

110TH CONGRESS  
1ST SESSION

# H. R. 4175

To amend title 18, United States Code, with respect to data privacy and security, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2007

Mr. CONYERS (for himself, Mr. SMITH of Texas, Mr. SCOTT of Virginia, Mr. FORBES, Ms. LINDA T. SÁNCHEZ of California, Mr. DAVIS of Alabama, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, with respect to data privacy and security, 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,*

3 **SECTION 1. SHORT TITLE.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Privacy and Cybercrime Enforcement Act of 2007”.

6 (b) **TABLE OF CONTENTS.**—The title of contents for  
7 this Act is as follows:

Sec. 1. Short title.

TITLE I—ENHANCING PUNISHMENT FOR IDENTITY THEFT AND  
OTHER VIOLATIONS OF DATA PRIVACY AND SECURITY

- Sec. 101. Organized criminal activity.
- Sec. 102. Failure to provide notice of security breaches involving sensitive personally identifiable information.
- Sec. 103. Use of full interstate and foreign commerce power for criminal penalties.
- Sec. 104. Cyber-extortion.
- Sec. 105. Conspiracy to commit cyber-crimes.
- Sec. 106. Penalties for section 1030 violations.
- Sec. 107. Additional funding for resources to investigate and prosecute criminal activity involving computers.
- Sec. 108. Criminal restitution.
- Sec. 109. Review and amendment of Federal sentencing guidelines related to fraudulent access to or misuse of digitized or electronic personally identifiable information.

TITLE II—NON-CRIMINAL PRIVACY ENFORCEMENT AND PRIVACY  
IMPACT STATEMENTS

- Sec. 201. Enforcement by Attorney General and State authorities.
- Sec. 202. Coordination of State and Federal efforts.
- Sec. 203. Requirement that agency rulemaking take into consideration impacts on individual privacy.

TITLE III—ASSISTANCE FOR STATE AND LOCAL LAW ENFORCEMENT TO COMBAT FRAUDULENT, UNAUTHORIZED, OR OTHER CRIMINAL USE OF PERSONALLY IDENTIFIABLE INFORMATION

- Sec. 301. Grants for State and local law enforcement.
- Sec. 302. Authorization of appropriations.

TITLE IV—NATIONAL WHITE COLLAR CRIME CENTER GRANTS

- Sec. 401. Authorization and Expansion of National White Collar Crime Center.

1 **TITLE I—ENHANCING PUNISH-**  
 2 **MENT FOR IDENTITY THEFT**  
 3 **AND OTHER VIOLATIONS OF**  
 4 **DATA PRIVACY AND SECU-**  
 5 **RITY**

6 **SEC. 101. ORGANIZED CRIMINAL ACTIVITY.**

7 Section 1961(1) of title 18, United States Code, is  
 8 amended by inserting “section 1030 (relating to certain  
 9 frauds and related activities in connection with com-  
 10 puters)”.

1 **SEC. 102. FAILURE TO PROVIDE NOTICE OF SECURITY**  
2 **BREACHES INVOLVING SENSITIVE PERSON-**  
3 **ALLY IDENTIFIABLE INFORMATION.**

4 (a) IN GENERAL.—Chapter 47 of title 18, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 **“§ 1040. Failure to provide notice of security**  
8 **breaches involving sensitive personally**  
9 **identifiable information**

10 “(a) Whoever, having a covered obligation to provide  
11 notice of a security breach involving sensitive personally  
12 identifiable information, knowingly fails to do so, shall be  
13 fined under this title or imprisoned not more than 5 years,  
14 or both.

15 “(b) As used in this section—

16 “(1) the term ‘covered obligation’, with respect  
17 to providing notice of a security breach, means an  
18 obligation under Federal law or, if the breach is in  
19 or affects interstate or foreign commerce, under  
20 State law;

21 “(2) the term ‘sensitive personally identifiable  
22 information’ means any electronic or digital informa-  
23 tion that includes—

24 “(A) an individual’s first and last name, or  
25 first initial and last name, or address or phone  
26 number in combination with any 1 of the fol-

1           lowing data elements where the data elements  
2           are not protected by a technology protection  
3           measure that renders the data element indeci-  
4           pherable—

5                   “(i) a nontruncated social security  
6                   number, driver’s license number, state resi-  
7                   dent identification number, passport num-  
8                   ber, or alien registration number;

9                   “(ii) both of the following—

10                           “(I) mother’s maiden name, if  
11                           identified as such; and

12                           “(II) month, day, and year of  
13                           birth; and

14                   “(iii) unique biometric data such as a  
15                   finger print, voice print, a retina or iris  
16                   image; or

17                   “(B) a financial account number or credit  
18                   or debit card number in combination with any  
19                   security code, access code or password that is  
20                   required for an individual to obtain credit, with-  
21                   draw funds, or engage in a financial transaction  
22                   by means of such number;

23                   “(3) the term ‘security breach’ means a com-  
24                   promise of the security, confidentiality, or integrity  
25                   of computerized data that there is reason to believe

1 has resulted in improper access to sensitive person-  
2 ally identifiable information; and

3 “(4) the term ‘improper access’ means access  
4 without authorization or in excess of authorization.”.

5 (b) CLERICAL AMENDMENT.—The table of sections  
6 at the beginning of chapter 47 of title 18, United States  
7 Code, is amended by adding at the end the following:

“1040. Concealment of security breaches involving personally identifiable infor-  
mation.”.

