

108TH CONGRESS
1ST SESSION

S. 1581

To mitigate the harm to individuals throughout the Nation who have been victimized by identity theft, to prevent identity theft, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 3, 2003

Ms. CANTWELL (for herself and Mr. ENZI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To mitigate the harm to individuals throughout the Nation who have been victimized by identity theft, to prevent 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Identity Theft Victims
5 Assistance Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The crime of identity theft is the fastest
9 growing crime in the United States. According to a
10 recent estimate, 7,000,000 Americans were victims

1 of identity theft in the past year, a 79 percent in-
2 crease over previous estimates.

3 (2) Stolen identities are often used to perpet-
4 uate crimes in many cities and States, making it
5 more difficult for consumers to restore their respec-
6 tive identities.

7 (3) Identity theft cost consumers more than
8 \$745,000,000 in 1998 and has increased dramati-
9 cally in the last few years. It has been estimated
10 that identity theft victims within the business com-
11 munity lose an average of \$17,000.

12 (4) Identity theft is ruinous to the good name
13 and credit of consumers whose identities are mis-
14 appropriated, and consumers may be denied other-
15 wise deserved credit and may have to spend enor-
16 mous time, effort, and money to restore their respec-
17 tive identities.

18 (5) As of the date of enactment of this Act, a
19 national mechanism does not exist to assist identity
20 theft victims to obtain evidence of identity theft, re-
21 store their credit, and regain control of their respec-
22 tive identities.

23 (6) Consumers who are victims of identity theft
24 need a nationally standardized means of—

1 (A) establishing their true identities and
 2 claims of identity theft to all business entities,
 3 credit reporting agencies, and Federal and
 4 State law enforcement agencies;

5 (B) obtaining information documenting
 6 fraudulent transactions from business entities;
 7 and

8 (C) reporting identity theft to consumer
 9 credit reporting agencies.

10 (7) Business entities, credit reporting agencies,
 11 and government agencies have a shared responsi-
 12 bility to assist victims of identity theft to mitigate
 13 the harm caused by any fraud perpetrated in the
 14 name of the victims.

15 **SEC. 3. TREATMENT OF IDENTITY THEFT MITIGATION.**

16 (a) IN GENERAL.—Chapter 47 of title 18, United
 17 States Code, is amended by adding after section 1028 the
 18 following:

19 **“§ 1028A. Treatment of identity theft mitigation**

20 “(a) DEFINITIONS.—As used in this section—

21 “(1) the term ‘business entity’ means any cor-
 22 poration, trust, partnership, sole proprietorship, or
 23 unincorporated association, including any financial
 24 service provider, financial information repository,
 25 creditor (as that term is defined in section 103 of

1 the Truth in Lending Act (15 U.S.C. 1602)), tele-
2 communications, utilities, or other service provider;

3 “(2) the term ‘consumer’ means an individual;

4 “(3) the term ‘financial information’ means in-
5 formation identifiable as relating to an individual
6 consumer that concerns the amount and conditions
7 of the assets, liabilities, or credit of the consumer,
8 including—

9 “(A) account numbers and balances;

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

13 “(C) codes, passwords, social security
14 numbers, tax identification numbers, State
15 identifier numbers issued by a State depart-
16 ment of licensing, and other information used
17 for the purpose of account access or transaction
18 initiation;

19 “(4) the term ‘financial information repository’
20 means a person engaged in the business of providing
21 services to consumers who have a credit, deposit,
22 trust, stock, or other financial services account or
23 relationship with that person;

1 “(5) the term ‘identity theft’ means a violation
2 of section 1028 or any other similar provision of ap-
3 plicable Federal or State law;

4 “(6) the term ‘means of identification’ has the
5 same meaning given the term in section 1028;

6 “(7) the term ‘victim’ means a consumer whose
7 means of identification or financial information has
8 been used or transferred (or has been alleged to
9 have been used or transferred) without the authority
10 of that consumer with the intent to commit, or with
11 the intent to aid or abet, an identity theft; and

12 “(8) the terms not defined in this section or
13 otherwise defined in section 3(s) of the Federal De-
14 posit Insurance Act (12 U.S.C. 1813(s)) shall have
15 the meaning given to them in section 1(b) of the
16 International Banking Act of 1978 (12 U.S.C.
17 3101).

