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(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R.

To amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against identity theft, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. TANNER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Social Security Act to enhance Social Security account number privacy protections, to prevent fraudulent misuse of the Social Security account number, and to otherwise enhance protection against 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Social Security Number Privacy and Identity Theft Pre-
6 vention Act of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents is
2 as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Restrictions on the sale or display to the general public of social security account numbers by governmental entities.
- Sec. 3. Prohibition of display of social security account numbers on checks issued for payment by governmental entities.
- Sec. 4. Prohibition of the display of social security account numbers on certain government identification cards or tags.
- Sec. 5. Prohibition of inmate access to social security account numbers.
- Sec. 6. Measures to preclude unauthorized disclosure by governmental entities of social security account numbers and protect the confidentiality of such numbers.
- Sec. 7. Uniform standards for truncation of the social security account number.
- Sec. 8. Prohibition of the sale, purchase, and display to the general public of the social security account number in the private sector.
- Sec. 9. New criminal penalties for misuse of social security account numbers.
- Sec. 10. Extension of civil monetary penalty authority.
- Sec. 11. Criminal penalties for employees of the Social Security Administration who knowingly and fraudulently issue social security cards or social security account numbers.
- Sec. 12. Enhanced penalties in cases of terrorism, drug trafficking, crimes of violence, or prior offenses.
- Sec. 13. Regulatory and enforcement authority with respect to misuse of the social security account number.
- Sec. 14. Study on feasibility of banning social security account number as an authenticator.

3 **SEC. 2. RESTRICTIONS ON THE SALE OR DISPLAY TO THE**
4 **GENERAL PUBLIC OF SOCIAL SECURITY AC-**
5 **COUNT NUMBERS BY GOVERNMENTAL ENTI-**
6 **TIES.**

7 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
8 Security Act (42 U.S.C. 405(c)(2)(C)) is amended by add-
9 ing at the end the following new clause:

10 “(x)(I) A governmental entity (as defined in sub-
11 clause (X)) may not sell or display to the general public
12 any social security account number if such number has
13 been disclosed to such governmental entity pursuant to the
14 assertion by such governmental entity to any person that

1 disclosure of such number is a statutory or regulatory re-
2 quirement. Notwithstanding the preceding sentence, such
3 number may be sold or displayed to the general public in
4 accordance with the exceptions specified in subclauses (II),
5 (III), (IV), (V), (VI), (VII), and (VIII) (and for no other
6 purpose).

7 “(II) Notwithstanding subclause (I), a social security
8 account number may be sold by a governmental entity to
9 the extent that such sale is specifically authorized by this
10 Act or the Privacy Act of 1974.

11 “(III) Notwithstanding subclause (I), a social secu-
12 rity account number may be sold by a governmental entity
13 to the extent that is necessary or appropriate for law en-
14 forcement or national security purposes, as determined
15 under regulations which shall be issued as provided in sec-
16 tion 1129C.

17 “(IV) Notwithstanding subclause (I), a social security
18 account number may be sold by a governmental entity to
19 the extent that such sale is required to comply with a tax
20 law of the United States or of any State (or political sub-
21 division thereof).

22 “(V) Notwithstanding subclause (I), a social security
23 account number may be sold by a State department of
24 motor vehicles as authorized under subsection (b) of sec-
25 tion 2721 of title 18, United States Code, if such number

1 is to be used pursuant to such sale solely for purposes
2 permitted under paragraph (1), (6), or (9) of such sub-
3 section.

4 “(VI) Notwithstanding subclause (I), a social security
5 account number may be sold or otherwise made available
6 by a governmental entity to a consumer reporting agency
7 (as defined in section 603(f) of the Fair Credit Reporting
8 Act (15 U.S.C. 1681a(f))) for use or disclosure solely for
9 permissible purposes described in section 604(a) of such
10 Act (15 U.S.C. 1681b(a)).

11 “(VII) Notwithstanding subclause (I), a social secu-
12 rity account number may be sold by a governmental entity
13 to the extent necessary for research (other than market
14 research) conducted by any governmental entity for the
15 purpose of advancing the public good, on the condition
16 that the researcher provides adequate assurances that the
17 social security account numbers will not be used to harass,
18 target, or publicly reveal information concerning any iden-
19 tifiable individuals, that information about identifiable in-
20 dividuals obtained from the research will not be used to
21 make decisions that directly affect the rights, benefits, or
22 privileges of specific individuals, and that the researcher
23 has in place appropriate safeguards to protect the privacy
24 and confidentiality of any information about identifiable
25 individuals, including procedures to ensure that the social

1 security account numbers will be encrypted or otherwise
2 appropriately secured from unauthorized disclosure. In the
3 case of medical research, the Commissioner of Social Secu-
4 rity shall maintain ongoing consultation with the Office
5 for Civil Rights of the Department of Health and Human
6 Services to ensure that the sale or purchase of social secu-
7 rity account numbers which constitute personally identifi-
8 able medical information is permitted only in compliance
9 with existing Federal rules and regulations prescribed by
10 the Secretary of Health and Human Services pursuant to
11 section 264(c) of the Health Insurance Portability and Ac-
12 countability Act of 1996 (110 Stat. 2033).

13 “(VIII) Notwithstanding subclause (I), a social secu-
14 rity account number may be sold or displayed to the gen-
15 eral public by a governmental entity under such other cir-
16 cumstances as may be specified in regulations issued as
17 provided in section 1129C.

18 “(IX) This clause does not apply with respect to a
19 social security account number of a deceased individual.

20 “(X) For purposes of this clause, the term ‘govern-
21 mental entity’ means an executive, legislative, or judicial
22 agency or instrumentality of the Federal Government or
23 of a State or political subdivision thereof, a federally rec-
24 ognized Indian tribe, or a trustee appointed in a case
25 under title 11, United States Code. Such term includes

1 a person acting as an agent of such an agency or instru-
2 mentality, Indian tribe, or trustee. For purposes of this
3 subclause, the term ‘State’ has the meaning provided in
4 subparagraph (D)(iii)(II).

5 “(XI) For purposes of this clause, the term ‘sell’
6 means, in connection with a social security account, to ob-
7 tain, directly or indirectly, anything of value in exchange
8 for such number. Such term does not include the submis-
9 sion of such number as part of the process for applying
10 for any type of Government benefits or programs (such
11 as grants, loans, or welfare or other public assistance pro-
12 grams) or as part of the administration of, or provision
13 of benefits under, an employee benefit plan.

14 “(XII) For purposes of this clause, the term ‘display
15 to the general public’ shall have the meaning provided
16 such term in section 208A(a)(3)(A). In any case in which
17 a governmental entity requires transmittal to such govern-
18 mental entity of an individual’s social security account
19 number by means of the Internet without ensuring that
20 such number is encrypted or otherwise appropriately se-
21 cured from disclosure, any such transmittal of such num-
22 ber as so required shall be treated, for purposes of this
23 clause, as a ‘display to the general public’ of such number
24 by such governmental entity for purposes of this clause.

1 “(XIII) For purposes of this clause, the term ‘social
2 security account number’ includes any derivative of such
3 number. Notwithstanding the preceding sentence, any ex-
4 pression, contained in or on any item sold or displayed
5 to the general public, shall not be treated as a social secu-
6 rity account number solely because such expression sets
7 forth not more than the last 4 digits of such number, if
8 the remainder of such number cannot be determined based
9 solely on such expression or any other matter presented
10 in or on such item.

11 “(XIV) Nothing in the preceding subclauses of this
12 clause shall be construed as superseding, altering, or af-
13 fecting any statute, regulation, order, or interpretation in
14 effect under any other Federal or State law, except to the
15 extent that such statute, regulation, order, or interpreta-
16 tion is inconsistent with such subclauses, and then only
17 to the extent of the inconsistency. For purposes of this
18 subclause, a statute, regulation, order, or interpretation is
19 not inconsistent with the preceding subclauses of this
20 clause if the protection such statute, regulation, order, or
21 interpretation affords any person is greater than the pro-
22 tection provided under such subclauses.”.

