

1 Title: To amend title 18, United States Code, to protect Americans from cybercrime.
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4 Be it enacted by the Senate and House of Representatives of the United States of America in
5 Congress assembled,

6 SECTION 1. SHORT TITLE.

7 This Act may be cited as the “International Cybercrime Prevention Act of 2015”.

8 SEC. 2. TRADE SECRET THEFT ENFORCEMENT.

9 (a) In General.—Chapter 90 of title 18, United States Code, is amended—

10 (1) in section 1831(a), in the matter preceding paragraph (1), by inserting after “agent,”
11 the following: “or intending or knowing that the offense is committed at the request, under
12 the direction, or on behalf of any foreign government, foreign instrumentality, or foreign
13 agent,”;

14 (2) in section 1832(b), by striking “\$5,000,000” and inserting “the greater of \$5,000,000
15 or 3 times the value of the stolen trade secret to the organization, including expenses for
16 research and design and other costs of reproducing the trade secret that the organization has
17 thereby avoided”;

18 (3) in section 1835—

19 (A) by striking “In any prosecution” and inserting the following:

20 “(a) In General.—In any prosecution”; and

21 (B) by adding at the end the following:

22 “(b) Rights of Trade Secret Owners.—The court may not authorize or direct the disclosure of
23 any information the owner asserts to be a trade secret unless the court allows the owner the
24 opportunity to file a submission under seal that describes the interest of the owner in keeping the
25 information confidential. No submission under seal made pursuant to this subsection may be
26 used in a prosecution under this chapter for any purpose other than those set forth in this section.
27 The provision of information relating to a trade secret to the United States or the court in
28 connection with a prosecution under this chapter shall not constitute a waiver of trade secret
29 protection, and the disclosure of information relating to a trade secret in connection with a
30 prosecution under this chapter shall not constitute a waiver of trade secret protection unless the
31 trade secret owner expressly consents to such waiver.”; and

32 (4) in section 1839—

33 (A) in paragraph (1), by inserting “or foreign agent” after “government”; and

34 (B) in paragraph (3), in the matter preceding subparagraph (A), by inserting
35 “strategies, negotiating positions,” after “plans.”.

36 (b) RICO Predicate Offenses.—Section 1961(1) of title 18, United States Code, is amended by
37 inserting “sections 1831 and 1832 (relating to economic espionage and theft of trade secrets),”
38 before “section 1951”.

1 **SEC. 3. STOPPING THE SALE OF AMERICANS’**
2 **FINANCIAL INFORMATION.**

3 Section 1029(h) of title 18, United States Code, is amended by striking “if—” and all that
4 follows through “therefrom.” and inserting “if the offense involves an access device issued,
5 owned, managed, or controlled by a financial institution, account issuer, credit card system
6 member, or other entity organized under the laws of the United States, or any State, the District
7 of Columbia, or other Territory of the United States.”.

8 **SEC. 4. SERVICE ON FOREIGN DEFENDANTS.**

9 Rule 4(c) of the Federal Rules of Criminal Procedure is amended—

10 (1) in paragraph (2), by adding at the end the following: “A summons may also be served
11 at a place not within a judicial district of the United States using the procedures set forth in
12 Rule 4(c)(3)(D).”; and

13 (2) in paragraph (3)—

14 (A) in subparagraph (C)—

15 (i) by inserting “at a place within a judicial district of the United States” after
16 “organization”;

17 (ii) by striking “A copy” and inserting “If the agent is authorized by statute and
18 the statute so requires, a copy”; and

19 (iii) by striking “elsewhere in the United States” and inserting “in the or outside
20 of the United States”; and

21 (B) by adding at the end the following:

22 “(D) A summons may be served on an organization at a place not within a judicial
23 district of the United States:

24 “(i) by delivering a copy to an officer, to a managing or general agent, or to
25 another agent appointed or legally authorized to receive service of process, in a
26 manner authorized under the laws of the foreign jurisdiction where the officer or
27 agent to be served is located; or

28 “(ii) by other means reasonably calculated to give notice, including—

29 “(I) a stipulated means of service;

30 “(II) a means that a foreign authority undertakes in response to a letter
31 rogatory or letter of request;

32 “(III) a means that a foreign authority undertakes in response to a request
33 submitted under an applicable international agreement; or

34 “(IV) a means otherwise permitted under an applicable international
35 agreement.”.