18 “(b) INFORMATION AVAILABLE TO VICTIMS.—

19 “(1) IN GENERAL.—A business entity that has
20 provided credit, provided, for consideration, prod-
21 ucts, goods, or services, accepted payment, otherwise
22 entered into a commercial transaction for consider-
23 ation with a person that has made unauthorized use
24 of the means of identification of the victim, or pos-
25 sesses information relating to such transaction,

1 shall, not later than 20 days after the receipt of a
2 written request by the victim, meeting the require-
3 ments of subsection (c), provide, without charge, a
4 copy of all application and business transaction in-
5 formation related to the transaction being alleged as
6 an identity theft to—

7 “(A) the victim;

8 “(B) any Federal, State, or local governing
9 law enforcement agency or officer specified by
10 the victim in such a request; or

11 “(C) any law enforcement agency inves-
12 tigating the identity theft and authorized by the
13 victim to take receipt of records provided under
14 this section.

15 “(2) RULE OF CONSTRUCTION.—

16 “(A) IN GENERAL.—No provision of Fed-
17 eral or State law (except a law involving the
18 non-disclosure of information related to a pend-
19 ing Federal criminal investigation) prohibiting
20 the disclosure of financial information by a
21 business entity to third parties shall be used to
22 deny disclosure of information to the victim
23 under this section.

24 “(B) LIMITATION.—Except as provided in
25 subparagraph (A), nothing in this section per-

1 mits a business entity to disclose information
2 that the business entity is otherwise prohibited
3 from disclosing under any other applicable pro-
4 vision of Federal or State law.

5 “(c) VERIFICATION OF IDENTITY AND CLAIM.—Un-
6 less a business entity, at its discretion, is otherwise able
7 to verify the identity of a victim making a request under
8 subsection (b)(1), the victim shall provide to the business
9 entity—

10 “(1) as proof of positive identification, at the
11 election of the business entity—

12 “(A) the presentation of a government-
13 issued identification card;

14 “(B) personally identifying information of
15 the same type as was provided to the business
16 entity by the unauthorized person; or

17 “(C) personally identifying information
18 that the business entity typically requests from
19 new applicants or for new transactions at the
20 time of the victim’s request for information;
21 and

22 “(2) as proof of a claim of identity theft, at the
23 election of the business entity—

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

1 “(B) a properly completed copy of a stand-
2 ardized affidavit of identity theft developed and
3 made available by the Federal Trade Commis-
4 sion; or

5 “(C) any properly completed affidavit of
6 fact that is acceptable to the business entity for
7 that purpose.

8 “(d) VERIFICATION STANDARD.—Prior to releasing
9 records pursuant to subsection (b), a business entity shall
10 take reasonable steps to verify the identity of the alleged
11 victim requesting such records.

12 “(e) LIMITATION ON LIABILITY.—No business entity
13 may be held liable for a disclosure, made in good faith
14 and reasonable judgment pursuant to, and in compliance
15 with, this section, where such disclosure is made—

16 “(1) for the purpose of detection, investigation,
17 or prosecution of identity theft; or

18 “(2) to assist a victim in recovery of fines, res-
19 titution, rehabilitation of the credit of the victim, or
20 such other relief as may be appropriate.

21 “(f) AUTHORITY TO DECLINE TO PROVIDE INFOR-
22 MATION.—A business entity may decline to provide infor-
23 mation under subsection (b) if, in the exercise of good
24 faith and reasonable judgment, the business entity deter-
25 mines that—

1 “(1) this section does not require disclosure of
2 the information;

3 “(2) the request for the information is based on
4 a misrepresentation of fact by the victim relevant to
5 the request for information; or

6 “(3) the information requested is Internet navi-
7 gational data or similar information about a person’s
8 visit to a website or online service.

9 “(g) NO NEW RECORDKEEPING OBLIGATION.—
10 Nothing in this section creates an obligation on the part
11 of a business entity to obtain, retain, or maintain informa-
12 tion or records that are not otherwise required to be ob-
13 tained, retained, or maintained in the ordinary course of
14 its business or under other applicable law.