23 (b) EFFECTIVE DATE AND RELATED RULES.—

24 (1) IN GENERAL.—Initial final regulations pre-
25 scribed to carry out the provisions of section

1 205(c)(2)(C)(x) of the Social Security Act (added by
2 this section) shall be issued not later than the last
3 date of the 18th calendar month following the date
4 of the enactment of this Act. Such provisions shall
5 take effect, with respect to matters governed by such
6 regulations issued by the Commissioner of Social Se-
7 curity or any other agency or instrumentality of the
8 United States, 1 year after the date of the issuance
9 of such regulations by the Commissioner or such
10 other agency or instrumentality, respectively. Such
11 provisions shall apply in the case of displays to the
12 general public, as defined in section 208A(a)(3) of
13 such Act (added by section 8 of this Act), to such
14 displays originally occurring after such 1-year pe-
15 riod. Such provisions shall not apply with respect to
16 any display of a record (containing a social security
17 account number (or any derivative thereof)) gen-
18 erated prior to the close of such 1-year period.

19 (2) SUNSET OF EXCEPTION.—The last sentence
20 of subclause (XIII) of section 205(c)(2)(C)(x) of the
21 Social Security Act (added by this section) shall
22 cease to be effective with respect to sales or displays
23 to the general public occurring after 2 years after
24 the effective date of the initial final regulations pre-

1 scribed to carry out the provisions of such section
2 205(c)(2)(C)(x).

3 **SEC. 3. PROHIBITION OF DISPLAY OF SOCIAL SECURITY AC-**
4 **COUNT NUMBERS ON CHECKS ISSUED FOR**
5 **PAYMENT BY GOVERNMENTAL ENTITIES.**

6 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
7 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by
8 section 2 of this Act) is amended further by adding at
9 the end the following new clause:

10 “(xi) No governmental entity (as defined in clause
11 (x)(X)) may include the social security account number
12 of any individual (or any derivative of such number) on
13 any check issued for any payment by such governmental
14 entity or on any document attached to or accompanying
15 such a check.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply with respect to checks (and docu-
18 ments attached to or accompanying such checks) issued
19 after 1 year after the date of the enactment of this Act.

20 **SEC. 4. PROHIBITION OF THE DISPLAY OF SOCIAL SECU-**
21 **RITY ACCOUNT NUMBERS ON CERTAIN GOV-**
22 **ERNMENT IDENTIFICATION CARDS OR TAGS.**

23 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
24 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the

1 preceding provisions of this Act) is amended further by
2 adding at the end the following new clause:

3 “(xii) No governmental entity (as defined in clause
4 (x)(X)), and no other person offering benefits in connec-
5 tion with an employee benefit plan maintained by such
6 governmental entity, may display a social security account
7 number (or any derivative thereof) on any card or tag that
8 is commonly provided—

9 “(I) to employees of such governmental entity,

10 “(II) in the case of a governmental entity which
11 is an educational institution, to its students, or

12 “(III) in the case of a governmental entity
13 which is a medical institution, to its patients,

14 (or to their family members) for purposes of identification

15 or include on such card or tag a magnetic strip, bar code,

16 or other means of communication which conveys such

17 number (or derivative thereof). The requirements of this

18 clause shall also apply to the Medicare card issued by the

19 Department of Health and Human Services.”.

20 (b) EFFECTIVE DATE.—The amendment made by

21 this section shall apply with respect to cards or tags issued

22 after 1 year after the date of the enactment of this Act,

23 except that the last sentence of section 205(c)(2)(C)(xii)

24 (as added by this section) shall take effect 2 and one-half

25 years after the date of the enactment of this Act.

1 **SEC. 5. PROHIBITION OF INMATE ACCESS TO SOCIAL SECUR-**
2 **RITY ACCOUNT NUMBERS.**

3 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
4 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the
5 preceding provisions of this Act) is amended further by
6 adding at the end the following new clause:

7 “(xiii) No governmental entity (as defined in clause
8 (x)(X)) may employ, or enter into a contract for the use
9 or employment of, prisoners in any capacity that would
10 allow such prisoners access to the social security account
11 numbers of other individuals (or any derivatives of such
12 numbers). For purposes of this clause, the term ‘prisoner’
13 means an individual confined in a jail, prison, or other
14 penal institution or correctional facility.”.

15 (b) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendment made by this section shall
18 apply with respect to employment of prisoners, or
19 entry into contract for the use or employment of
20 prisoners, on or after the date of the enactment of
21 this Act.

22 (2) TREATMENT OF CURRENT ARRANGE-
23 MENTS.—In the case of—

24 (A) prisoners employed as described in
25 clause (xiii) of section 205(c)(2)(C) of the So-

1 cial Security Act (as added by this section) on
2 the date of the enactment of this Act, and

3 (B) contracts described in such clause in
4 effect on such date,

5 the amendment made by this section shall take ef-
6 fect 90 days after the date of the enactment of this
7 Act.

8 **SEC. 6. MEASURES TO PRECLUDE UNAUTHORIZED DISCLO-**
9 **SURE BY GOVERNMENTAL ENTITIES OF SO-**
10 **CIAL SECURITY ACCOUNT NUMBERS AND**
11 **PROTECT THE CONFIDENTIALITY OF SUCH**
12 **NUMBERS.**

13 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
14 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the
15 preceding provisions of this Act) is amended further by
16 adding at the end the following new clause:

17 “(xiv) Except as otherwise provided in this para-
18 graph, in the case of any governmental entity (as defined
19 in clause (x)(X)) having access to an individual’s social
20 security account number—

21 “(I) no officer or employee thereof shall have
22 access to such number for any purpose other than
23 the effective administration of the statutory provi-
24 sions governing its functions,

1 “(II) such governmental entity shall restrict, to
2 the satisfaction of the Commissioner of Social Secu-
3 rity, access to social security account numbers ob-
4 tained thereby to officers and employees thereof
5 whose duties or responsibilities require access for the
6 administration or enforcement of such provisions,
7 and

8 “(III) such governmental entity shall provide
9 such other safeguards as the Commissioner deter-
10 mines to be necessary or appropriate to preclude un-
11 authorized access to the social security account num-
12 ber and to otherwise protect the confidentiality of
13 such number.

14 For purposes of this clause the term ‘social security ac-
15 count number’ includes any derivative thereof.”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall take effect 1 year after the date of the
18 enactment of this Act.

19 **SEC. 7. UNIFORM STANDARDS FOR TRUNCATION OF THE**
20 **SOCIAL SECURITY ACCOUNT NUMBER.**

21 (a) IN GENERAL.—Section 205(c)(2)(C) of the Social
22 Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by the
23 preceding provisions of this Act) is amended further by
24 adding at the end the following new clause:

1 “(xv) The truncation by any governmental entity (as
2 defined in clause (x)(X)) or by any person in the private
3 sector of an individual’s social security account number
4 which is used by such governmental entity or person other-
5 wise in accordance with the requirements of this Act shall
6 be in accordance with a uniform truncation standard
7 which shall be specified in regulations prescribed by the
8 Commissioner of Social Security. Under such standard,
9 the number as truncated shall set forth not more than the
10 last 4 digits of the number. Nothing in this clause shall
11 be construed to authorize any use of the social security
12 account number which is not otherwise authorized by this
13 title or regulations prescribed thereunder.”.

14 (b) EFFECTIVE DATE.—Initial final regulations pre-
15 scribed to carry out the provisions of section
16 205(c)(2)(C)(xv) of the Social Security Act (added by this
17 section) shall be issued not later than the last date of the
18 18th calendar month following the date of the enactment
19 of this Act. Such provisions shall take effect, with respect
20 to matters governed by such regulations issued by the
21 Commissioner or any other agency or instrumentality of
22 the United States, 1 year after the date of the issuance
23 of such regulations by the Commissioner or such other
24 agency or instrumentality, respectively.