8 (c) OBLIGATION TO REPORT.—

9 (1) IN GENERAL.—A person who owns or pos-  
10 sesses data in electronic form containing a means of  
11 identification and has knowledge of a major security  
12 breach of the system containing such data main-  
13 tained by such person, must provide prompt notice  
14 of such breach to the United States Secret Service  
15 or Federal Bureau of Investigation.

16 (2) PUBLICATION OF LIST OF NOTIFICA-  
17 TIONS.—The Secret Service and the Federal Bureau  
18 of Investigation shall annually publish in the Federal  
19 Register a list of all notifications submitted the pre-  
20 vious calendar year and the identity of each entity  
21 with respect to which the major security breach oc-  
22 curred.

23 (3) DEFINITION.—In this subsection—

1 (A) the term “major security breach”  
2 means any security breach involving—

3 (i) means of identification pertaining  
4 to 10,000 or more individuals is, or is rea-  
5 sonably believed to have been acquired;

6 (ii) databases owned by the Federal  
7 Government; or

8 (iii) means of identification of Federal  
9 Government employees or contractors in-  
10 volved in national security matters or law  
11 enforcement; and

12 (B) the term “means of identification” has  
13 the meaning given that term in section 1028 of  
14 title 18, United States Code.

15 **SEC. 103. USE OF FULL INTERSTATE AND FOREIGN COM-**  
16 **MERCE POWER FOR CRIMINAL PENALTIES.**

17 (a) BROADENING OF SCOPE.—Section 1030(e)(2)(B)  
18 of title 18, United States Code, is amended by inserting  
19 “or affecting” after “which is used in”.

20 (b) ELIMINATION OF REQUIREMENT OF AN INTER-  
21 STATE OR FOREIGN COMMUNICATION FOR CERTAIN OF-  
22 FENSES INVOLVING PROTECTED COMPUTERS.—Section  
23 1030(a)(2)(C) of title 18, United States Code, is amended  
24 by striking “if the conduct involved an interstate or for-  
25 eign communication”.

1 **SEC. 104. CYBER-EXTORTION.**

2 Section 1030(a)(7) of title 18, United States Code,  
3 is amended by inserting “, or to access without authoriza-  
4 tion or exceed authorized access to a protected computer”  
5 after “cause damage to a protected computer”.

6 **SEC. 105. CONSPIRACY TO COMMIT CYBER-CRIMES.**

7 Section 1030(b) of title 18, United States Code, is  
8 amended by inserting “or conspires” after “attempts”.

9 **SEC. 106. PENALTIES FOR SECTION 1030 VIOLATIONS.**

10 Subsection (c) of section 1030 of title 18, United  
11 States Code, is amended to read as follows:

12 “(c)(1) The punishment for an offense under sub-  
13 section (a) or (b) is a fine under this title or imprisonment  
14 for not more than 20 years, or both, but if the offender  
15 in the course of a violation of subsection (a)(5)(A)(i)  
16 knowingly or recklessly causes or attempts to cause death,  
17 such offender shall be fined under this title or imprisoned  
18 for any term of years or for life, or both.

19 “(2) The court, in imposing sentence for an offense  
20 under subsection (a) or (b), may, in addition to any other  
21 sentence imposed and irrespective of any provision of  
22 State law, order that the person forfeit to the United  
23 States—

24 “(A) the person’s interest in any personal prop-  
25 erty that was used or intended to be used to commit  
26 or to facilitate the commission of the offense; and

1           “(B) any property, real or personal, consti-  
2           tuting or derived from, any proceeds the person ob-  
3           tained, directly or indirectly, as a result of the of-  
4           fense.”.

5 **SEC. 107. ADDITIONAL FUNDING FOR RESOURCES TO IN-**  
6                           **VESTIGATE AND PROSECUTE CRIMINAL AC-**  
7                           **TIVITY INVOLVING COMPUTERS.**

8           (a) **ADDITIONAL FUNDING FOR RESOURCES.**—

9                   (1) **AUTHORIZATION.**—In addition to amounts  
10           otherwise authorized for resources to investigate and  
11           prosecute criminal activity involving computers,  
12           there are authorized to be appropriated for each of  
13           the fiscal years 2008 through 2012—

14                   (A) \$10,000,000 to the Director of the  
15           United States Secret Service;

16                   (B) \$10,000,000 to the Attorney General  
17           for the Criminal Division of the Department of  
18           Justice; and

19                   (C) \$10,000,000 to the Director of the  
20           Federal Bureau of Investigation.

21                   (2) **AVAILABILITY.**—Any amounts appropriated  
22           under paragraph (1) shall remain available until ex-  
23           pended.

24           (b) **USE OF ADDITIONAL FUNDING.**—Funds made  
25           available under subsection (a) shall be used by the Direc-

1 tor of the United States Secret Service, the Director of  
2 the Federal Bureau of Investigation, and the Attorney  
3 General, for the United States Secret Service, the Federal  
4 Bureau of Investigation, and the criminal division of the  
5 Department of Justice, respectively, to—

6 (1) hire and train law enforcement officers to—

7 (A) investigate crimes committed through  
8 the use of computers and other information  
9 technology, including through the use of the  
10 Internet; and

11 (B) assist in the prosecution of such  
12 crimes; and

13 (2) procure advanced tools of forensic science to  
14 investigate, prosecute, and study such crimes.