15 “(h) ENFORCEMENT.—

16 “(1) INJUNCTIVE ACTIONS BY THE ATTORNEY
17 GENERAL.—

18 “(A) IN GENERAL.—Whenever it appears
19 that a business entity to which this section ap-
20 plies has engaged, is engaged, or is about to en-
21 gage, in any act or practice constituting a viola-
22 tion of this section, the Attorney General of the
23 United States may bring a civil action in an ap-
24 propriate district court of the United States
25 to—

1 “(i) enjoin such act or practice;

2 “(ii) enforce compliance with this sec-
3 tion; and

4 “(iii) obtain such other equitable relief
5 as the court determines to be appropriate.

6 “(B) OTHER INJUNCTIVE RELIEF.—Upon
7 a proper showing in the action under subpara-
8 graph (A), the court shall grant a permanent
9 injunction or a temporary restraining order
10 without bond.

11 “(2) ADMINISTRATIVE ENFORCEMENT.—

12 “(A) FEDERAL TRADE COMMISSION.—

13 “(i) IN GENERAL.—Except to the ex-
14 tent that administrative enforcement is
15 specifically committed to another agency
16 under subparagraph (B), a violation of this
17 section shall be deemed an unfair or decep-
18 tive act or practice in violation of the Fed-
19 eral Trade Commission Act (15 U.S.C. 41
20 et seq.), for purposes of the exercise by the
21 Federal Trade Commission of its functions
22 and powers under that Act.

23 “(ii) AVAILABLE FUNCTIONS AND
24 POWERS.—All of the functions and powers
25 of the Federal Trade Commission under

1 the Federal Trade Commission Act are
2 available to the Commission to enforce
3 compliance by any person with this section.

4 “(B) OTHER FEDERAL AGENCIES.—Com-
5 pliance with any requirements under this sec-
6 tion may be enforced—

7 “(i) under section 8 of the Federal
8 Deposit Insurance Act (12 U.S.C. 1818)—

9 “(I) by the Office of the Comp-
10 troller of the Currency, with respect
11 to national banks, and Federal
12 branches and Federal agencies of for-
13 eign banks (except brokers, dealers,
14 persons providing insurance, invest-
15 ment companies, and investment ad-
16 visers);

17 “(II) by the Board of Governors
18 of the Federal Reserve System, with
19 respect to member banks of the Fed-
20 eral Reserve System (other than na-
21 tional banks), branches and agencies
22 of foreign banks (other than Federal
23 branches, Federal agencies, and in-
24 sured State branches of foreign
25 banks), commercial lending companies

1 owned or controlled by foreign banks,
2 and organizations operating under
3 section 25 or 25A of the Federal Re-
4 serve Act (12 U.S.C. 601 et seq. and
5 611 et seq.);

6 “(III) by the Board of Directors
7 of the Federal Deposit Insurance Cor-
8 poration, with respect to banks in-
9 sured by the Federal Deposit Insur-
10 ance Corporation (other than mem-
11 bers of the Federal Reserve System),
12 insured State branches of foreign
13 banks, and any subsidiaries of such
14 entities (except brokers, dealers, per-
15 sons providing insurance, investment
16 companies, and investment advisers);
17 and

18 “(IV) by the Director of the Of-
19 fice of Thrift Supervision, with re-
20 spect to savings associations, the de-
21 posits of which are insured by the
22 Federal Deposit Insurance Corpora-
23 tion, and any subsidiaries of such sav-
24 ings associations (except brokers,
25 dealers, persons providing insurance,

1 investment companies, and investment
2 advisers);

3 “(ii) by the Board of the National
4 Credit Union Administration, under the
5 Federal Credit Union Act (12 U.S.C. 1751
6 et seq.), with respect to any federally in-
7 sured credit union, and any subsidiaries of
8 such credit union;

9 “(iii) by the Securities and Exchange
10 Commission, under the Securities Ex-
11 change Act of 1934 (15 U.S.C. 78a et
12 seq.), with respect to any broker or dealer;

13 “(iv) by the Securities and Exchange
14 Commission, under the Investment Com-
15 pany Act of 1940 (15 U.S.C. 80a–1 et
16 seq.), with respect to investment compa-
17 nies;

