IDENTITY THEFT AND ASSUMPTION DETERRENCE ACT OF 1998

SEC. 2. IDENTITY THEFT.

(a) ESTABLISHMENT OF OFFENSE.—Section 1028(a) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking "or" at the end;

(2) in paragraph (6), by adding "or" at the end;

(3) in the flush matter following paragraph (6), by striking "or attempts to do so,;" and

(4) by inserting after paragraph (6) the following:

"(7) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or promote or further, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;"

(b) PENALTIES.—Section 1028(b) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "or" at the end;

(B) in subparagraph (C), by adding "or" at the end; and

(C) by adding at the end the following:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "or attempts to commit,;"

(B) in subparagraph (B), by inserting "or" at the end;

(C) by adding at the end the following:

"(D) an offense under paragraph (7) of such subsection that involves the transfer or use of 1 or more means of identification if, as a result of the offense, any individual committing the offense obtains anything of value aggregating $1,000 or more during any 1-year period;";

(2) in paragraph (6), by adding "or" at the end;

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) a fine under this title or imprisonment for not more than 20 years, or both, if the offense is committed—

(A) to facilitate a fraud trafficking crime (as defined in section 929(a)(2)); or

(B) after a prior conviction under this section becomes final;

(c) CIRCUMSTANCES.—Section 1028(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

"(6), by striking "or attempts to do so,;" and

(d) DEFINITIONS.—Section 1028(d) of title 18, United States Code, is amended by striking subsection (d) and inserting the following:

"(6) by striking paragraphs (6) and (7) and inserting the following:

"(6) knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to commit, or promote or further, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law;"


(a) PRODUCING DOCUMENT.—The term "producing document" means—

(1) a document made or issued by or under the authority of the United States Government, a State, political subdivision of a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(2) "means of identification" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including—

"(A) an identifier, 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 physical condition;

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

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

(b) PERSONAL IDENTIFICATION CARD.—The term "personal identification card" means an identification document issued by a State or local government solely for the purpose of identification;

(c) PRODUCE.—The term "produce" includes alter, authenticate, or create;

(d) STATE.—The term 'State' includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other Commonwealth, possession, or territory of the United States."
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. 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:

'(ii) SYSTEM.—

(1) Subject to paragraph (2), (i) the Attorney General shall not collect a record of arrival or departure;''

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 report 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; and

(b) EFFECTIVE DATE.—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. 3009-546).

SEC. 4. AMENDMENT OF FEDERAL SENTENCING GUIDELINES FOR OFFENSES UNDER TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Pursuant to its authority under section 212(d)(4)(B) of the Immigration and Nationality Act, the Attorney General shall establish procedures to:

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

(2) how, if the automated entry-exit control system were limited to certain aliens arriving at or departing from airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect not later than 2 years after the date of enactment of this Act, the Attorney General shall establish 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

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(3) EXCEPTION.—The system under paragraph (1) shall not collect a record of arrival or departure—

(1) at a land border or seaport of the United States for any alien; or

(2) for any alien for whom the documentary requirements in section 212(a)(7)(B) of the Immigration and Nationality Act have been waived by the Attorney General and the Secretary of State, as amended by this Act.

(4) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect not later than 2 years after the date of enactment of this Act, the Attorney General shall—

(1) report to the Senate and the House of Representatives on the effectiveness of the automated entry-exit control system that would record 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—

(2) how, if the automated entry-exit control system were limited to certain aliens arriving at or departing from airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(3) the feasibility of the Attorney General, in consultation 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.

(4) the feasibility of the Attorney General, in consultation 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.

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines sentences for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(7) any other factor that the United States Sentencing Commission considers to be appropriate.

(b) FACTORS FOR CONSIDERATION.—In carrying out subsection (a), the United States Sentencing Commission shall consider, with respect to each offense described in section (a)—

(1) the extent to which the number of victims (as defined in section 363A(a) of title 18, United States Code) involved in the offense, including harm to reputation, inconvenience, and other difficulties resulting from the offense, is an adequate measure of establishing penalties under the Federal sentencing guidelines;

(2) the number of means of identification, identification documents, or false identification documents (as those terms are defined in section 1028(d) of title 18, United States Code, as amended by this Act) involved in the offense is an adequate measure of establishing penalties under the Federal sentencing guidelines;

(3) the extent to which the value of the loss to any individual caused by the offense is an adequate measure for establishing penalties under the Federal sentencing guidelines;

(4) the range of conduct covered by the offense;

(5) the extent to which sentencing enhancements within the Federal sentencing guidelines sentences for the offense have been constrained by statutory maximum penalties;

(6) the extent to which Federal sentencing guidelines sentences for the offense adequately achieve the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code; and

(7) any other factor that the United States Sentencing Commission considers to be appropriate.

(4) EFFECTIVE DATE.—The amendment made by this section shall take effect not later than 2 years after the date of enactment of this Act, the Attorney General shall—

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

(2) how, if the automated entry-exit control system were limited to certain aliens arriving at or departing from airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(3) the feasibility of the Attorney General, in consultation 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.

(5) 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 report 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—

(2) how, if the automated entry-exit control system were limited to certain aliens arriving at or departing from airports, departure records of those aliens could be collected when they depart through a land border or seaport; and

(3) the feasibility of the Attorney General, in consultation 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.

(4) consider the various means of developing such a system, including the use of pilot projects in geographical regions;