15 **SEC. 108. CRIMINAL RESTITUTION.**

16 Section 3663(b) of title 18, United States Code, is  
17 amended—

18 (1) by striking “and” at the end of paragraph

19 (4);

20 (2) by striking the period at the end of para-  
21 graph (5) and inserting “; and” and

22 (3) by adding at the end the following:

23 “(6) in the case of an offense under section  
24 1028(a)(7), 1028A(a), or 1030(a)(2), pay an  
25 amount equal to the value of the victim’s time rea-

1 sonably spent to remediate actual harm resulting  
2 from the offense.”.

3 **SEC. 109. REVIEW AND AMENDMENT OF FEDERAL SEN-**  
4 **TENCING GUIDELINES RELATED TO FRAUDU-**  
5 **LENT ACCESS TO OR MISUSE OF DIGITIZED**  
6 **OR ELECTRONIC PERSONALLY IDENTIFIABLE**  
7 **INFORMATION.**

8 The United States Sentencing Commission, pursuant  
9 to its authority under section 994 of title 28, United  
10 States Code, and in accordance with this section, shall re-  
11 view and, if appropriate, amend the Federal sentencing  
12 guidelines (including its policy statements) applicable to  
13 persons convicted of using fraud to access, or misuse of,  
14 digitized or electronic personally identifiable information,  
15 including identity theft or any offense under—

16 (1) sections 1028, 1028A, 1030, 1030A, 2511,  
17 and 2701 of title 18, United States Code; and

18 (2) any other relevant provision.

1 **TITLE II—NON-CRIMINAL PRI-**  
2 **VACY ENFORCEMENT AND**  
3 **PRIVACY IMPACT STATE-**  
4 **MENTS**

5 **SEC. 201. ENFORCEMENT BY ATTORNEY GENERAL AND**  
6 **STATE AUTHORITIES.**

7 (a) DEFINITION OF “AUTHORIZED ENTITY”.—As  
8 used in this section, the term “authorized entity” means  
9 the Attorney General, with respect to any conduct consti-  
10 tuting a violation of a Federal law enacted after the date  
11 of the enactment of this Act relating to data security and  
12 engaged in by a business entity, and a State Attorney  
13 General with respect to that conduct to the extent the con-  
14 duct adversely affects an interest of the residents of a  
15 State.

16 (b) CIVIL PENALTY.—

17 (1) GENERALLY.—An authorized entity may in  
18 a civil action obtain a civil penalty of not more than  
19 \$500,000 from any business entity that engages in  
20 conduct constituting a violation of a Federal law en-  
21 acted after the date of the enactment of this Act re-  
22 lating to data security.

23 (2) SPECIAL RULE FOR INTENTIONAL VIOLA-  
24 TION.—If the violation described in subsection (a) is

1 intentional, the maximum civil penalty is  
2 \$1,000,000.

3 (c) INJUNCTIVE RELIEF.—An authorized entity may,  
4 in a civil action against a business entity that has engaged,  
5 or is engaged, in any conduct constituting a violation of  
6 a Federal law enacted after the date of the enactment of  
7 this Act relating data security, obtain an order—

- 8 (1) enjoining such act or practice; or
- 9 (2) enforcing compliance with that law.

10 (d) OTHER RIGHTS AND REMEDIES.—The rights and  
11 remedies available under this section do not affect any  
12 other rights and remedies available under Federal or State  
13 law.

14 **SEC. 202. COORDINATION OF STATE AND FEDERAL EF-**  
15 **FORTS.**

16 (a) NOTICE.—

17 (1) IN GENERAL.—A State consumer protection  
18 attorney may not bring an action under section 201,  
19 until the attorney general of the State involved pro-  
20 vides to the Attorney General of the United States—

- 21 (A) written notice of the action; and
- 22 (B) a copy of the complaint for the action.

23 (2) EXCEPTION.—Paragraph (1) does not apply  
24 with respect to the filing of an action by an attorney  
25 general of a State under this section if the State at-

1       torney general determines that it is not feasible to  
2       provide the notice described in such subparagraph  
3       before the filing of the action, in such a case the  
4       State attorney general shall provide notice and a  
5       copy of the complaint to the Attorney General at the  
6       time the State attorney general files the action.

7       (b) FEDERAL PROCEEDINGS.—The Attorney General  
8       may—

9               (1) move to stay any non Federal action under  
10       section 201, pending the final disposition of a pend-  
11       ing Federal action under that section;

12              (2) initiate an action in an appropriate United  
13       States district court and move to consolidate all  
14       pending actions under section 201, including State  
15       actions, in that court; and

16              (3) intervene in a State action under section  
17       201.

18       (c) PENDING PROCEEDINGS.—If the Attorney Gen-  
19       eral institutes a proceeding or action for a violation of a  
20       Federal law enacted after the date of the enactment of  
21       this Act relating data security, no authority of a State  
22       may, during the pendency of such proceeding or action,  
23       bring an action under this section against any defendant  
24       named in such criminal proceeding or a civil action against

1 any defendant for any violation that is alleged in that pro-  
2 ceeding or action.

3 (d) DEFINITION.—As used in this section, the term  
4 “State consumer protection attorney” means the attorney  
5 general of a State or any State or local law enforcement  
6 agency authorized by the State attorney general or by  
7 State statute to prosecute violations of consumer protec-  
8 tion law.