18 “(v) by the Securities and Exchange
19 Commission, under the Investment Advis-
20 ers Act of 1940 (15 U.S.C. 80b–1 et seq.),
21 with respect to investment advisers reg-
22 istered with the Commission under such
23 Act;

24 “(vi) by the Secretary of Transpor-
25 tation, under subtitle IV of title 49, with

1 respect to all carriers subject to the juris-
2 diction of the Surface Transportation
3 Board;

4 “(vii) by the Secretary of Transpor-
5 tation, under part A of subtitle VII of title
6 49, with respect to any air carrier or any
7 foreign air carrier subject to that part; and

8 “(viii) by the Secretary of Agriculture,
9 under the Packers and Stockyards Act,
10 1921 (7 U.S.C. 181 et seq.), except as pro-
11 vided in section 406 of that Act (7 U.S.C.
12 226, 2271), with respect to any activities
13 subject to that Act.

14 “(C) AGENCY POWERS.—

15 “(i) IN GENERAL.—A violation of any
16 requirement imposed under this section
17 shall be deemed to be a violation of a re-
18 quirement imposed under any Act referred
19 to under subparagraph (B), for the pur-
20 pose of the exercise by any agency referred
21 to under subparagraph (B) of its powers
22 under any such Act.

23 “(ii) RULE OF CONSTRUCTION.—
24 Nothing in this section shall be construed
25 to prevent a Federal agency from exer-

1 cising the powers conferred upon such
2 agency by Federal law to—

3 “(I) conduct investigations;

4 “(II) administer oaths or affir-
5 mations; or

6 “(III) compel the attendance of
7 witnesses or the production of docu-
8 mentary or other evidence.

9 “(3) PARENS PATRIAE AUTHORITY.—

10 “(A) CIVIL ACTIONS.—In any case in
11 which the attorney general of a State has rea-
12 son to believe that an interest of the residents
13 of that State has been, or is threatened to be,
14 adversely affected by a violation of this section
15 by any business entity, the State, as parens
16 patriae, may bring a civil action on behalf of
17 the residents of the State in a district court of
18 the United States of appropriate jurisdiction
19 to—

20 “(i) enjoin that practice;

21 “(ii) enforce compliance with this sec-
22 tion;

23 “(iii) obtain damages—

24 “(I) in the sum of actual dam-
25 ages, restitution, and other compensa-

1 tion on behalf of the affected residents
2 of the State; and

3 “(II) punitive damages, if the
4 violation is willful or intentional; and

5 “(iv) obtain such other equitable relief
6 as the court may consider to be appro-
7 priate.

8 “(B) NOTICE.—Before filing an action
9 under subparagraph (A), the attorney general
10 of the State involved shall, if practicable, pro-
11 vide to the Attorney General of the United
12 States, and where applicable, to the appropriate
13 Federal agency with the authority to enforce
14 this section under paragraph (2)—

15 “(i) a written notice of the action; and

16 “(ii) a copy of the complaint for the
17 action.

18 “(4) INTERVENTION.—

19 “(A) IN GENERAL.—On receiving notice of
20 an action under paragraph (3), the Attorney
21 General of the United States, and any Federal
22 agency with authority to enforce this section
23 under paragraph (2), shall have the right to in-
24 tervene in that action.

1 “(B) EFFECT OF INTERVENTION.—Any
2 person or agency under subparagraph (A) that
3 intervenes in an action under paragraph (2)
4 shall have the right to be heard on all relevant
5 matters arising therein.

6 “(C) SERVICE OF PROCESS.—Upon the re-
7 quest of the Attorney General of the United
8 States or any Federal agency with the authority
9 to enforce this section under paragraph (2), the
10 attorney general of a State that has filed an ac-
11 tion under this section shall, pursuant to rule
12 4(d)(4) of the Federal Rules of Civil Procedure,
13 serve the Attorney General of the United States
14 or the head of such Federal agency, with a copy
15 of the complaint.

