CONSTRUCTION.—For purposes
19 of bringing any civil action under paragraph (1),
20 nothing in this subsection shall be construed to pre-
21 vent an attorney general of a State from exercising
22 the powers conferred on the attorney general by the
23 laws of that State to conduct investigations, admin-
24 ister oaths and affirmations, or compel the attend-

1 ance of witnesses or the production of documentary
2 and other evidence.

3 “(6) VENUE; SERVICE OF PROCESS.—Any ac-
4 tion brought under paragraph (1) may be brought in
5 any district court of the United States that meets
6 applicable requirements relating to venue under sec-
7 tion 1391 of title 28, United States Code. In an ac-
8 tion brought under paragraph (1), process may be
9 served in any district in which the defendant is an
10 inhabitant or may be found.

11 “(d) REMEDIES TO INDIVIDUALS FOR VIOLATIONS
12 BY THE FEDERAL GOVERNMENT OF REQUIREMENTS RE-
13 LATING TO SOCIAL SECURITY ACCOUNT NUMBERS.—

14 “(1) CIVIL ACTIONS.—Any individual who is ag-
15 grieved by an act or practice by any person acting
16 as an officer, employee, or agent of an agency or in-
17 strumentality of the Federal Government in violation
18 of the requirements of clause (vi)(II), (x), (xi), (xii),
19 (xiii), (xiv), or (xv) of subsection (c)(2)(C) with re-
20 spect to the social security account number assigned
21 to such individual under subsection (c)(2)(B) may
22 commence a civil action for appropriate equitable re-
23 lief or actual damages.

24 “(2) VENUE; SERVICE OF PROCESS.—An action
25 under this subsection action may be brought in the

1 district court of the United States for the judicial
2 district in which the plaintiff resides, or has his
3 principal place of business, in which the violation
4 took place, or in which the defendant resides or may
5 be found, and process may be served in any other
6 district in which a defendant resides or may be
7 found.

8 “(3) JURISDICTION.—The district courts of the
9 United States shall have jurisdiction, without respect
10 to the amount in controversy or the citizenship of
11 the parties, to grant the relief provided for in para-
12 graph (1).

13 “(4) ATTORNEY’S FEES.—In any action under
14 this subsection, the court in its discretion may allow
15 a reasonable attorney’s fee and costs of action to ei-
16 ther party.

17 “(e) ONGOING GAO REVIEW ON EFFICACY OF REGU-
18 LATIONS.—

19 “(1) IN GENERAL.—The Comptroller General of
20 the United States shall conduct an ongoing review of
21 the efficacy of the regulations prescribed by any
22 agency or instrumentality of the United States pur-
23 suant to this section. Such review shall consider the
24 extent to which such regulations are consistent with,
25 and in furtherance of the purposes of, the amend-

1 ments made by the Social Security Number Privacy
2 and Identity Theft Prevention Act of 2007.

3 “(2) REPORT.—Not later than 4 years after the
4 effective date of any final regulations issued by any
5 agency or instrumentality of the United States pur-
6 suant to this section, the Comptroller General shall
7 report to each House of the Congress regarding the
8 results of the review of such regulations conducted
9 under this paragraph. Such report shall include the
10 Comptroller General’s recommendations for such
11 statutory or regulatory changes as the Comptroller
12 General considers appropriate.”.

13 **SEC. 14. STUDY ON FEASIBILITY OF BANNING SOCIAL SE-**
14 **CURITY ACCOUNT NUMBER AS AN AUTHEN-**
15 **TICATOR.**

16 (a) STUDY.—As soon as practicable after the date of
17 the enactment of this Act, the Commissioner of Social Se-
18 curity shall enter into an arrangement with the National
19 Research Council under which the Council shall carry out
20 a study to determine—

21 (1) the extent of the use of social security ac-
22 count numbers as a primary means of authenticating
23 identity;

1 (2) the extent of the use of social security ac-
2 count numbers for verification in commercial trans-
3 actions; and

4 (3) the feasibility of a prohibition on such use.
5 The study shall also examine possible alternatives to social
6 security account numbers for verification purposes and
7 uses in authenticating identity.

8 (b) REPORT.—The arrangement entered into with the
9 Council under this section shall provide for submission by
10 the Council to the Commissioner and to each House of
11 the Congress of a report setting forth the results of the
12 Council’s study under this section, together with the Coun-
13 cil’s findings and recommendations, no later than 1 year
14 after the effective date of the initial final regulations
15 issued by the Commissioner pursuant to the amendments
16 made by section 2 of this Act.

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