

want to express my thanks and appreciation to both senior judges for the service they rendered for many years on the Federal bench in Knoxville.

I am confident that there is no one better qualified to fill the large hold left by Judge Jordan and Judge Jarvis than Judge Phillips. I am pleased to endorse Judge Phillips and urge my colleagues to support his nomination.

NOMINATION OF EUGENE SCALIA— MOTION TO PROCEED

Mr. GRASSLEY. Mr. President, I move to proceed to consider the nomination of Eugene Scalia to be solicitor for the Department of Labor.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is not agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

IDENTITY THEFT VICTIMS ASSISTANCE ACT OF 2002

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 382, S. 1742.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1742) to prevent the crime of identity theft, mitigate the harm to individuals victimized by identity theft, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part printed in black brackets and insert the part printed in italic.]

S. 1742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Restore Your Identity Act of 2001".]

SEC. 2. FINDINGS.

[Congress finds that—

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

(2) the Federal Trade Commission reports that between March and June of 2001, the total number of identity theft victims in the Commission's Complaint Clearinghouse System, tallied from November 1999, increased from 45,593 to 69,370;

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

(4) the Federal Trade Commission estimates that the call volume to the Identity

Theft Hotline represents only 5 to 10 percent of the actual number of victims of identity theft;

(5) victims of identity theft often have extraordinary difficulty restoring their credit and regaining control of their identity because of the viral nature of identity theft;

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

(7) victims are often required to contact numerous Federal, State, and local law enforcement agencies, consumer credit reporting agencies, and creditors over many years, as each event of fraud arises;

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

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

(A) reporting identity theft to law enforcement, consumer credit reporting agencies, and business entities; and

(B) evidencing their true identity to business entities and credit reporting agencies;

(10) one of the greatest law enforcement challenges posed by identity theft is that stolen identities are often used to perpetrate crimes in many different localities in different States, and although identity theft is a Federal crime, most often, State and local law enforcement agencies are responsible for investigating and prosecuting the crimes; and

(11) the Federal Government should assist State and local law enforcement agencies to effectively combat identity theft and the associated fraud.

SEC. 3. DEFINITIONS.

[In this Act, the following definitions shall apply:

(1) BUSINESS ENTITY.—The term "business entity" means—

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

(B) any financial information repository;

(C) any financial service provider; and

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

(2) CONSUMER.—The term "consumer" means an individual.

(3) FINANCIAL INFORMATION.—The term "financial information" means information identifiable as relating to an individual consumer that concerns the amount and conditions of the assets, liabilities, or credit of the consumer, including—

(A) account numbers and balances;

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

(C) codes, passwords, social security numbers, tax identification numbers, State identifier numbers issued by a State department of licensing, and other information used for the purpose of account access or transaction initiation.

(4) FINANCIAL INFORMATION REPOSITORY.—The term "financial information repository" means a person engaged in the business of providing services to consumers who have a credit, deposit, trust, stock, or other financial services account or relationship with that person.

(5) IDENTITY THEFT.—The term "identity theft" means an actual or potential violation of section 1028 of title 28, United States Code, or any other similar provision of Federal or State law.

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

(7) VICTIM.—The term "victim" means a consumer whose means of identification or financial information has been used or transferred (or has been alleged to have been used or transferred) without the authority of that consumer with the intent to commit, or to aid or abet, identity theft or any other violation of law.

SEC. 4. IDENTITY THEFT TREATED AS RACKETEERING ACTIVITY.

[Section 1961(1)(B) of title 18, United States Code, is amended by inserting ", or any similar offense chargeable under State law" after "identification documents").]

SEC. 5. TREATMENT OF IDENTITY THEFT MITIGATION.

(a) INFORMATION AVAILABLE TO VICTIMS.—

(1) IN GENERAL.—A business entity possessing information relating to an identity theft, or who may have entered into a transaction, provided credit, products, goods, or services, accepted payment, or otherwise done business with a person that has made unauthorized use of the means of identification of the victim, shall, not later than 10 days after receipt of a written request by the victim, provide, without charge, to the victim or to any Federal, State, or local governing law enforcement agency or officer specified by the victim copies of all related application and transaction information and any information required pursuant to subsection (b).

(2) RULE OF CONSTRUCTION.—Nothing in this section requires a business entity to disclose information that the business entity is otherwise prohibited from disclosing under any other provision of Federal or State law, except that any such provision of law that prohibits the disclosure of financial information to third parties shall not be used to deny disclosure of information to the victim under this section.

(b) VERIFICATION OF IDENTITY.—

(1) IN GENERAL.—Unless a business entity is otherwise able to verify the identity of a victim making a request under subsection (a)(1), the victim shall provide to the business entity as proof of positive identification, at the election of the business entity—

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

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

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

(c) LIMITATION ON LIABILITY.—No business entity may be held liable for an action taken in good faith to provide information under this section with respect to an individual in connection with an identity theft to other financial information repositories, financial service providers, merchants, law enforcement authorities, victims, or any person alleging to be a victim, if—

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

(2) such action was taken—

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

(B) to assist a victim in recovery of fines, restitution, rehabilitation of the credit of the victim, or such other relief as may be appropriate.

(d) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business entity may decline