16 “(5) CONSTRUCTION.—For purposes of bring-
17 ing any civil action under this subsection, nothing in
18 this section shall be construed to prevent an attor-
19 ney general of a State from exercising the powers
20 conferred on such attorney general by the laws of
21 that State to—

22 “(A) conduct investigations;

23 “(B) administer oaths or affirmations; or

1 “(C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 “(6) LIMITATION ON STATE ACTION WHILE
5 FEDERAL ACTION IS PENDING.—In any case in
6 which an action is instituted by or on behalf of the
7 Attorney General of the United States, or appro-
8 priate Federal regulator authorized under paragraph
9 (2), for a violation of this section, no State may,
10 during the pendency of that action, institute an ac-
11 tion under this section against any defendant named
12 in the complaint in that action for such violation.

13 “(7) VENUE; SERVICE OF PROCESS.—

14 “(A) VENUE.—Any action brought under
15 this subsection may be brought in the district
16 court of the United States—

17 “(i) where the defendant resides;

18 “(ii) where the defendant is doing
19 business; or

20 “(iii) that meets applicable require-
21 ments relating to venue under section 1391
22 of title 28.

23 “(B) SERVICE OF PROCESS.—In an action
24 brought under this subsection, process may be
25 served in any district in which the defendant—

1 “(i) resides;

2 “(ii) is doing business; or

3 “(iii) may be found.

4 “(8) AFFIRMATIVE DEFENSE.—In any civil ac-
 5 tion brought to enforce this section, it is an affirma-
 6 tive defense (which the defendant must establish by
 7 a preponderance of the evidence) for a business enti-
 8 ty to file an affidavit or answer stating that—

9 “(A) the business entity has made a rea-
 10 sonably diligent search of its available business
 11 records; and

12 “(B) the records requested under this sec-
 13 tion do not exist or are not available.

14 “(9) NO PRIVATE RIGHT OF ACTION.—Nothing
 15 in this section shall be construed to provide a private
 16 right of action or claim for relief.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
 18 at the beginning of chapter 47 of title 18, United States
 19 Code, is amended by inserting after the item relating to
 20 section 1028 the following new item:

“1028A. Treatment of identity theft mitigation.”.

21 **SEC. 4. AMENDMENTS TO THE FAIR CREDIT REPORTING**
 22 **ACT.**

23 (a) CONSUMER REPORTING AGENCY BLOCKING OF
 24 INFORMATION RESULTING FROM IDENTITY THEFT.—

1 Section 611 of the Fair Credit Reporting Act (15 U.S.C.
2 1681i) is amended by adding at the end the following:

3 “(e) BLOCK OF INFORMATION RESULTING FROM
4 IDENTITY THEFT.—

5 “(1) BLOCK.—Except as provided in paragraph
6 (3) and not later than 30 days after the date of re-
7 ceipt of proof of the identity of a consumer and an
8 official copy of a police report evidencing the claim
9 of the consumer of identity theft, a consumer report-
10 ing agency shall block the reporting of any informa-
11 tion identified by the consumer in the file of the con-
12 sumer resulting from the identity theft, so that the
13 information cannot be reported.

14 “(2) NOTIFICATION.—A consumer reporting
15 agency shall promptly notify the furnisher of infor-
16 mation identified by the consumer under paragraph
17 (1)—

18 “(A) that the information may be a result
19 of identity theft;

20 “(B) that a police report has been filed;

21 “(C) that a block has been requested under
22 this subsection; and

23 “(D) of the effective date of the block.

24 “(3) AUTHORITY TO DECLINE OR RESCIND.—

1 “(A) IN GENERAL.—A consumer reporting
2 agency may decline to block, or may rescind
3 any block, of consumer information under this
4 subsection if—

5 “(i) in the exercise of good faith and
6 reasonable judgment, the consumer report-
7 ing agency finds that—

8 “(I) the information was blocked
9 due to a misrepresentation of fact by
10 the consumer relevant to the request
11 to block; or

12 “(II) the consumer knowingly ob-
13 tained possession of goods, services, or
14 moneys as a result of the blocked
15 transaction or transactions, or the
16 consumer should have known that the
17 consumer obtained possession of
18 goods, services, or moneys as a result
19 of the blocked transaction or trans-
20 actions; or

21 “(ii) the consumer agrees that the
22 blocked information or portions of the
23 blocked information were blocked in error.

24 “(B) NOTIFICATION TO CONSUMER.—If
25 the block of information is declined or rescinded

1 under this paragraph, the affected consumer
2 shall be notified promptly, in the same manner
3 as consumers are notified of the reinsertion of
4 information under subsection (a)(5)(B).