1 **SEC. 8. PROHIBITION OF THE SALE, PURCHASE, AND DIS-**
2 **PLAY TO THE GENERAL PUBLIC OF THE SO-**
3 **CIAL SECURITY ACCOUNT NUMBER IN THE**
4 **PRIVATE SECTOR.**

5 (a) IN GENERAL.—Title II of the Social Security Act
6 is amended by inserting after section 208 (42 U.S.C. 408)
7 the following new section:

8 “PROHIBITION OF THE SALE, PURCHASE, AND DISPLAY
9 TO THE GENERAL PUBLIC OF THE SOCIAL SECURITY
10 ACCOUNT NUMBER IN THE PRIVATE SECTOR

11 “SEC. 208A. (a) DEFINITIONS.—For purposes of this
12 section:

13 “(1) PERSON.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the term ‘person’ means any indi-
16 vidual, partnership, corporation, trust, estate,
17 cooperative, association, or any other entity.

18 “(B) EXCLUSION OF GOVERNMENTAL EN-
19 TITIES.—Such term does not include a govern-
20 mental entity. Nothing in this subparagraph
21 shall be construed to authorize, in connection
22 with a governmental entity, an act or practice
23 otherwise prohibited under this section or sec-
24 tion 205(c)(2)(C).

25 “(2) SELLING AND PURCHASING.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B)—

3 “(i) SELL.—The term ‘sell’ in connec-
4 tion with a social security account number
5 means to obtain, directly or indirectly, any-
6 thing of value in exchange for such num-
7 ber.

8 “(ii) PURCHASE.—The term ‘pur-
9 chase’ in connection with a social security
10 account number means to provide, directly
11 or indirectly, anything of value in exchange
12 for such number.

13 “(B) EXCEPTIONS.—The terms ‘sell’ and
14 ‘purchase’ in connection with a social security
15 account number do not include the submission
16 of such number as part of—

17 “(i) the process for applying for any
18 type of Government benefits or programs
19 (such as grants or loans or welfare or
20 other public assistance programs),

21 “(ii) the administration of, or provi-
22 sion of benefits under, an employee benefit
23 plan, or

24 “(iii) the sale, lease, merger, transfer,
25 or exchange of a trade or business.

1 “(3) DISPLAY TO THE GENERAL PUBLIC.—

2 “(A) IN GENERAL.—The term ‘display to
3 the general public’ means, in connection with a
4 social security account number, to intentionally
5 place such number in a viewable manner on an
6 Internet site that is available to the general
7 public or to make such number available in any
8 other manner intended to provide access to such
9 number by the general public.

10 “(B) INTERNET TRANSMISSIONS.—In any
11 case in which a person requires transmittal to
12 such person of an individual’s social security ac-
13 count number by means of the Internet without
14 ensuring that such number is encrypted or oth-
15 erwise well-secured from disclosure, any such
16 transmittal of such number as so required shall
17 be treated as a ‘display to the general public’
18 of such number by such person.

19 “(4) SOCIAL SECURITY ACCOUNT NUMBER.—

20 “(A) IN GENERAL.—The term ‘social secu-
21 rity account number’ has the meaning given
22 such term in section 208(e), except that such
23 term includes any derivative of such number.

24 “(B) 4-DIGIT EXPRESSION.—Notwith-
25 standing the preceding sentence, for purposes of

1 subsection (b)(1)(A), any expression, contained
2 in or on any item sold or displayed to the gen-
3 eral public, shall not be treated as a social secu-
4 rity account number solely because such expres-
5 sion sets forth not more than the last 4 digits
6 of such number, if the remainder of such num-
7 ber cannot be determined based solely on such
8 expression or any other matter presented in or
9 on such item.

10 “(5) GOVERNMENTAL ENTITY.—

11 “(A) IN GENERAL.—The term ‘govern-
12 mental entity’ means an executive, legislative,
13 or judicial agency or instrumentality of the
14 Federal Government, a State or political sub-
15 division thereof, a federally recognized Indian
16 tribe, or a trustee appointed in a case under
17 title 11, United States Code. Such term in-
18 cludes a person acting as an agent of such an
19 agency or instrumentality, Indian tribe, or
20 trustee.

21 “(B) STATE.—The term ‘State’ includes
22 the District of Columbia, the Commonwealth of
23 Puerto Rico, the Virgin Islands, Guam, the
24 Commonwealth of the Northern Marianas, and
25 the Trust Territory of the Pacific Islands.

1 “(b) PROHIBITION OF SALE, PURCHASE, AND DIS-
2 PLAY TO THE GENERAL PUBLIC.—

3 “(1) IN GENERAL.—Except as provided in para-
4 graph (2), it shall be unlawful for any person to—

5 “(A) sell or purchase a social security ac-
6 count number or display to the general public
7 a social security account number, or

8 “(B) obtain or use any individual’s social
9 security account number for the purpose of lo-
10 cating or identifying such individual with the
11 intent to harass, harm, or physically injure such
12 individual or using the identity of such indi-
13 vidual for any illegal purpose.

14 “(2) EXCEPTIONS.—

15 “(A) IN GENERAL.—Notwithstanding para-
16 graph (1), and subject to paragraph (3), a so-
17 cial security account number may be sold or
18 purchased by any person to the extent provided
19 in this subsection (and for no other purpose) as
20 follows:

21 “(i) to the extent necessary for law
22 enforcement, including (but not limited to)
23 the enforcement of a child support obliga-
24 tion, as determined under regulations
25 issued as provided in section 1129C;

1 “(ii) to the extent necessary for na-
2 tional security purposes, as determined
3 under regulations issued as provided in
4 section 1129C;

5 “(iii) to the extent necessary for pub-
6 lic health purposes;

7 “(iv) to the extent necessary in emer-
8 gency situations to protect the health or
9 safety of 1 or more individuals;

10 “(v) to the extent that the sale or pur-
11 chase is required to comply with a tax law
12 of the United States or of any State (or
13 political subdivision thereof);

14 “(vi) to the extent that the sale or
15 purchase is to or by a consumer reporting
16 agency (as defined in section 603(f) of the
17 Fair Credit Reporting Act (15 U.S.C.
18 1681a(f))) for use or disclosure solely for
19 permissible purposes described in section
20 604(a) of such Act (15 U.S.C. 1681b(a));
21 and

22 “(vii) to the extent necessary for re-
23 search (other than market research) con-
24 ducted by an agency or instrumentality of
25 the United States or of a State or political

1 subdivision thereof (or a person acting as
2 an agent of such an agency or instrumen-
3 tality) for the purpose of advancing the
4 public good, on the condition that the re-
5 searcher provides adequate assurances
6 that—

7 “(I) the social security account
8 numbers will not be used to harass,
9 target, or publicly reveal information
10 concerning any identifiable individ-
11 uals;

12 “(II) information about identifi-
13 able individuals obtained from the re-
14 search will not be used to make deci-
15 sions that directly affect the rights,
16 benefits, or privileges of specific indi-
17 viduals; and

18 “(III) the researcher has in place
19 appropriate safeguards to protect the
20 privacy and confidentiality of any in-
21 formation about identifiable individ-
22 uals, including procedures to ensure
23 that the social security account num-
24 bers will be encrypted or otherwise ap-

1 appropriately secured from unauthorized
2 disclosure.

3 “(B) MEDICAL RESEARCH.—In the case of
4 research referred to in subparagraph (A)(vii)
5 consisting of medical research, the Commis-
6 sioner of Social Security shall maintain ongoing
7 consultation with the Office for Civil Rights of
8 the Department of Health and Human Services
9 to ensure that the sale or purchase of social se-
10 curity account numbers which constitute per-
11 sonally identifiable medical information is per-
12 mitted only in compliance with existing Federal
13 rules and regulations prescribed by the Sec-
14 retary of Health and Human Services pursuant
15 to section 264(c) of the Health Insurance Port-
16 ability and Accountability Act of 1996 (110
17 Stat. 2033).