9 **SEC. 203. REQUIREMENT THAT AGENCY RULEMAKING**  
10 **TAKE INTO CONSIDERATION IMPACTS ON IN-**  
11 **DIVIDUAL PRIVACY.**

12 (a) IN GENERAL.—Title 5, United States Code, is  
13 amended by adding after section 553 the following new  
14 section:

15 **“§ 553a. Privacy impact assessment in rulemaking**

16 **“(a) INITIAL PRIVACY IMPACT ASSESSMENT.—**

17 **“(1) IN GENERAL.—**Whenever an agency is re-  
18 quired by section 553 of this title, or any other law,  
19 to publish a general notice of proposed rulemaking  
20 for a proposed rule, or publishes a notice of pro-  
21 posed rulemaking for an interpretative rule involving  
22 the internal revenue laws of the United States, and  
23 such rule or proposed rulemaking pertains to the  
24 collection, maintenance, use, or disclosure of person-  
25 ally identifiable information from 10 or more indi-

1 individuals, other than agencies, instrumentalities, or  
2 employees of the Federal government, the agency  
3 shall prepare and make available for public comment  
4 an initial privacy impact assessment that describes  
5 the impact of the proposed rule on the privacy of in-  
6 dividuals. Such assessment or a summary thereof  
7 shall be signed by the senior agency official with pri-  
8 mary responsibility for privacy policy and be pub-  
9 lished in the Federal Register at the time of the  
10 publication of a general notice of proposed rule-  
11 making for the rule.

12 “(2) CONTENTS.—Each initial privacy impact  
13 assessment required under this subsection shall con-  
14 tain the following:

15 “(A) A description and analysis of the ex-  
16 tent to which the proposed rule will impact the  
17 privacy interests of individuals, including the  
18 extent to which the proposed rule—

19 “(i) provides notice of the collection of  
20 personally identifiable information, and  
21 specifies what personally identifiable infor-  
22 mation is to be collected and how it is to  
23 be collected, maintained, used, and dis-  
24 closed;

1           “(ii) allows access to such information  
2           by the person to whom the personally iden-  
3           tifiable information pertains and provides  
4           an opportunity to correct inaccuracies;

5           “(iii) prevents such information,  
6           which is collected for one purpose, from  
7           being used for another purpose; and

8           “(iv) provides security for such infor-  
9           mation, including the provision of written  
10          notice to any individual, within 14 days of  
11          the date of compromise, whose privacy in-  
12          terests are compromised by the unauthor-  
13          ized release of personally identifiable infor-  
14          mation as a result of a breach of security  
15          at or by the agency.

16          “(B) A description of any significant alter-  
17          natives to the proposed rule which accomplish  
18          the stated objectives of applicable statutes and  
19          which minimize any significant privacy impact  
20          of the proposed rule on individuals.

21          “(b) FINAL PRIVACY IMPACT ASSESSMENT.—

22                 “(1) IN GENERAL.—Whenever an agency pro-  
23                 mulgates a final rule under section 553 of this title,  
24                 after being required by that section or any other law  
25                 to publish a general notice of proposed rulemaking,

1 or promulgates a final interpretative rule involving  
2 the internal revenue laws of the United States, and  
3 such rule or proposed rulemaking pertains to the  
4 collection, maintenance, use, or disclosure of person-  
5 ally identifiable information from 10 or more indi-  
6 viduals, other than agencies, instrumentalities, or  
7 employees of the Federal government, the agency  
8 shall prepare a final privacy impact assessment,  
9 signed by the senior agency official with primary re-  
10 sponsibility for privacy policy.

11 “(2) CONTENTS.—Each final privacy impact as-  
12 sessment required under this subsection shall con-  
13 tain the following:

14 “(A) A description and analysis of the ex-  
15 tent to which the final rule will impact the pri-  
16 vacy interests of individuals, including the ex-  
17 tent to which such rule—

18 “(i) provides notice of the collection of  
19 personally identifiable information, and  
20 specifies what personally identifiable infor-  
21 mation is to be collected and how it is to  
22 be collected, maintained, used, and dis-  
23 closed;

24 “(ii) allows access to such information  
25 by the person to whom the personally iden-

1           tifiable information pertains and provides  
2           an opportunity to correct inaccuracies;

3           “(iii) prevents such information,  
4           which is collected for one purpose, from  
5           being used for another purpose; and

6           “(iv) provides security for such infor-  
7           mation, including the provision of written  
8           notice to any individual, within 14 days of  
9           the date of compromise, whose privacy in-  
10          terests are compromised by the unauthor-  
11          ized release of personally identifiable infor-  
12          mation as a result of a breach of security  
13          at or by the agency.

14          “(B) A summary of any significant issues  
15          raised by the public comments in response to  
16          the initial privacy impact assessment, a sum-  
17          mary of the analysis of the agency of such  
18          issues, and a statement of any changes made in  
19          such rule as a result of such issues.

20          “(C) A description of the steps the agency  
21          has taken to minimize the significant privacy  
22          impact on individuals consistent with the stated  
23          objectives of applicable statutes, including a  
24          statement of the factual, policy, and legal rea-  
25          sons for selecting the alternative adopted in the

1 final rule and why each one of the other signifi-  
2 cant alternatives to the rule considered by the  
3 agency which affect the privacy interests of in-  
4 dividuals was rejected.