5 “(C) SIGNIFICANCE OF BLOCK.—For pur-
6 poses of this paragraph, if a consumer report-
7 ing agency rescinds a block, the presence of in-
8 formation in the file of a consumer prior to the
9 blocking of such information is not evidence of
10 whether the consumer knew or should have
11 known that the consumer obtained possession of
12 any goods, services, or monies as a result of the
13 block.

14 “(4) EXCEPTIONS.—

15 “(A) NEGATIVE INFORMATION DATA.—A
16 consumer reporting agency shall not be required
17 to comply with this subsection when such agen-
18 cy is issuing information for authorizations, for
19 the purpose of approving or processing nego-
20 tiable instruments, electronic funds transfers,
21 or similar methods of payment, based solely on
22 negative information, including—

23 “(i) dishonored checks;

24 “(ii) accounts closed for cause;

25 “(iii) substantial overdrafts;

1 “(iv) abuse of automated teller ma-
2 chines; or

3 “(v) other information which indicates
4 a risk of fraud occurring.

5 “(B) RESELLERS.—

6 “(i) NO RESELLER FILE.—The provi-
7 sions of this subsection do not apply to a
8 consumer reporting agency if the consumer
9 reporting agency—

10 “(I) does not maintain a file on
11 the consumer from which consumer
12 reports are produced;

13 “(II) is not, at the time of the re-
14 quest of the consumer under para-
15 graph (1), otherwise furnishing or re-
16 selling a consumer report concerning
17 the information identified by the con-
18 sumer; and

19 “(III) informs the consumer, by
20 any means, that the consumer may re-
21 port the identity theft to the Federal
22 Trade Commission to obtain consumer
23 information regarding identity theft.

24 “(ii) RESELLER WITH FILE.—The
25 sole obligation of the consumer reporting

1 agency under this subsection, with regard
2 to any request of a consumer under this
3 subsection, shall be to block the consumer
4 report maintained by the consumer report-
5 ing agency from any subsequent use if—

6 “(I) the consumer, in accordance
7 with the provisions of paragraph (1),
8 identifies, to a consumer reporting
9 agency, information in the file of the
10 consumer that resulted from identity
11 theft;

12 “(II) the consumer reporting
13 agency is acting as a reseller of the
14 identified information by assembling
15 or merging information about that
16 consumer which is contained in the
17 database of not less than 1 other con-
18 sumer reporting agency; and

19 “(III) the consumer reporting
20 agency does not store or maintain a
21 database of information obtained for
22 resale from which new consumer re-
23 ports are produced.

24 “(iii) NOTICE.—In carrying out its
25 obligation under clause (ii), the consumer

1 reporting agency shall provide a notice to
2 the consumer of the decision to block the
3 file. Such notice shall contain the name,
4 address, and telephone number of each
5 consumer reporting agency from which the
6 consumer information was obtained for re-
7 sale.”.

8 (b) FALSE CLAIMS.—Section 1028 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 “(j) Any person who knowingly falsely claims to be
12 a victim of identity theft for the purpose of obtaining the
13 blocking of information by a consumer reporting agency
14 under section 611(e)(1) of the Fair Credit Reporting Act
15 (15 U.S.C. 1681i(e)(1)) shall be fined under this title, im-
16 prisoned not more than 3 years, or both.”.

17 (c) STATUTE OF LIMITATIONS.—Section 618 of the
18 Fair Credit Reporting Act (15 U.S.C. 1681p) is amended
19 to read as follows:

20 **“SEC. 618. JURISDICTION OF COURTS; LIMITATION ON AC-**
21 **TIONS.**

22 “(a) IN GENERAL.—Except as provided in sub-
23 sections (b) and (c), an action to enforce any liability cre-
24 ated under this title may be brought in any appropriate
25 United States district court without regard to the amount

1 in controversy, or in any other court of competent jurisdic-
2 tion, not later than 2 years from the date of the defend-
3 ant's violation of any requirement under this title.

