IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

KYL (AND OTHERS) AMENDMENT
NO. 3480

Mr. J EFFORDS (for Mr. KYL for himself, Mr. LEAHY, Mr. HATCH, MRS. FEINSTEIN, Mr. DE WINE, Mr. D’AMATO, Mr. GRASSLEY, Mr. ABRAHAM, Mr. FAIRCLOTH, Mr. HARKIN, Mr. WARNER, Mr. MURkowski, and Mr. ROBB) proposed an amendment (S. 322) to amend chapter 47 of title 18, United States Code, relating to fraud, and for other purposes; as follows:

(a) This Act may be cited as the “Identity Theft and Assumption Deterrence Act of 1998.”

(b) Except as provided in subsection (c), any reference to this Act shall include a reference to the amendments made by this Act.

(c) Paragraphs (1) through (7) of subsection (a) shall not be strictly or narrowly construed.

(d) A reference to this Act shall include a reference to the amendments made by this Act for the purpose of identification of an individual, is of a type intended or commonly accepted for the purpose of identification of an individual.

(e) For purposes of this section, the term ‘identity theft’ means the unauthorized use of an individual’s personally identifying information for any other purpose, including but not limited to—

(1) to obtain credit, insurance, or employment; or

(2) to make or facilitate any transaction involving the transfer or use of money, funds, or other financial instruments.

(f) For purposes of this section, the term ‘person’ means any entity, including an individual, partnership, corporation, trust or unincorporated association or any combination or association thereof.

(g) Except as otherwise provided in this subsection, any provision of title 18, United States Code, is amended by striking any reference to the Act or the amendments made by this Act.

(h) The amendments made by this Act shall be effective as of the date of their enactment.

(i) Except as otherwise provided in this section, section 1028(c)(2) of title 18, United States Code, is amended by striking the third sentence and inserting the following:

(2) A person who is a party to a major league player’s contract or who is employed in the business of organized professional baseball by such persons; or

(3) A person who has been a party to a major league player’s contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player’s contract by an alleged violation of the antitrust laws, provided, however, that for purposes of this paragraph, an alleged antitrust violation shall not include any conduct, acts, practices or agreements of persons in the business of organized professional baseball that directly relate to or affect employment of major league baseball players to play baseball at the major league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

(4) A person who was a party to a major league player’s contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last major league player’s contract or agreement to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

(5) A person who is a party to a major league player’s contract or who was playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

(6) Any conduct, acts, practices or agreements of persons not in the business of organized major league baseball.

(7) The scope of the conduct, acts, practices or agreements covered by subsection (b) shall not be strictly or narrowly construed.

(8) In cases involving conduct, acts, practices or agreements that directly relate to or affect both employment of major league baseball players to play baseball at the major league level and also relate to or affect any other aspect of organized professional baseball, including but not limited to employment to play baseball at the minor league level and the other areas set forth in subsection (a), and who claims he has been injured in his efforts to secure employment with organized professional baseball by such persons, is of a type intended or commonly accepted for the purpose of identification of an individual.

(9) Identity theft includes the theft of any personal or financial information, including but not limited to—

(A) name, social security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number;

(B) unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physiological or behavior pattern;

(C) unique electronic identification number, address, or routing code;

(D) telecommunication identifying information or access device (as defined in section 1029(e));

(E) personal identification card, except as otherwise provided in this section.

(10) Except as otherwise provided in this section, section 1028 of title 18, United States Code, is amended by inserting paragraph (4) after paragraph (3) of this subsection and inserting the following:

(4) A person who is a party to a major league player’s contract or who was playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

(5) A person who has been a party to a major league player’s contract or who has played baseball at the major league level, and who claims he has been injured in his efforts to secure a subsequent major league player’s contract by an alleged violation of the antitrust laws, provided, however, that for purposes of this paragraph, an alleged antitrust violation shall not include any conduct, acts, practices or agreements of persons in the business of organized professional baseball that directly relate to or affect employment of major league baseball players to play baseball at the major league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

(6) Any conduct, acts, practices or agreements of persons not in the business of organized major league baseball.

(6) A person who was a party to a major league player’s contract or who was playing baseball at the major league level at the conclusion of the last full championship season immediately preceding the expiration of the last major league player’s contract or agreement to play baseball at the minor league level, including any organized professional baseball amateur or first-year player draft, or any reserve clause as applied to minor league players; or

(7) A person who is a party to a major league player’s contract or who was playing baseball at the major league level at the time of the injury that is the subject of the complaint; or

(8) Any conduct, acts, practices or agreements of persons not in the business of organized major league baseball.

(f) Except as otherwise provided in this section, any provision of title 18, United States Code, is amended by striking any reference to the Act or the amendments made by this Act.

(g) Except as otherwise provided in this section, any provision of title 18, United States Code, is amended by striking any reference to the Act or the amendments made by this Act for the purpose of identification of an individual.
any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the provisions of section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) ."

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER TITLE 18, UNITED STATES CODE, AS AMENDED BY THIS ACT.

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 18, United States Code, the United States Sentencing Commission shall establish procedures to require the courts to assess, with respect to each offense described in section 1028 of title 18, United States Code, as amended by this Act, the extent to which the number of victims (as defined in section 3663A(a)(2) of title 18, United States Code) involved in the offense and any related judicial or administrative proceeding, shall be governed by the provisions of the Commission, as appropriate, to provide an appropriate penalty for each offense under section 1028 of title 18, United States Code, as amended by this Act.

(a) R EQUIREMENT.ÐNot later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall establish procedures to—

(1) collect and acknowledge the receipt of complaints described in paragraph (1) of subsection (a) of section 3553(a)(2) of title 18, United States Code; and

(b) encompassing reciprocal agreements with the appropriate.

SEC. 3. RESTITUTION.

There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 6. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) TECHNICAL CORRECTION RELATING TO CRIMINAL FORFEITURE PROCEDURES.—Section 982(b)(1) of title 18, United States Code, is amended to read as follows: "(1) The forfeiture of property (in the case of a forfeiture described in the section of property identified in section 413 (other than subsection (d) of that section) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853).

(b) E FFECTIVE DATE.ÐThe amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-548).

SEC. 2. AMENDMENT OF FEDERAL SENTENCING REFORM AND IMMIGRANT RESPONSIBILITY ACT OF 1996.

(a) IN GENERAL.—Section 110(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows: "(a) SYSTEM.Ð""(1) IN GENERAL.—Subject to paragraph (2), not later than 2 years after the date of enactment of this Act, the Attorney General shall develop an automated entry and exit control system that will—

(1) collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien’s arrival in the United States; and

(b) the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of arrival with the record of the alien’s arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

"(2) EXCEPTION.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-548).

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) REQUIREMENT.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives on the feasibility of developing and implementing an automated entry-exit control system that would collect a record of departure for every alien departing the United States and match the record of departure with the record of the alien’s arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(b) CONTENTS OF REPORT.—Such report shall—

"(1) assess the costs and feasibility of various means of operating such an automated entry-exit control system, including exploring—

(A) how, if the automated entry-exit control system were to be implemented, it would collect a record of departure for every alien departing the United States and match the record of arrival with the record of the alien’s arrival in the United States, including departures and arrivals at the land borders and seaports of the United States.

(B) the feasibility of the Attorney General, in coordination with the Secretary of State, negotiating reciprocal agreements with the governments of contiguous countries to collect such information on behalf of the United States and share it in an acceptable automated format;

(2) consider the various means of developing such a system, including the use of pilot projects if appropriate, and assess which means would be most appropriate in which geographical regions;