5 “(3) AVAILABILITY TO PUBLIC.—The agency  
6 shall make copies of the final privacy impact assess-  
7 ment available to members of the public and shall  
8 publish in the Federal Register such assessment or  
9 a summary thereof.

10 “(c) WAIVERS.—

11 “(1) EMERGENCIES.—An agency head may  
12 waive or delay the completion of some or all of the  
13 requirements of subsections (a) and (b) to the same  
14 extent as the agency head may, under section 608,  
15 waive or delay the completion of some or all of the  
16 requirements of sections 603 and 604, respectively.

17 “(2) NATIONAL SECURITY.—An agency head  
18 may, for national security reasons, or to protect  
19 from disclosure classified information, confidential  
20 commercial information, or information the disclo-  
21 sure of which may adversely affect a law enforce-  
22 ment effort, waive or delay the completion of some  
23 or all of the following requirements:

24 “(A) The requirement of subsection (a)(1)  
25 to make an assessment available for public com-

1           ment, provided that such assessment is made  
2           available, in classified form, to the Committees  
3           on the Judiciary of the House of Representa-  
4           tives and the Senate, in lieu of making such as-  
5           sessment available to the public.

6           “(B) The requirement of subsection (a)(1)  
7           to have an assessment or summary thereof pub-  
8           lished in the Federal Register, provided that  
9           such assessment or summary is made available,  
10          in classified form, to the Committees on the Ju-  
11          diciary of the House of Representatives and the  
12          Senate, in lieu of publishing such assessment or  
13          summary in the Federal Register.

14          “(C) The requirements of subsection  
15          (b)(3), provided that the final privacy impact  
16          assessment is made available, in classified form,  
17          to the Committees on the Judiciary of the  
18          House of Representatives and the Senate, in  
19          lieu of making such assessment available to the  
20          public and publishing such assessment in the  
21          Federal Register.

22          “(d) PROCEDURES FOR GATHERING COMMENTS.—

23          When any rule is promulgated which may have a signifi-  
24          cant privacy impact on individuals, or a privacy impact  
25          on a substantial number of individuals, the head of the

1 agency promulgating the rule or the official of the agency  
2 with statutory responsibility for the promulgation of the  
3 rule shall assure that individuals have been given an op-  
4 portunity to participate in the rulemaking for the rule  
5 through techniques such as—

6           “(1) the inclusion in an advance notice of pro-  
7 posed rulemaking, if issued, of a statement that the  
8 proposed rule may have a significant privacy impact  
9 on individuals, or a privacy impact on a substantial  
10 number of individuals;

11           “(2) the publication of a general notice of pro-  
12 posed rulemaking in publications of national circula-  
13 tion likely to be obtained by individuals;

14           “(3) the direct notification of interested individ-  
15 uals;

16           “(4) the conduct of open conferences or public  
17 hearings concerning the rule for individuals, includ-  
18 ing soliciting and receiving comments over computer  
19 networks; and

20           “(5) the adoption or modification of agency  
21 procedural rules to reduce the cost or complexity of  
22 participation in the rulemaking by individuals.

23           “(e) PERIODIC REVIEW OF RULES.—

24           “(1) IN GENERAL.—Each agency shall carry  
25 out a periodic review of the rules promulgated by the

1 agency that have a significant privacy impact on in-  
2 dividuals, or a privacy impact on a substantial num-  
3 ber of individuals. Under such periodic review, the  
4 agency shall determine, for each such rule, whether  
5 the rule can be amended or rescinded in a manner  
6 that minimizes any such impact while remaining in  
7 accordance with applicable statutes. For each such  
8 determination, the agency shall consider the fol-  
9 lowing factors:

10 “(A) The continued need for the rule.

11 “(B) The nature of complaints or com-  
12 ments received from the public concerning the  
13 rule.

14 “(C) The complexity of the rule.

15 “(D) The extent to which the rule over-  
16 laps, duplicates, or conflicts with other Federal  
17 rules, and, to the extent feasible, with State and  
18 local governmental rules.

19 “(E) The length of time since the rule was  
20 last reviewed under this subsection.

21 “(F) The degree to which technology, eco-  
22 nomic conditions, or other factors have changed  
23 in the area affected by the rule since the rule  
24 was last reviewed under this subsection.

1           “(2) PLAN REQUIRED.—Each agency shall  
2 carry out the periodic review required by paragraph  
3 (1) in accordance with a plan published by such  
4 agency in the Federal Register. Each such plan shall  
5 provide for the review under this subsection of each  
6 rule promulgated by the agency not later than 10  
7 years after the date on which such rule was pub-  
8 lished as the final rule and, thereafter, not later  
9 than 10 years after the date on which such rule was  
10 last reviewed under this subsection. The agency may  
11 amend such plan at any time by publishing the revi-  
12 sion in the Federal Register.

13           “(3) ANNUAL PUBLICATION.—Each year, each  
14 agency shall publish in the Federal Register a list of  
15 the rules to be reviewed by such agency under this  
16 subsection during the following year. The list shall  
17 include a brief description of each such rule and the  
18 need for and legal basis of such rule and shall invite  
19 public comment upon the determination to be made  
20 under this subsection with respect to such rule.

21           “(f) JUDICIAL REVIEW.—

22           “(1) IN GENERAL.—For any rule subject to this  
23 section, an individual who is adversely affected or  
24 aggrieved by final agency action is entitled to judi-  
25 cial review of agency compliance with the require-

1       ments of subsections (b) and (c) in accordance with  
2       chapter 7. Agency compliance with subsection (d)  
3       shall be judicially reviewable in connection with judi-  
4       cial review of subsection (b).