18 “(3) CONSENT AND OTHER CIRCUMSTANCES
19 DETERMINED BY REGULATION.—Notwithstanding
20 paragraph (1), a social security account number as-
21 signed to an individual may be sold or purchased by
22 any person—

23 “(A) to the extent consistent with such in-
24 dividual’s voluntary and affirmative written
25 consent to the sale or purchase, but only if—

1 “(i) the terms of the consent and the
2 right to refuse consent are presented to the
3 individual in a clear, conspicuous, and un-
4 derstandable manner,

5 “(ii) the individual is placed under no
6 obligation to provide consent to any such
7 sale or purchase, and

8 “(iii) the terms of the consent author-
9 ize the individual to limit the sale or pur-
10 chase to purposes directly associated with
11 the transaction with respect to which the
12 consent is sought, and

13 “(B) under such circumstances as may be
14 deemed appropriate in regulations issued as
15 provided under section 1129C.

16 “(c) PROHIBITION OF DISPLAY ON CHECKS.—It shall
17 be unlawful for any person to include the social security
18 account number of any other individual on any check
19 issued for any payment by such person or on any docu-
20 ment attached to or accompanying such a check.

21 “(d) PROHIBITION OF UNAUTHORIZED DISCLOSURE
22 TO GOVERNMENT AGENCIES OR INSTRUMENTALITIES.—

23 “(1) IN GENERAL.—It shall be unlawful for any
24 person to communicate by any means to any agency
25 or instrumentality of the United States or of any

1 State or political subdivision thereof the social secu-
2 rity account number of any individual other than
3 such person without the written permission of such
4 individual, unless the number was requested by the
5 agency or instrumentality. In the case of an indi-
6 vidual who is legally incompetent, permission pro-
7 vided by the individual's legal representatives shall
8 be deemed to be permission provided by such indi-
9 vidual.

10 “(2) EXCEPTIONS.—Paragraph (1) shall not
11 apply to the extent necessary—

12 “(A) for law enforcement, including (but
13 not limited to) the enforcement of a child sup-
14 port obligation, or

15 “(B) for national security purposes,
16 as determined under regulations issued as provided
17 under section 1129C.

18 “(e) PROHIBITION OF THE DISPLAYS ON CARDS OR
19 TAGS REQUIRED FOR ACCESS TO GOODS, SERVICES, OR
20 BENEFITS.—No person may display a social security ac-
21 count number on any card or tag issued to any other per-
22 son for the purpose of providing such other person access
23 to any goods, services, or benefits or include on such card
24 or tag a magnetic strip, bar code, or other means of com-
25 munication which conveys such number.

1 “(f) PROHIBITION OF THE DISPLAYS ON EMPLOYEE
2 IDENTIFICATION CARDS OR TAGS.—No person that is an
3 employer, and no other person offering benefits in connec-
4 tion with an employee benefit plan maintained by such em-
5 ployer or acting as an agent of such employer, may display
6 a social security account number on any card or tag that
7 is commonly provided to employees of such employer (or
8 to their family members) for purposes of identification or
9 include on such card or tag a magnetic strip, bar code,
10 or other means of communication which conveys such
11 number.

12 “(g) MEASURES TO PRECLUDE UNAUTHORIZED DIS-
13 CLOSURE OF SOCIAL SECURITY ACCOUNT NUMBERS AND
14 PROTECT THE CONFIDENTIALITY OF SUCH NUMBERS.—
15 Subject to the preceding provisions of this section, any
16 person having access to the social security account number
17 of any individual other than such person shall, to the ex-
18 tent that such access is maintained for the conduct of such
19 person’s trade or business—

20 “(1) ensure that no officer or employee thereof
21 has access to such number for any purpose other
22 than as necessary for the conduct of such person’s
23 trade or business,

24 “(2) restrict, in accordance with regulations of
25 the Commissioner of Social Security, access to social

1 security account numbers obtained thereby to offi-
2 cers and employees thereof whose duties or respon-
3 sibilities require access for the conduct of such per-
4 son's trade or business, and

5 “(3) provide such safeguards as may be speci-
6 fied, in regulations of the Commissioner of Social
7 Security, to be necessary or appropriate to preclude
8 unauthorized access to the social security account
9 number and to otherwise protect the confidentiality
10 of such number.

11 “(h) DECEASED INDIVIDUALS.—This section does
12 not apply with respect to the social security account num-
13 ber of a deceased individual.

14 “(i) APPLICABILITY OF OTHER PROTECTIONS.—
15 Nothing in the preceding subsections of this section shall
16 be construed as superseding, altering, or affecting any
17 statutory provision, regulation, order, or interpretation in
18 effect under any other Federal or State law, except to the
19 extent that such statutory provision, regulation, order, or
20 interpretation is inconsistent with such subsections, and
21 then only to the extent of the inconsistency. For purposes
22 of this subclause, a statutory provision, regulation, order,
23 or interpretation is not inconsistent with the preceding
24 subsections of this section if the protection such statutory
25 provision, regulation, order, or interpretation affords any

1 person is greater than the protection provided under such
2 subsections.”.

3 (b) EFFECTIVE DATE AND RELATED RULES.—

4 (1) IN GENERAL.—Initial final regulations pre-
5 scribed to carry out the provisions of section 208A
6 of the Social Security Act (added by this section)
7 shall be issued not later than the last date of the
8 18th calendar month following the date of the enact-
9 ment of this Act. Such provisions shall take effect,
10 with respect to matters governed by such regulations
11 issued by the Commissioner of Social Security or
12 any other agency or instrumentality of the United
13 States, 1 year after the date of the issuance of such
14 regulations by the Commissioner of Social Security
15 or such other agency or instrumentality, respectively.
16 Section 208A(b) of such Act shall apply in the case
17 of displays to the general public (as defined in sec-
18 tion 208A(a)(3) of such Act) to such displays to the
19 general public originally occurring after such 1-year
20 period. Such provisions shall not apply with respect
21 to any such display to the general public of a record
22 (containing a social security account number (or any
23 derivative thereof)) generated prior to the close of
24 such 1-year period.

1 (2) SUNSET OF EXCEPTION.—Section
2 208A(a)(4)(B) of the Social Security Act (added by
3 this section) shall cease to be effective with respect
4 to sales, purchases, or displays to the general public
5 occurring after 2 years after the effective date of the
6 initial final regulations prescribed to carry out the
7 provisions of section 208A of such Act.

8 **SEC. 9. NEW CRIMINAL PENALTIES FOR MISUSE OF SOCIAL**
9 **SECURITY ACCOUNT NUMBERS.**

10 (a) IN GENERAL.—Section 208 of the Social Security
11 Act (42 U.S.C. 408) is amended—

12 (1) in subsection (a), by inserting “or” at the
13 end of paragraph (8) and by inserting after para-
14 graph (8) the following new paragraph:

15 “(9) willfully acts or fails to act so as to cause
16 a violation of section 208A(b)(1)(B);”.

