

114TH CONGRESS  
2D SESSION

# S. 2766

To strengthen penalties for tax return identity thieves, establish enhanced sentences for crimes against vulnerable and frequently targeted victims, clarify the state of mind proof requirement in identity theft prosecutions, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

APRIL 7, 2016

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To strengthen penalties for tax return identity thieves, establish enhanced sentences for crimes against vulnerable and frequently targeted victims, clarify the state of mind proof requirement in identity theft prosecutions, 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 “Tax Return Identity  
5 Theft Protection Act of 2016”.

1 **SEC. 2. IDENTITY THEFT FOR PURPOSES OF TAX RETURN**  
2 **FRAUD AND OTHER FRAUD AGAINST THE**  
3 **GOVERNMENT.**

4 Section 1028(b)(3) of title 18, United States Code,  
5 is amended—

6 (1) in subparagraph (B), by striking “or” at  
7 the end; and

8 (2) by adding at the end the following:

9 “(D) during and in relation to a felony  
10 under section 7206 or 7207 of the Internal  
11 Revenue Code of 1986; or

12 “(E) during and in relation to a violation  
13 of section 286, 287, or 641;”.

14 **SEC. 3. SENTENCING GUIDELINES ENHANCEMENTS FOR**  
15 **VULNERABLE VICTIMS.**

16 Pursuant to its authority under section 994 of title  
17 28, United States Code, and in accordance with this sec-  
18 tion, the United States Sentencing Commission shall  
19 amend and review the Federal sentencing guidelines and  
20 policy statements to ensure that the guidelines provide for  
21 a penalty enhancement of not less than 2 offense levels  
22 for a violation of subsection (a) of section 1028 of title  
23 18, United States Code, if—

24 (1) the offense is punishable under subpara-  
25 graph (D) or (E) of subsection (b)(3) of that sec-  
26 tion, as added by section 2 of this Act; and

1           (2) the defendant victimized or targeted not  
2 less than 5 individuals who were—

3           (A) deceased;

4           (B) over the age of 55;

5           (C) citizens of territories or possessions of  
6 the United States;

7           (D) under the age of 14;

8           (E) not required to file a Federal income  
9 tax return due to not meeting income criteria  
10 levels necessitating filing; or

11           (F) active duty members of the Armed  
12 Forces.

13 **SEC. 4. STATE OF MIND PROOF REQUIREMENT FOR IDEN-**  
14 **TITY THEFT.**

15       Section 1028 of title 18, United States Code, is  
16 amended by adding at the end the following:

17       “(j) STATE OF MIND PROOF REQUIREMENT.—In a  
18 prosecution under subsection (a)(7) or section 1028A, the  
19 Government shall not be required to prove that the defend-  
20 ant knew the means of identification was of another per-  
21 son.”.

○