5           “(2) JURISDICTION.—Each court having juris-  
6       diction to review such rule for compliance with sec-  
7       tion 553, or under any other provision of law, shall  
8       have jurisdiction to review any claims of noncompli-  
9       ance with subsections (b) and (c) in accordance with  
10      chapter 7. Agency compliance with subsection (d)  
11      shall be judicially reviewable in connection with judi-  
12      cial review of subsection (b).

13           “(3) LIMITATIONS.—

14           “(A) An individual may seek such review  
15       during the period beginning on the date of final  
16       agency action and ending 1 year later, except  
17       that where a provision of law requires that an  
18       action challenging a final agency action be com-  
19       menced before the expiration of 1 year, such  
20       lesser period shall apply to an action for judicial  
21       review under this subsection.

22           “(B) In the case where an agency delays  
23       the issuance of a final privacy impact assess-  
24       ment pursuant to subsection (c), an action for

1           judicial review under this section shall be filed  
2           not later than—

3                   “(i) 1 year after the date the assess-  
4                   ment is made available to the public; or

5                   “(ii) where a provision of law requires  
6                   that an action challenging a final agency  
7                   regulation be commenced before the expi-  
8                   ration of the 1-year period, the number of  
9                   days specified in such provision of law that  
10                  is after the date the assessment is made  
11                  available to the public.

12               “(4) RELIEF.—In granting any relief in an ac-  
13               tion under this subsection, the court shall order the  
14               agency to take corrective action consistent with this  
15               section and chapter 7, and may—

16                   “(A) remand the rule to the agency; and

17                   “(B) defer the enforcement of the rule  
18                   against individuals, unless the court finds that  
19                   continued enforcement of the rule is in the pub-  
20                   lic interest.

21               “(5) RULE OF CONSTRUCTION.—Nothing in  
22               this subsection limits the authority of any court to  
23               stay the effective date of any rule or provision there-  
24               of under any other provision of law or to grant any

1 other relief in addition to the requirements of this  
2 subsection.

3 “(6) RECORD OF AGENCY ACTION.—In an ac-  
4 tion for the judicial review of a rule, the privacy im-  
5 pact assessment for such rule, including an assess-  
6 ment prepared or corrected pursuant to paragraph  
7 (4), shall constitute part of the entire record of  
8 agency action in connection with such review.

9 “(7) EXCLUSIVITY.—Compliance or noncompli-  
10 ance by an agency with the provisions of this section  
11 shall be subject to judicial review only in accordance  
12 with this subsection.

13 “(8) SAVINGS CLAUSE.—Nothing in this sub-  
14 section bars judicial review of any other impact  
15 statement or similar assessment required by any  
16 other law if judicial review of such statement or as-  
17 sessment is otherwise permitted by law.

18 “(g) DEFINITION.—For purposes of this section, the  
19 term ‘personally identifiable information’ means informa-  
20 tion that can be used to identify an individual, including  
21 such individual’s name, address, telephone number, photo-  
22 graph, social security number or other identifying infor-  
23 mation. It includes information about such individual’s  
24 medical or financial condition.”.

25 (b) PERIODIC REVIEW TRANSITION PROVISIONS.—

1           (1) INITIAL PLAN.—For each agency, the plan  
2           required by subsection (e) of section 553a of title 5,  
3           United States Code (as added by subsection (a)),  
4           shall be published not later than 180 days after the  
5           date of the enactment of this Act.

6           (2) REVIEW PERIOD.—In the case of a rule pro-  
7           mulgated by an agency before the date of the enact-  
8           ment of this Act, such plan shall provide for the  
9           periodic review of such rule before the expiration of  
10          the 10-year period beginning on the date of the en-  
11          actment of this Act. For any such rule, the head of  
12          the agency may provide for a 1-year extension of  
13          such period if the head of the agency, before the ex-  
14          piration of the period, certifies in a statement pub-  
15          lished in the Federal Register that reviewing such  
16          rule before the expiration of the period is not fea-  
17          sible. The head of the agency may provide for addi-  
18          tional 1-year extensions of the period pursuant to  
19          the preceding sentence, but in no event may the pe-  
20          riod exceed 15 years.

21          (c) CONGRESSIONAL REVIEW.—Section 801(a)(1)(B)  
22          of title 5, United States Code, is amended—

23                 (1) by redesignating clauses (iii) and (iv) as  
24                 clauses (iv) and (v), respectively; and

1 (2) by inserting after clause (ii) the following  
2 new clause:

3 “(iii) the agency’s actions relevant to section  
4 553a;”.

5 (d) CLERICAL AMENDMENT.—The table of sections  
6 at the beginning of chapter 5 of title 5, United States  
7 Code, is amended by adding after the item relating to sec-  
8 tion 553 the following new item:

“553a. Privacy impact assessment in rulemaking.”.