36 **SEC. 5. PREDICATE OFFENSES.**

1 Part I of title 18, United States Code, is amended—

2 (1) in section 1956(c)(7)(D)—

3 (A) by striking “or section 2339D” and inserting “section 2339D”; and

4 (B) by striking “of this title, section 46502” and inserting “, or section 2512 (relating
5 to the manufacture, distribution, possession, and advertising of wire, oral, or electronic
6 communication intercepting devices) of this title, section 46502”; and

7 [(2) in section 1961(1), by adding “section 1030 (relating to fraud and related activity in
8 connection with computers) if the act indictable under section 1030 is felonious,” before
9 “section 1084”.]

10 SEC. 6. FORFEITURE.

11 (a) In General.—Section 2513 of title 18, United States Code, is amended to read as follows:

12 “2513. Confiscation of wire, oral, or electronic communication 13 intercepting devices and other property

14 “(a) Criminal Forfeiture.—

15 “(1) IN GENERAL.—The court, in imposing a sentence on any person convicted of a
16 violation of section 2511 or 2512, or convicted of conspiracy to violate section 2511 or
17 2512, shall order, in addition to any other sentence imposed and irrespective of any
18 provision of State law, that such person forfeit to the United States—

19 “(A) such person’s interest in any property, real or personal, that was used or
20 intended to be used to commit or to facilitate the commission of such violation; and

21 “(B) any property, real or personal, constituting or derived from any gross proceeds,
22 or any property traceable to such property, that such person obtained or retained
23 directly or indirectly as a result of such violation.

24 “(2) FORFEITURE PROCEDURES.—Pursuant to section 2461(c) of title 28, the provisions of
25 section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d)
26 thereof, shall apply to criminal forfeitures under this subsection.

27 “(b) Civil Forfeiture.—

28 “(1) IN GENERAL.—The following shall be subject to forfeiture to the United States in
29 accordance with provisions of chapter 46 and no property right shall exist in them:

30 “(A) Any property, real or personal, used or intended to be used, in any manner, to
31 commit or facilitate the commission of a violation of section 2511 or 2512, or a
32 conspiracy to violate section 2511 or 2512.

33 “(B) Any property, real or personal, constituting or traceable to the gross proceeds
34 taken, obtained, or retained in connection with or as a result of a violation of section
35 2511 or 2512, or a conspiracy to violate section 2511 or 2512.

36 “(2) FORFEITURE PROCEDURES.—Seizures and forfeitures under this subsection shall be
37 governed by the provisions of chapter 46, relating to civil forfeitures, except that such duties
38 as are imposed on the Secretary of the Treasury under the customs laws described in section

1 981(d) shall be performed by such officers, agents, and other persons as may be designated
2 for that purpose by the Secretary of Homeland Security or the Attorney General.”.

3 (b) Technical and Conforming Amendment.—The table of sections for chapter 119 is
4 amended by striking the item relating to section 2513 and inserting the following:

5 “2513. Confiscation of wire, oral, or electronic communication intercepting devices and other
6 property.”.

7 **SEC. 7. GIVING COURTS THE AUTHORITY TO SHUT** 8 **DOWN BOTNETS.**

9 (a) Amendment.—Section 1345 of title 18, United States Code, is amended—

10 (1) in the heading, by inserting “and abuse” after “fraud”;

11 (2) in subsection (a)—

12 (A) in paragraph (1)—

13 (i) in subparagraph (B), by striking “or” at the end;

14 (ii) in subparagraph (C), by inserting “or” after the semicolon; and

15 (iii) by inserting after subparagraph (C) the following:

16 “(D) violating or about to violate section 1030 where such conduct would affect 100 or
17 more protected computers (as defined in section 1030) during any 1-year period, including
18 by denying access to or operation of the computers, installing unwanted software on the
19 computers, using the computers without authorization, or obtaining information from the
20 computers without authorization;”;

21 (B) in paragraph (2), by inserting “, a violation described in subsection (a)(1)(D),”
22 before “or a Federal”; and

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

24 “(c) A restraining order, prohibition, or other action described in subsection (b), if issued in
25 circumstances described in subsection (a)(1)(D), may, upon application of the Attorney
26 General—

27 “(1) specify that no cause of action shall lie in any court against a person for complying
28 with the restraining order, prohibition, or other action; and

29 “(2) provide that the United States shall pay to such person a fee for reimbursement for
30 such costs as are reasonably necessary and which have been directly incurred in complying
31 with the restraining order, prohibition, or other action.”.