17 (2) by redesignating subsections (b) through (e)
18 as subsections (c) through (f), respectively;

19 (3) in subsection (e)(1) (as so redesignated), by
20 inserting “or (b)” after “subsection (a)”; and

21 (4) by inserting after subsection (a) the fol-
22 lowing new subsection:

23 “(b)(1) Whoever—

24 “(A) knowingly, and with intent to commit, or
25 to aid or abet, any activity that constitutes a viola-

1 tion of Federal law, or a violation of any applicable
2 law of a State or political subdivision thereof if the
3 maximum penalty of such applicable law includes
4 imprisonment for 5 years or more—

5 “(i) possesses the social security account
6 number of another person without lawful au-
7 thority, or

8 “(ii) possesses a social security card, know-
9 ing that the social security account number or
10 other identifying information displayed on the
11 card has been altered, counterfeited, or forged
12 or that the card was falsely made, stolen, or ob-
13 tained from the Social Security Administration
14 by use of false information;

15 if such activity is committed, or aided or abetted,
16 with intent to use such social security account num-
17 ber, social security card, or other identifying infor-
18 mation displayed on such card in furtherance of
19 such violation;

20 “(B) being—

21 “(i) an officer or employee of any govern-
22 mental entity (as defined in section
23 205(c)(2)(C)(x)(X)), or

24 “(ii) a person acting as an agent of a gov-
25 ernmental entity (as so defined),

1 willfully acts or fails to act so as to cause a violation
2 of clause (vi)(II), (xi), (xii), or (xv) of section
3 205(c)(2)(C);

4 “(C) being a trustee appointed in a case under
5 title 11, United States Code (or an officer or em-
6 ployee thereof or a person acting as an agent there-
7 of), willfully acts or fails to act so as to cause a vio-
8 lation of clause (xi) or (xv) of section 205(c)(2)(C);
9 or

10 “(D) willfully acts or fails to act so as to cause
11 a violation of subsection (c), (d), (e), or (f) of sec-
12 tion 208A or, as a person in the private sector, will-
13 fully acts or fails to act so as to cause a violation
14 of section 205(c)(2)(C)(xv);

15 shall be guilty of a misdemeanor and upon conviction
16 thereof shall be fined under title 18, United States Code,
17 or imprisoned for not more than 1 year, or both.

18 “(2)(A) Whoever—

19 “(i) with intent to deceive, discloses, sells, or
20 transfers his own social security account number, as-
21 signed to him by the Commissioner of Social Secu-
22 rity (in the exercise of the Commissioner’s authority
23 under section 205(c)(2) to establish and maintain
24 records), to any person;

1 “(ii) without lawful authority, offers, for a fee,
2 to acquire for any individual, or to assist in acquir-
3 ing for any individual, an additional social security
4 account number or a number that is purported to be
5 a social security account number;

6 “(iii) being—

7 “(I) an officer or employee of any govern-
8 mental entity (as defined in section
9 205(c)(2)(C)(x)(X)), or

10 “(II) a person acting as an agent of a gov-
11 ernmental entity (as so defined),

12 willfully acts or fails to act so as to cause a violation
13 of clause (x), (xiii), or (xiv) of section 205(c)(2)(C);

14 “(iv) being a trustee appointed in a case under
15 title 11, United States Code (or an officer or em-
16 ployee thereof or a person acting as an agent there-
17 of), willfully acts or fails to act so as to cause a vio-
18 lation of clause (x) or (xiv) of section 205(c)(2)(C);

19 or

20 “(v) willfully acts or fails to act so as to cause
21 a violation of subsection (b)(1)(A) or (g) of section
22 208A;

23 shall be fined, imprisoned, or both, as provided in subpara-
24 graph (B).

1 “(B) A person convicted of a violation described in
2 subparagraph (A) shall—

3 “(i) be fined under title 18, United States Code, im-
4 prisoned not more than 1 year, or both; and

5 “(ii) if the offense is committed under false pretenses
6 or for commercial advantage, personal gain, or malicious
7 harm, be fined under title 18, United States Code, impris-
8 oned not more than 5 years, or both.”.

9 (b) EFFECTIVE DATES.—The amendments made by
10 this section shall apply with respect to each violation oc-
11 ccurring after the date of the enactment of this Act, except
12 that subparagraphs (B), (C), and (D) of section 208(b)(1)
13 of such Act and clauses (iii), (iv), and (v) of section
14 208(b)(2)(A) of such Act (added by subsection (a)(3))
15 shall apply, in connection with violations of clause (x), (xi),
16 (xii), (xiii), (xiv), or (xv) of section 205(c)(2)(C) or section
17 208A, with respect to each violation occurring on or after
18 the effective date applicable with respect to such violation
19 under section 2, 3, 4, 5, 6, 7, or 8.

20 **SEC. 10. EXTENSION OF CIVIL MONETARY PENALTY AU-**
21 **THORITY.**

22 (a) APPLICATION OF CIVIL MONEY PENALTIES TO
23 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
24 of the Social Security Act (42 U.S.C. 1320a–8(a)) is
25 amended—

1 (1) by redesignating paragraphs (2) and (3) as
2 paragraphs (4) and (5), respectively;

3 (2) by designating the last sentence of para-
4 graph (1) as a new paragraph (2), appearing after
5 and below paragraph (1); and

6 (3) by inserting after paragraph (2) (as des-
7 igned under paragraph (2) of this subsection) the
8 following:

9 “(3) Any person (including an organization, agency,
10 or other entity) who—

11 “(A) uses a social security account number that
12 such person knows or should know has been as-
13 signed by the Commissioner of Social Security (in an
14 exercise of authority under section 205(c)(2) to es-
15 tablish and maintain records) on the basis of false
16 information furnished to the Commissioner by any
17 person;

18 “(B) falsely represents a number to be the so-
19 cial security account number assigned by the Com-
20 missioner of Social Security to any individual, when
21 such person knows or should know that such number
22 is not the social security account number assigned
23 by the Commissioner to such individual;

24 “(C) with intent to deceive, alters a social secu-
25 rity card that the person knows or should know was

1 issued by the Commissioner of Social Security, or
2 possesses such a card with intent to alter it;

3 “(D) buys or sells a card that such person
4 knows or should know is, or is purported to be, a
5 card issued by the Commissioner of Social Security,
6 or possesses such a card with intent to buy or sell
7 it;

8 “(E) counterfeits a social security card, or pos-
9 sesses a counterfeit social security card with intent
10 to buy or sell it;

11 “(F) discloses, uses, compels the disclosure of,
12 or knowingly sells or purchases the social security
13 account number of any person in violation of the
14 laws of the United States;

15 “(G) with intent to deceive the Commissioner of
16 Social Security as to such person’s true identity (or
17 the true identity of any other person), furnishes or
18 causes to be furnished false information to the Com-
19 missioner with respect to any information required
20 by the Commissioner in connection with the estab-
21 lishment and maintenance of the records provided
22 for in section 205(c)(2);

23 “(H) without lawful authority, offers, for a fee,
24 to acquire for any individual, or to assist in acquir-
25 ing for any individual, an additional social security

1 account number or a number which is purported to
2 be a social security account number;

3 “(I) with intent to deceive, discloses, sells, or
4 transfers his own social security account number, as-
5 signed to him by the Commissioner of Social Secu-
6 rity under section 205(c)(2)(B), to any person;

7 “(J) knowingly, and with intent to commit, or
8 to aid or abet, any activity that constitutes a viola-
9 tion of Federal law, or a violation of any applicable
10 law of a State or political subdivision thereof if the
11 maximum penalty of such applicable law includes
12 imprisonment for 5 years or more—

13 “(i) possesses a social security account
14 number of another individual without lawful au-
15 thority, or

16 “(ii) possesses a social security card, know-
17 ing that the social security account number or
18 other identifying information displayed on the
19 card has been altered, counterfeited, or forged
20 or that the card was falsely made, stolen, or ob-
21 tained from the Social Security Administration
22 by use of false information,

23 if such activity is committed, or aided or abetted,
24 with intent to use such social security account num-
25 ber, social security card, or other identifying infor-

1 mation displayed on such card in furtherance of
2 such violation;

3 “(K) being—

4 “(i) an officer or employee of a govern-
5 mental entity (as defined in section
6 205(c)(2)(C)(x)(X)), or

7 “(ii) a person acting as an agent of a gov-
8 ernmental entity (as so defined),

9 willfully acts or fails to act so as to cause a violation
10 of clause (vi)(II), (x), (xi), (xii), (xiii), (xiv), or (xv)
11 of section 205(c)(2)(C);

12 “(L) being a trustee appointed in a case under
13 title 11, United States Code (or an officer or em-
14 ployee thereof or a person acting as an agent there-
15 of), willfully acts or fails to act so as to cause a vio-
16 lation of clause (x), (xi), (xiv), or (xv) of section
17 205(c)(2)(C);

18 “(M) violates section 208A (relating to prohibi-
19 tion of the sale, purchase, or display of the social se-
20 curity account number in the private sector) or, as
21 a person in the private sector, violates section
22 205(c)(2)(C)(xv); or

23 “(N) violates section 208(g) (relating to fraud
24 by social security administration employees);

1 shall be subject to, in addition to any other penalties that
2 may be prescribed by law, a civil money penalty of not
3 more than \$5,000 for each violation. Such person shall
4 also be subject to an assessment, in lieu of damages sus-
5 tained by the United States resulting from such violation,
6 of not more than twice the amount of any benefits or pay-
7 ments paid as a result of such violation.”.