9 **TITLE III—ASSISTANCE FOR**  
10 **STATE AND LOCAL LAW EN-**  
11 **FORCEMENT TO COMBAT**  
12 **FRAUDULENT, UNAUTHOR-**  
13 **IZED, OR OTHER CRIMINAL**  
14 **USE OF PERSONALLY IDENTIFI-**  
15 **FIABLE INFORMATION**

16 **SEC. 301. GRANTS FOR STATE AND LOCAL LAW ENFORCE-**  
17 **MENT.**

18 (a) IN GENERAL.—Subject to the availability of  
19 amounts provided in advance in appropriations Acts, the  
20 Assistant Attorney General for the Office of Justice Pro-  
21 grams of the Department of Justice may award grants  
22 to States to establish and develop programs to increase  
23 and enhance enforcement against crimes related to fraud-  
24 ulent, unauthorized, or other criminal use of personally  
25 identifiable information.

1 (b) APPLICATION.—To be eligible for a grant under  
2 subsection (a), a State shall submit an application to the  
3 Assistant Attorney General for the Office of Justice Pro-  
4 grams of the Department of Justice at such time, in such  
5 manner, and containing such information, including as de-  
6 scribed in subsection (d), as the Assistant Attorney Gen-  
7 eral may require.

8 (c) USE OF GRANT AMOUNTS.—A grant awarded to  
9 a State under subsection (a) shall be used by a State, in  
10 conjunction with units of local government within that  
11 State, State and local courts, other States, or combina-  
12 tions thereof, to establish and develop programs to—

13 (1) assist State and local law enforcement agen-  
14 cies in enforcing State and local criminal laws relat-  
15 ing to crimes involving the fraudulent, unauthorized,  
16 or other criminal use of personally identifiable infor-  
17 mation;

18 (2) assist State and local law enforcement agen-  
19 cies in educating the public to prevent and identify  
20 crimes involving the fraudulent, unauthorized, or  
21 other criminal use of personally identifiable informa-  
22 tion;

23 (3) educate and train State and local law en-  
24 forcement officers and prosecutors to conduct inves-  
25 tigation and forensic analyses of evidence and pros-

1 ecutions of crimes involving the fraudulent, unau-  
2 thORIZED, or other criminal use of personally identifi-  
3 able information;

4 (4) assist State and local law enforcement offi-  
5 cers and prosecutors in acquiring computer and  
6 other equipment to conduct investigations and foren-  
7 sic analysis of evidence of crimes involving the  
8 fraudulent, unauthorized, or other criminal use of  
9 personally identifiable information; and

10 (5) facilitate and promote the sharing of Fed-  
11 eral law enforcement expertise and information  
12 about the investigation, analysis, and prosecution of  
13 crimes involving the fraudulent, unauthorized, or  
14 other criminal use of personally identifiable informa-  
15 tion with State and local law enforcement officers  
16 and prosecutors, including the use of multi-jurisdic-  
17 tional task forces.

18 (d) ASSURANCES AND ELIGIBILITY.—To be eligible  
19 to receive a grant under subsection (a), a State shall pro-  
20 vide assurances to the Attorney General that the State—

21 (1) has in effect laws that penalize crimes in-  
22 volving the fraudulent, unauthorized, or other crimi-  
23 nal use of personally identifiable information, such  
24 as penal laws prohibiting—

1 (A) fraudulent schemes executed to obtain  
2 personally identifiable information;

3 (B) schemes executed to sell or use fraudu-  
4 lently obtained personally identifiable informa-  
5 tion; and

6 (C) online sales of personally identifiable  
7 information obtained fraudulently or by other  
8 illegal means;

9 (2) will provide an assessment of the resource  
10 needs of the State and units of local government  
11 within that State, including criminal justice re-  
12 sources being devoted to the investigation and en-  
13 forcement of laws related to crimes involving the  
14 fraudulent, unauthorized, or other criminal use of  
15 personally identifiable information;

16 (3) will develop a plan for coordinating the pro-  
17 grams funded under this section with other federally  
18 funded technical assistant and training programs,  
19 including directly funded local programs such as the  
20 Local Law Enforcement Block Grant program (de-  
21 scribed under the heading “Violent Crime Reduction  
22 Programs, State and Local Law Enforcement As-  
23 sistance” of the Departments of Commerce, Justice,  
24 and State, the Judiciary, and Related Agencies Ap-  
25 propriations Act, 1998 (Public Law 105–119)); and

1           (4) will submit to the Assistant Attorney Gen-  
2           eral for the Office of Justice Programs of the De-  
3           partment of Justice applicable reports in accordance  
4           with subsection (f).

5           (e) MATCHING FUNDS.—The Federal share of a  
6           grant received under this section may not exceed 90 per-  
7           cent of the total cost of a program or proposal funded  
8           under this section unless the Attorney General waives,  
9           wholly or in part, the requirements of this subsection.

10          (f) REPORTS.—For each year that a State receives  
11          a grant under subsection (a) for a program, the State shall  
12          submit to the Assistant Attorney General for the Office  
13          of Justice Programs of the Department of Justice a report  
14          on the results, including the effectiveness, of such program  
15          during such year.

16          **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

17          (a) IN GENERAL.—There is authorized to be appro-  
18          priated to carry out this title \$25,000,000 for each of fis-  
19          cal years 2008 through 2010.

20          (b) LIMITATIONS.—Of the amount made available to  
21          carry out this title in any fiscal year not more than 3 per-  
22          cent may be used by the Attorney General for salaries and  
23          administrative expenses.