4 “(b) WILLFUL MISREPRESENTATION.—In any case
5 in which the defendant has materially and willfully mis-
6 represented any information required to be disclosed to an
7 individual under this title, and the information misrepre-
8 sented is material to the establishment of the liability of
9 the defendant to that individual under this title, an action
10 to enforce a liability created under this title may be
11 brought at any time within 2 years after the date of dis-
12 covery by the individual of the misrepresentation.

13 “(c) IDENTITY THEFT.—An action to enforce a liabil-
14 ity created under this title may be brought not later than
15 4 years from the date of the defendant's violation if—

16 “(1) the plaintiff is the victim of an identity
17 theft; or

18 “(2) the plaintiff—

19 “(A) has reasonable grounds to believe
20 that the plaintiff is the victim of an identity
21 theft; and

22 “(B) has not materially and willfully mis-
23 represented such a claim.”.

1 **SEC. 5. COORDINATING COMMITTEE STUDY OF COORDINA-**
2 **TION BETWEEN FEDERAL, STATE, AND LOCAL**
3 **AUTHORITIES IN ENFORCING IDENTITY**
4 **THEFT LAWS.**

5 (a) MEMBERSHIP; TERM.—Section 2 of the Internet
6 False Identification Prevention Act of 2000 (18 U.S.C.
7 1028 note) is amended—

8 (1) in subsection (b), by striking “and the Com-
9 missioner of Immigration and Naturalization” and
10 inserting “the Commissioner of Immigration and
11 Naturalization, the Chairman of the Federal Trade
12 Commission, the Postmaster General, and the Com-
13 missioner of the United States Customs Service,”;
14 and

15 (2) in subsection (c), by striking “2 years after
16 the effective date of this Act.” and inserting “on De-
17 cember 28, 2005.”.

18 (b) CONSULTATION.—Section 2 of the Internet False
19 Identification Prevention Act of 2000 (18 U.S.C. 1028
20 note) is amended—

21 (1) by redesignating subsection (d) as sub-
22 section (e); and

23 (2) by inserting after subsection (c) the fol-
24 lowing:

25 “(d) CONSULTATION.—In discharging its duties, the
26 coordinating committee shall consult with interested par-

1 ties, including State and local law enforcement agencies,
2 State attorneys general, representatives of business enti-
3 ties (as that term is defined in section 4 of the Identity
4 Theft Victims Assistance Act of 2003), including tele-
5 communications and utility companies, and organizations
6 representing consumers.”.

7 (c) REPORT DISTRIBUTION AND CONTENTS.—Sec-
8 tion 2(e) of the Internet False Identification Prevention
9 Act of 2000 (18 U.S.C. 1028 note) (as redesignated by
10 subsection (b)) is amended—

11 (1) by striking paragraph (1) and inserting the
12 following:

13 “(1) IN GENERAL.—The Attorney General and
14 the Secretary of the Treasury, at the end of each
15 year of the existence of the coordinating committee,
16 shall report on the activities of the coordinating
17 committee to—

18 “(A) the Committee on the Judiciary of
19 the Senate;

20 “(B) the Committee on the Judiciary of
21 the House of Representatives;

22 “(C) the Committee on Banking, Housing,
23 and Urban Affairs of the Senate; and

24 “(D) the Committee on Financial Services
25 of the House of Representatives.”;

1 (2) in subparagraph (E), by striking “and” at
2 the end; and

3 (3) by striking subparagraph (F) and inserting
4 the following:

5 “(F) a comprehensive description of Fed-
6 eral assistance provided to State and local law
7 enforcement agencies to address identity theft;

8 “(G) a comprehensive description of co-
9 ordination activities between Federal, State,
10 and local law enforcement agencies that address
11 identity theft; and

12 “(H) recommendations in the discretion of
13 the President, if any, for legislative or adminis-
14 trative changes that would—

15 “(i) facilitate more effective investiga-
16 tion and prosecution of cases involving—

17 “(I) identity theft; and

18 “(II) the creation and distribu-
19 tion of false identification documents;

20 “(ii) improve the effectiveness of Fed-
21 eral assistance to State and local law en-
22 forcement agencies and coordination be-
23 tween Federal, State, and local law en-
24 forcement agencies; and

1 “(iii) simplify efforts by a person nec-
2 essary to rectify the harm that results
3 from the theft of the identity of such per-
4 son.”.

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