8 (b) EFFECTIVE DATES.—The amendments made by
9 this section shall apply with respect to violations com-
10 mitted after the date of the enactment of this Act, except
11 that subparagraphs (J), (K), (L), and (M) of section
12 1129(a)(3) of the Social Security Act (added by subsection
13 (a)) shall apply with respect to violations of the provisions
14 of clause (x), (xi), (xii), (xiii), (xiv), or (xv) of section
15 205(e)(2)(C) or section 208A occurring on or after the
16 applicable effective date provided in connection with such
17 provisions under section 2, 3, 4, 5, 6, 7, or 8 of this Act.

18 **SEC. 11. CRIMINAL PENALTIES FOR EMPLOYEES OF THE**
19 **SOCIAL SECURITY ADMINISTRATION WHO**
20 **KNOWINGLY AND FRAUDULENTLY ISSUE SO-**
21 **CIAL SECURITY CARDS OR SOCIAL SECURITY**
22 **ACCOUNT NUMBERS.**

23 (a) IN GENERAL.—Section 208 of the Social Security
24 Act (as amended by section 9) is amended further by add-
25 ing at the end the following new subsection:

1 “(g)(1) Whoever is an employee of the Social Security
2 Administration and knowingly and fraudulently sells or
3 transfers one or more social security account numbers or
4 social security cards shall, upon conviction, be guilty of
5 a felony and fined under title 18, United States Code, im-
6 prisoned as provided in paragraph (2), or both.

7 “(2) Imprisonment for a violation described in para-
8 graph (1) shall be for—

9 “(A) not more than 5 years, in the case of an
10 employee of the Social Security Administration who
11 has fraudulently sold or transferred not more than
12 50 social security account numbers or social security
13 cards,

14 “(B) not more than 10 years, in the case of an
15 employee of the Social Security Administration who
16 has fraudulently sold or transferred more than 50,
17 but not more than 100, social security account num-
18 bers or social security cards, or

19 “(C) not more than 20 years, in the case of an
20 employee of the Social Security Administration who
21 has fraudulently sold or transferred more than 100
22 social security account numbers or social security
23 cards.

24 “(3) For purposes of this subsection—

1 “(A) The term ‘social security employee’ means
2 any State employee of a State disability determina-
3 tion service, any officer, employee, or contractor of
4 the Social Security Administration, any employee of
5 such a contractor, or any volunteer providing serv-
6 ices or assistance in any facility of the Social Secu-
7 rity Administration.

8 “(B) The term ‘social security account number’
9 means a social security account number assigned by
10 the Commissioner of Social Security under section
11 205(c)(2)(B) or another number that has not been
12 so assigned but is purported to have been so as-
13 signed.

14 “(C) The term ‘social security card’ means a
15 card issued by the Commissioner of Social Security
16 under section 205(c)(2)(G), another card which has
17 not been so issued but is purported to have been so
18 issued, and banknote paper of the type described in
19 section 205(c)(2)(G) prepared for the entry of social
20 security account numbers, whether fully completed
21 or not.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply with respect to violations occurring
24 on or after the date of the enactment of this Act.

1 **SEC. 12. ENHANCED PENALTIES IN CASES OF TERRORISM,**
2 **DRUG TRAFFICKING, CRIMES OF VIOLENCE,**
3 **OR PRIOR OFFENSES.**

4 (a) AMENDMENTS TO TITLE II.—Section 208 of the
5 Social Security Act (as amended by the preceding provi-
6 sions of this Act) is amended further—

7 (1) in subsection (a), by striking “shall be
8 fined” and all that follows and inserting the fol-
9 lowing: “shall be fined, imprisoned, or both, as pro-
10 vided in subsection (c).”;

11 (2) in subsection (b)(2)(B)(ii) (as added by sec-
12 tion 9), by striking “be fined” and all that follows
13 and inserting the following: “be fined, imprisoned, or
14 both, as provided in subsection (c).”;

15 (3) by striking subsection (d);

16 (4) by redesignating subsection (c) as sub-
17 section (d); and

18 (5) by inserting after subsection (b) the fol-
19 lowing new subsection:

20 “(c) A person convicted of a violation described in
21 subsection (a) or a violation described in subsection
22 (b)(2)(A) which is subject to subsection (b)(2)(B)(ii) shall
23 be—

24 “(1) fined under title 18, United States Code,
25 or imprisoned for not more than 5 years, or both,

1 in the case of an initial violation, subject to para-
2 graphs (3) and (4),

3 “(2) fined under title 18, United States Code,
4 or imprisoned for not more than 10 years, or both,
5 in the case of a violation which occurs after a prior
6 conviction for another offense under subsection (a)
7 becomes final, subject to paragraphs (3) and (4),

8 “(3) fined under title 18, United States Code,
9 or imprisoned for not more than 20 years, in the
10 case of a violation which is committed to facilitate
11 a drug trafficking crime (as defined in section
12 929(a)(2) of title 18, United States Code) or in con-
13 nection with a crime of violence (as defined in sec-
14 tion 924(c)(3) of title 18, United States Code) in-
15 volving force against the person of another, subject
16 to paragraph (4), and

17 “(4) fined under title 18, United States Code,
18 or imprisoned for not more than 25 years, in the
19 case of a violation which is committed to facilitate
20 an act of international or domestic terrorism (as de-
21 fined in paragraphs (1) and (5), respectively, of sec-
22 tion 2331 of title 18, United States Code).”.

23 (b) AMENDMENTS TO TITLE VIII.—Section 811 of
24 such Act (42 U.S.C. 1011) is amended—

1 (1) in subsection (a), by striking “shall be
2 fined” and all that follows and inserting “shall be
3 fined, imprisoned, or both, as provided in subsection
4 (b).”;

5 (2) by redesignating subsection (b) as sub-
6 section (c); and

7 (3) by inserting after subsection (a) the fol-
8 lowing new subsection:

9 “(b) PUNISHMENT.—A person convicted of a viola-
10 tion described in subsection (a) shall be—

11 “(1) fined under title 18, United States Code,
12 or imprisoned for not more than 5 years, or both,
13 in the case of an initial violation, subject to para-
14 graphs (3) and (4),

15 “(2) fined under title 18, United States Code,
16 or imprisoned for not more than 10 years, or both,
17 in the case of a violation which occurs after a prior
18 conviction for another offense under subsection (a)
19 becomes final, subject to paragraphs (3) and (4),

20 “(3) fined under title 18, United States Code,
21 or imprisoned for not more than 20 years, in the
22 case of a violation which is committed to facilitate
23 a drug trafficking crime (as defined in section
24 929(a)(2) of title 18, United States Code) or in con-
25 nection with a crime of violence (as defined in sec-

1 tion 924(c)(3) of title 18, United States Code) in-
2 volving force against the person of another, subject
3 to paragraph (4), and

4 “(4) fined under title 18, United States Code,
5 or imprisoned for not more than 25 years, in the
6 case of a violation which is committed to facilitate
7 an act of international or domestic terrorism (as de-
8 fined in paragraphs (1) and (5), respectively, of sec-
9 tion 2331 of title 18, United States Code).”.