24          (c) MINIMUM AMOUNT.—Unless all eligible applica-  
25          tions submitted by a State or units of local government

1 within a State for a grant under this title have been fund-  
 2 ed, the State, together with grantees within the State  
 3 (other than Indian tribes), shall be allocated in each fiscal  
 4 year under this title not less than 0.75 percent of the total  
 5 amount appropriated in the fiscal year for grants pursuant  
 6 to this title, except that the United States Virgin Islands,  
 7 American Samoa, Guam, and the Northern Mariana Is-  
 8 lands each shall be allocated 0.25 percent.

9 (d) GRANTS TO INDIAN TRIBES.—Notwithstanding  
 10 any other provision of this title, the Attorney General may  
 11 use amounts made available under this title to make  
 12 grants to Indian tribes for use in accordance with this  
 13 title.

14 **TITLE IV—NATIONAL WHITE**  
 15 **COLLAR CRIME CENTER**  
 16 **GRANTS**

17 **SEC. 401. AUTHORIZATION AND EXPANSION OF NATIONAL**  
 18 **WHITE COLLAR CRIME CENTER.**

19 (a) IN GENERAL.—Title I of the Omnibus Crime  
 20 Control and Safe Streets Act of 1968 (42 U.S.C. 3711  
 21 et seq.) is amended—

- 22 (1) by redesignating part X, as added by sec-  
 23 tion 623 of Public Law 109–248, as part JJ; and  
 24 (2) by adding at the end the following new part:

1     **“PART KK—NATIONAL WHITE COLLAR CRIME**

2                     **CENTER GRANTS**

3     **“SEC. 3021. ESTABLISHMENT OF GRANTS PROGRAM.**

4             “(a) AUTHORIZATION.—The Director of the Bureau  
5 of Justice Assistance is authorized to make grants and  
6 enter into contracts with State and local criminal justice  
7 agencies and nonprofit organizations for the purpose of  
8 improving the identification, investigation, and prosecu-  
9 tion of certain criminal activities.

10            “(b) CERTAIN CRIMINAL ACTIVITIES DEFINED.—

11 For purposes of this part, the term ‘certain criminal activ-  
12 ity’ means a criminal conspiracy or activity or a terrorist  
13 conspiracy or activity that spans jurisdictional boundaries,  
14 including the following:

15               “(1) Terrorism.

16               “(2) Economic crime.

17               “(3) High-tech crime, also known as cyber  
18 crime or computer crime, including internet-based  
19 crime against children and child pornography.

20            “(c) CRIMINAL JUSTICE AGENCY DEFINED.—For

21 purposes of this part, the term ‘criminal justice agency’,  
22 with respect to a State or a unit of local government with-  
23 in such State, includes a law enforcement agency, a State  
24 regulatory body with criminal investigative authority, and  
25 a State or local prosecution office to the extent that such  
26 agency, body, or office, respectively, is involved in the pre-

1 vention, investigation, and prosecution of certain criminal  
2 activities.

3 **“SEC. 3022. AUTHORIZED PROGRAMS.**

4 “Grants and contracts awarded under this part may  
5 be made only for the following programs, with respect to  
6 the prevention, investigation, and prosecution of certain  
7 criminal activities:

8 “(1) Programs to provide a nationwide support  
9 system for State and local criminal justice agencies.

10 “(2) Programs to assist State and local crimi-  
11 nal justice agencies to develop, establish, and main-  
12 tain intelligence-focused policing strategies and re-  
13 lated information sharing.

14 “(3) Programs to provide training and inves-  
15 tigative support services to State and local criminal  
16 justice agencies to provide such agencies with skills  
17 and resources needed to investigate and prosecute  
18 such criminal activities and related criminal activi-  
19 ties.

20 “(4) Programs to provide research support, to  
21 establish partnerships, and to provide other re-  
22 sources to aid State and local criminal justice agen-  
23 cies to prevent, investigate, and prosecute such  
24 criminal activities and related problems.

1           “(5) Programs to provide information and re-  
2           search to the general public to facilitate the preven-  
3           tion of such criminal activities.

4           “(6) Programs to establish National training  
5           and research centers regionally, including within Vir-  
6           ginia, Texas, and Michigan, to provide training and  
7           research services for State and local criminal justice  
8           agencies.

9           “(7) Any other programs specified by the Attor-  
10          ney General as furthering the purposes of this part.

11 **“SEC. 3023. APPLICATION.**

12          “To be eligible for an award of a grant or contract  
13          under this part, an entity shall submit to the Director of  
14          the Bureau of Justice Assistance an application in such  
15          form and manner, and containing such information, as re-  
16          quired by the Director.

17 **“SEC. 3024. RULES AND REGULATIONS.**

18          “Not later than 180 days after the date of the enact-  
19          ment of this part, the Director of the Bureau of Justice  
20          Assistance shall promulgate such rules and regulations as  
21          are necessary to carry out the this part, including rules  
22          and regulations for submitting and reviewing applications  
23          under section 3023.”.

1           (b) AUTHORIZATION OF APPROPRIATION.—Section  
2 1001(a) of such Act (42 U.S.C. 3793) is amended by add-  
3 ing at the end the following new paragraph:

4           “(26) There is authorized to be appropriated to  
5 carry out part KK—

6           “(A) \$25,000,000 for fiscal year 2008;

7           “(B) \$28,000,000 for fiscal year 2009;

8           “(C) \$31,000,000 for fiscal year 2010;

9           “(D) \$34,000,000 for fiscal year 2011;

10           “(E) \$37,000,000 for fiscal year 2012; and

11           “(F) \$40,000,000 for fiscal year 2013.”.

○