10 (c) AMENDMENTS TO TITLE XVI.—Section 1632 of
11 such Act (42 U.S.C. 1383a) is amended—

12 (1) in subsection (a), by striking “shall be
13 fined” and all that follows and inserting “shall be
14 fined, imprisoned, or both, as provided in subsection
15 (b).”;

16 (2) by redesignating subsections (b) and (c) as
17 subsections (c) and (d), respectively; and

18 (3) by inserting after subsection (a) the fol-
19 lowing new subsection:

20 “(b) A person convicted of a violation described in
21 subsection (a) shall be—

22 “(1) fined under title 18, United States Code,
23 or imprisoned for not more than 5 years, or both,
24 in the case of an initial violation, subject to para-
25 graphs (3) and (4),

1 “(2) fined under title 18, United States Code,
2 or imprisoned for not more than 10 years, or both,
3 in the case of a violation which occurs after a prior
4 conviction for another offense under subsection (a)
5 becomes final, subject to paragraphs (3) and (4),

6 “(3) fined under title 18, United States Code,
7 or imprisoned for not more than 20 years, in the
8 case of a violation which is committed to facilitate
9 a drug trafficking crime (as defined in section
10 929(a)(2) of title 18, United States Code) or in con-
11 nection with a crime of violence (as defined in sec-
12 tion 924(c)(3) of title 18, United States Code) in-
13 volving force against the person of another, subject
14 to paragraph (4), and

15 “(4) fined under title 18, United States Code,
16 or imprisoned for not more than 25 years, in the
17 case of a violation which is committed to facilitate
18 an act of international or domestic terrorism (as de-
19 fined in paragraphs (1) and (5), respectively, of sec-
20 tion 2331 of title 18, United States Code).”.

21 (d) **EFFECTIVE DATE.**—The amendments made by
22 this section shall apply with respect to violations occurring
23 after the date of the enactment of this Act.

1 **SEC. 13. REGULATORY AND ENFORCEMENT AUTHORITY**
2 **WITH RESPECT TO MISUSE OF THE SOCIAL**
3 **SECURITY ACCOUNT NUMBER.**

4 Title XI of the Social Security Act is amended by
5 inserting after section 1129B (42 U.S.C. 1320a-7b) the
6 following new section:

7 “REGULATORY AND ENFORCEMENT AUTHORITY WITH RE-
8 SPECT TO MISUSE OF THE SOCIAL SECURITY AC-
9 COUNT NUMBER

10 “SEC. 1129C. (a) REGULATORY AUTHORITY.—

11 “(1) IN GENERAL.—The Commissioner of So-
12 cial Security shall prescribe regulations to carry out
13 the provisions of clauses (vi)(II), (x), (xi), (xii),
14 (xiii), (xiv), and (xv) of section 205(c)(2)(C) and
15 section 208A. Such regulations shall be issued in
16 consultation with the Federal Trade Commission,
17 the Attorney General of the United States, the Sec-
18 retary of Homeland Security, the Secretary of
19 Health and Human Services, the Secretary of the
20 Treasury, the Federal banking agencies (as defined
21 in section 3 of the Federal Deposit Insurance Act),
22 the National Credit Union Administration, the Secu-
23 rities and Exchange Commission, State attorneys
24 general, and such representatives of the State insur-
25 ance commissioners as may be designated by the
26 National Association of Insurance Commissioners.

1 “(2) TREATMENT OF MATTERS RELATING TO
2 LAW ENFORCEMENT AND NATIONAL SECURITY.—In
3 issuing the regulations described in paragraph (1)
4 with respect to the provisions of
5 205(c)(2)(C)(x)(III), paragraph (A) or (B) of sec-
6 tion 208A(b)(2), or section 208A(c)(2) (relating to
7 law enforcement and national security), the sale or
8 purchase of Social Security account numbers may be
9 authorized only if the Commissioner (or the agency
10 or instrumentality delegated authority to issue such
11 regulations under paragraph (5)) determines that—

12 “(A) such sale or purchase would serve a
13 compelling public interest that cannot reason-
14 ably be served through alternative measures,
15 and

16 “(B) such sale or purchase will not pose an
17 unreasonable risk of identity theft, or bodily,
18 emotional, or financial harm to an individual
19 (taking into account any restrictions and condi-
20 tions that the agency or instrumentality issuing
21 the regulations imposes on the sale, purchase,
22 or disclosure).

23 “(3) TREATMENT OF OTHER MATTERS IN GEN-
24 ERAL DISCRETION OF THE COMMISSIONER.—

1 “(A) IN GENERAL.—In issuing the regula-
2 tions described in paragraph (1) with respect to
3 the provisions of section 205(c)(2)(C)(x)(VIII)
4 or section 208A(b)(3)(B), the sale, purchase, or
5 display to the general public of social security
6 account numbers may be authorized only after
7 considering, among other relevant factors—

8 “(i) the extent to which the authoriza-
9 tion of the sale, purchase, or display of the
10 social security account number would serve
11 a compelling public interest that cannot
12 reasonably be served through alternative
13 measures,

14 “(ii) the associated cost or burden of
15 the authorization to the general public,
16 businesses, commercial enterprises, non-
17 profit organizations, and Federal, State,
18 and local governments; and

19 “(iii) the associated benefit of the au-
20 thorization to the general public, busi-
21 nesses, commercial enterprises, non-profit
22 associations, and Federal, State, and local
23 governments.

24 “(B) RESTRICTIONS AND CONDITIONS.—If,
25 after considering the factors in subparagraph

1 (A), the sale, purchase, or display to the gen-
2 eral public of social security account numbers is
3 authorized under regulations referred to in sub-
4 paragraph (A), the Commissioner (or the agen-
5 cy or instrumentality delegated authority to
6 issue such regulations under paragraph (5))
7 shall impose restrictions and conditions on the
8 sale, purchase, or display to the general public
9 to the extent necessary—

10 “(i) to provide reasonable assurances
11 that social security account numbers will
12 not be used to commit or facilitate fraud,
13 deceptions, or crime, and

14 “(ii) to prevent an unreasonable risk
15 of identity theft or bodily, emotional, or fi-
16 nancial harm to any individual, considering
17 the nature, likelihood, and severity of the
18 anticipated harm that could result from
19 the sale, purchase, or display to the gen-
20 eral public of social security account num-
21 bers, together with the nature, likelihood,
22 and extent of any benefits that could be re-
23 alized.

24 “(C) 5-YEAR EXPIRATION DATE FOR REGU-
25 LATIONS.—At the end of the 5-year period be-

1 ginning on the effective date of any final regu-
2 lations issued pursuant to this paragraph—

3 “(i) such regulations shall expire, and

4 “(ii) new regulations may be issued
5 pursuant to this paragraph.

6 “(4) ADMINISTRATIVE PROCEDURE.—In the
7 issuance of regulations pursuant to this subsection,
8 notice shall be provided as described in paragraphs
9 (1), (2), and (3) of section 553(b) of title 5, United
10 States Code, and opportunity to participate in the
11 rule making shall be provided in accordance with
12 section 553(e) of such title.

13 “(5) DELEGATION TO OTHER AGENCIES.—Any
14 agency or instrumentality of the United States may
15 exercise the authority of the Commissioner under
16 this subsection, with respect to matters otherwise
17 subject to regulation by such agency or instrumen-
18 tality, to the extent determined appropriate in regu-
19 lations of the Commissioner.

20 “(6) CONSULTATION AND COORDINATION.—
21 Each agency and instrumentality exercising author-
22 ity to issue regulations under this subsection shall
23 consult and coordinate with the other such agencies
24 and instrumentalities for the purposes of assuring,
25 to the extent possible, that the regulations pre-

1 scribed by each such agency or instrumentality are
2 consistent and comparable, as appropriate, with the
3 regulations prescribed by the other such agencies
4 and instrumentalities. The Commissioner shall un-
5 dertake to facilitate such consultation and coordina-
6 tion.

7 “(7) DEFINITIONS AND SPECIAL RULES.—

8 “(A) For purposes of this subsection, the
9 terms ‘sell’, ‘purchase’, and ‘display to the gen-
10 eral public’ shall have the meanings provided
11 such terms under section 205(c)(2)(C)(x) or
12 section 208A(a), as applicable.

13 “(B) For purposes of this subsection, sec-
14 tion 205(c)(2)(C)(x)(XI) shall apply.

15 “(b) COORDINATION OF ENFORCEMENT WITH
16 OTHER AGENCIES.—The Commissioner may provide, by
17 regulation, for enforcement by any other agency or instru-
18 mentality of the United States of the provisions of section
19 208A and regulations prescribed pursuant to subsection
20 (a)(1) with respect to section 208A.

21 “(c) ACTIONS BY STATES WITH RESPECT TO MISUSE
22 IN PRIVATE SECTOR OR BY STATE AND LOCAL GOVERN-
23 MENTS.—

24 “(1) CIVIL ACTIONS.—In any case in which the
25 attorney general of a State (as defined in section

1 205(c)(2)(C)(x)(X)) has reason to believe that an in-
2 terest of the residents of that State has been or is
3 threatened or adversely affected by an act or prac-
4 tice described in paragraph (2), the State, as *parens*
5 *patriae*, may bring a civil action on behalf of the
6 residents of the State in a district court of the
7 United States of appropriate jurisdiction, to—

8 “(A) enjoin that act or practice;

9 “(B) enforce compliance with the regula-
10 tion;

11 “(C) obtain civil penalties in an amount of
12 \$11,000 per violation not to exceed a total of
13 \$5,000,000; or

14 “(D) obtain such other legal and equitable
15 relief as the district court may consider to be
16 appropriate.

17 Before filing an action under this subsection, the at-
18 torney general of the State involved shall provide to
19 the Commissioner of Social Security and the Attor-
20 ney General of the United States a written notice of
21 that action and a copy of the complaint for that ac-
22 tion. If the State attorney general determines that
23 it is not feasible to provide the notice described in
24 this subparagraph before the filing of the action, the
25 State attorney general shall provide the written no-

1 tice and the copy of the complaint as soon after the
2 filing of the complaint as practicable. Any reference
3 in this subsection to the attorney general of a State
4 shall be deemed also to be a reference to any equiva-
5 lent official of such State.

6 “(2) ACTS OR PRACTICES SUBJECT TO EN-
7 FORCEMENT.—An act or practice described in this
8 paragraph is—

9 “(A) an act or practice by an executive,
10 legislative, or judicial agency or instrumentality
11 of the State involved or a political subdivision
12 thereof, a person acting as an agent thereof, or
13 any officer or employee of the foregoing or per-
14 son acting as an agent of the foregoing that
15 violates clause (vi)(II), (x), (xi), (xii), (xiii),
16 (xiv), or (xv) of section 205(c)(2)(C) or any
17 regulation promulgated thereunder, or

18 “(B) an act or practice by any person that
19 violates section 208A or any regulation promul-
20 gated thereunder.

21 “(3) ATTORNEY GENERAL AUTHORITY.—On re-
22 ceiving notice under paragraph (1), the Attorney
23 General of the United States shall have the right—

1 “(A) to move to stay the action, pending
2 the final disposition of a pending Federal mat-
3 ter as described in paragraph (4);

4 “(B) to intervene in an action under para-
5 graph (1);

6 “(C) upon so intervening, to be heard on
7 all matters arising therein; and

8 “(D) to file petitions for appeal.

9 “(4) PENDING CRIMINAL PROCEEDINGS.—If the
10 Attorney General of the United States has instituted
11 a criminal proceeding under section 208 alleging an
12 act or practice described in paragraph (2) in connec-
13 tion with any State, such State may not, during the
14 pendency of such proceeding or action, bring an ac-
15 tion under this subsection against any defendant
16 named in the criminal proceeding.

17 “(5) RULE OF CONSTRUCTION.—For purposes
18 of bringing any civil action under paragraph (1),
19 nothing in this subsection shall be construed to pre-
20 vent an attorney general of a State from exercising
21 the powers conferred on the attorney general by the
22 laws of that State to conduct investigations, admin-
23 ister oaths and affirmations, or compel the attend-
24 ance of witnesses or the production of documentary
25 and other evidence.

1 “(6) VENUE; SERVICE OF PROCESS.—Any ac-
2 tion brought under paragraph (1) may be brought in
3 any district court of the United States that meets
4 applicable requirements relating to venue under sec-
5 tion 1391 of title 28, United States Code. In an ac-
6 tion brought under paragraph (1), process may be
7 served in any district in which the defendant is an
8 inhabitant or may be found.

9 “(d) REMEDIES TO INDIVIDUALS FOR VIOLATIONS
10 BY THE FEDERAL GOVERNMENT OF REQUIREMENTS RE-
11 LATING TO SOCIAL SECURITY ACCOUNT NUMBERS.—

12 “(1) CIVIL ACTIONS.—Any individual who is ag-
13 grieved by an act or practice by any person acting
14 as an officer, employee, or agent of an agency or in-
15 strumentality of the Federal Government in violation
16 of the requirements of clause (vi)(II), (x), (xi), (xii),
17 (xiii), (xiv), or (xv) of subsection (c)(2)(C) with re-
18 spect to the social security account number assigned
19 to such individual under subsection (c)(2)(B) may
20 commence a civil action for appropriate equitable re-
21 lief or actual damages.

22 “(2) VENUE; SERVICE OF PROCESS.—An action
23 under this subsection action may be brought in the
24 district court of the United States for the judicial
25 district in which the plaintiff resides, or has his

1 principal place of business, in which the violation
2 took place, or in which the defendant resides or may
3 be found, and process may be served in any other
4 district in which a defendant resides or may be
5 found.

6 “(3) JURISDICTION.—The district courts of the
7 United States shall have jurisdiction, without respect
8 to the amount in controversy or the citizenship of
9 the parties, to grant the relief provided for in para-
10 graph (1).

11 “(4) ATTORNEY’S FEES.—In any action under
12 this subsection, the court in its discretion may allow
13 a reasonable attorney’s fee and costs of action to ei-
14 ther party.

15 “(e) ONGOING GAO REVIEW ON EFFICACY OF REGU-
16 LATIONS.—

17 “(1) IN GENERAL.—The Comptroller General of
18 the United States shall conduct an ongoing review of
19 the efficacy of the regulations prescribed by any
20 agency or instrumentality of the United States pur-
21 suant to this section. Such review shall consider the
22 extent to which such regulations are consistent with,
23 and in furtherance of the purposes of, the amend-
24 ments made by the Social Security Number Privacy
25 and Identity Theft Prevention Act of 2009.

1 “(2) REPORT.—Not later than 4 years after the
2 effective date of any final regulations issued by any
3 agency or instrumentality of the United States pur-
4 suant to this section, the Comptroller General shall
5 report to each House of the Congress regarding the
6 results of the review of such regulations conducted
7 under this paragraph. Such report shall include the
8 Comptroller General’s recommendations for such
9 statutory or regulatory changes as the Comptroller
10 General considers appropriate.”.

11 **SEC. 14. STUDY ON FEASIBILITY OF BANNING SOCIAL SE-**
12 **CURITY ACCOUNT NUMBER AS AN AUTHEN-**
13 **TICATOR.**

14 (a) STUDY.—As soon as practicable after the date of
15 the enactment of this Act, the Commissioner of Social Se-
16 curity shall enter into an arrangement with the National
17 Research Council under which the Council shall carry out
18 a study to determine—

19 (1) the extent of the use of social security ac-
20 count numbers as a primary means of authenticating
21 identity;

22 (2) the extent of the use of social security ac-
23 count numbers for verification in commercial trans-
24 actions; and

25 (3) the feasibility of a prohibition on such use.

1 The study shall also examine possible alternatives to social
2 security account numbers for verification purposes and
3 uses in authenticating identity.

4 (b) REPORT.—The arrangement entered into with the
5 Council under this section shall provide for submission by
6 the Council to the Commissioner and to each House of
7 the Congress of a report setting forth the results of the
8 Council’s study under this section, together with the Coun-
9 cil’s findings and recommendations, no later than 1 year
10 after the effective date of the initial final regulations
11 issued by the Commissioner pursuant to the amendments
12 made by section 2 of this Act.