32 (b) Technical and Conforming Amendment.—The table of section for chapter 63 is amended
33 by striking the item relating to section 1345 and inserting the following:

34 “1345. Injunctions against fraud and abuse.”.

35 **SEC. 8. AGGRAVATED DAMAGE TO A CRITICAL** 36 **INFRASTRUCTURE COMPUTER.**

1 (a) In General.—Chapter 47 of title 18, United States Code, is amended to by inserting after
2 section 1030 the following:

3 “1030A. Aggravated damage to a critical infrastructure
4 computer

5 “(a) Offense.—It shall be unlawful, during and in relation to a felony violation of section
6 1030, to knowingly cause or attempt to cause damage to a critical infrastructure computer, if
7 such damage results in (or, in the case of an attempted offense, would, if completed have resulted
8 in) the substantial impairment—

9 “(1) of the operation of the critical infrastructure computer; or

10 “(2) of the critical infrastructure associated with such computer.

11 “(b) Penalty.—Any person who violates subsection (a) shall, in addition to the term of
12 punishment provided for the felony violation of section 1030, be fined under this title,
13 imprisoned for not more than 20 years, or both.

14 “(c) Consecutive Sentence.—Notwithstanding any other provision of law—

15 “(1) a court shall not place any person convicted of a violation of this section on
16 probation;

17 “(2) except as provided in paragraph (4), no term of imprisonment imposed on a person
18 under this section shall run concurrently with any term of imprisonment imposed on the
19 person under any other provision of law, including any term of imprisonment imposed for
20 the felony violation of section 1030;

21 “(3) in determining any term of imprisonment to be imposed for the felony violation of
22 section 1030, a court shall not in any way reduce the term to be imposed for such violation
23 to compensate for, or otherwise take into account, any separate term of imprisonment
24 imposed or to be imposed for a violation of this section; and

25 “(4) a term of imprisonment imposed on a person for a violation of this section may, in
26 the discretion of the court, run concurrently, in whole or in part, only with another term of
27 imprisonment that is imposed by the court at the same time on that person for an additional
28 violation of this section, if such discretion shall be exercised in accordance with any
29 applicable guidelines and policy statements issued by the United States Sentencing
30 Commission pursuant to section 994 of title 28.

31 “(d) Definitions.—In this section

32 “(1) the terms ‘computer’ and ‘damage’ have the meanings given the terms in section
33 1030; and

34 “(2) the term ‘critical infrastructure’ has the meaning given the term in section 1016(e) of
35 the USA PATRIOT Act (42 U.S.C. 5195c(e)).”.

36 (b) Table of Sections.—The table of sections for chapter 47 of title 18, United States Code, is
37 amended by inserting after the item relating to section 1030 the following:

38 “1030A. Aggravated damage to a critical infrastructure computer.”.

1 SEC. 9. FRAUD AND RELATED ACTIVITY IN 2 CONNECTION WITH COMPUTERS.

3 (a) In General.—Section 1030 of title 18, United States Code, is amended—

4 (1) in subsection (a)—

5 (A) by striking paragraph (2) and inserting the following:

6 “(2)(A) intentionally accesses a protected computer without authorization and thereby
7 obtains information from or causes damage to any such protected computer;

8 “(B) accesses a protected computer with authorization and thereby knowingly obtains
9 information from such computer that the accessor is not entitled to obtain, or knowingly
10 obtains any information from such computer for a purpose that the accessor knows is
11 prohibited by the computer owner, if—

12 “(i) the value of the information obtained exceeds [\$10,000];

13 “(ii) [the conduct was undertaken in furtherance of any felony violation of the laws
14 of the United States or of any State, unless an element of such violation would require
15 proof that the information was obtained without authorization or in excess of
16 authorization;] or

17 “(iii) the protected computer is owned or operated by or on behalf of a State or local
18 governmental entity responsible for the administration of justice, public health, or
19 safety, or of the United States Government; and

20 “(C) the limitation on access to or use of the information is not based solely on the terms
21 of a contractual obligation or agreement, such as an acceptable use policy or terms of
22 service agreement, between a provider of online service and a customer or subscriber
23 thereof;”;

24 (B) in paragraph (5)—

25 (i) by striking “(A)”; and

26 (ii) by striking subparagraphs (B) and (C); and

27 (C) by striking paragraph (6) and inserting the following:

28 [“(6) knowingly and willfully traffics in any password or similar information, or any
29 other means of access, knowing or having reason to know that a protected computer would
30 be accessed or damaged without authorization in a manner prohibited by this section as the
31 result of such trafficking;”]

32 (2) in subsection (b), by inserting “for the completed offense” after “provided”;

33 (3) in subsection (c)—

34 (A) in paragraph (1)—

35 (i) by striking “(A) a fine” and all that follows through “(B)”; and

36 (ii) by striking “which occurs” and all that follows through “this
37 subparagraph”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A)—

3 (I) by striking “, (a)(3), or (a)(6)”;

4 (II) by striking “which does not occur” and all that follows through “this
5 subparagraph;” and inserting “; and”;

6 (ii) in subparagraph (B)—

7 (I) in the matter preceding clause (i)—

8 (aa) by striking “5” and inserting “10”; and

9 (bb) by striking “or an attempt” and all that follows through
10 “subparagraph”; and

11 (II) in clause (iii), by striking “and” at the end; and

12 (iii) by striking subparagraph (C); and

13 (C) by striking paragraphs (3) and (4) and inserting the following:

14 “(3) a fine under this title of imprisonment for not more than 1 year, or both, in the case
15 of an offense under subsection (a)(3) of this section;

16 “(4) a fine under this title or imprisonment for not more than 20 years, or both, in the case
17 of an offense under subsection (a)(4) of this section;

18 “(5)(A) if the offender attempts to cause or knowingly or recklessly causes death from
19 conduct in violation of subsection (a)(5), a fine under this title, imprisonment for any term
20 of years or for life, or both;

21 “(B) a fine under this title, imprisonment for not more than 20 years, or both, in the case
22 of an offense under subsection (a)(5), if the offense caused—

23 “(i) loss to 1 or more persons during any 1-year period (and, for purposes of an
24 investigation, prosecution, or other proceeding brought by the United States only, loss
25 resulting from a related course of conduct affecting 1 or more other protected
26 computers) aggregating at least \$5,000 in value;

27 “(ii) the modification or impairment, or potential modification or impairment, of the
28 medical examination, diagnosis, treatment, or care of one or more individuals;

29 “(iii) physical injury to any person;

30 “(iv) a threat to public health or safety;

31 “(v) damage affecting a computer used by or for an entity of the United States
32 Government in furtherance of the administration of justice, national defense, or
33 national security; or

34 “(vi) damage affecting 10 or more protected computers during any 1-year period; or

35 “(C) a fine under this title, imprisonment for not more than 1 year, or both, for any other
36 offense under subsection (a)(5);

37 “(6) a fine under this title or imprisonment for not more than 10 years, or both, in the case

1 of an offense under subsection (a)(6) of this section; and

2 “(7) a fine under this title or imprisonment for not more than 10 years, or both, in the case
3 of an offense under subsection (a)(7) of this section.”;

4 (4) in subsection (e)—

5 (A) by striking paragraph (6) and inserting the following:

6 “(6) the term ‘exceeds authorized access’—

7 “(A) means to access a computer with authorization and to use such access for a
8 purpose that the accessor knows is prohibited by the computer owner, to include
9 obtaining information that the accessor is not entitled to obtain; and

10 “(B) does not include access in violation of a contractual obligation or agreement,
11 such as an acceptable use policy or terms of service agreement, between a provider of
12 online service and a customer or subscriber thereof, if such violation constitutes the
13 sole basis for determining that access to a protected computer is in excess of
14 authorization;”;

15 (B) by striking paragraph (10);

16 (C) by redesignating paragraphs (11) and (12) as paragraphs (10) and (11),
17 respectively;

18 (D) in paragraph (10), as redesignated, by striking “and”;

19 (E) in paragraph (11), as redesignated, by striking the period at the end and inserting
20 a semicolon; and

21 (F) by adding at the end the following:

22 “(12) the term ‘willfully’ means intentionally to undertake an act that the person knows to
23 be wrongful;

24 “(13) the term ‘online service’ means an electronic communication service to the public
25 (as defined in section 2510 of this title), a remote computing service (as defined in section
26 2711 of this title), or the provision to the public over the Internet of content or computing
27 services; and

28 “(14) the term ‘traffic’ means transfer, or otherwise dispose of, to another as
29 consideration for the receipt of, or as consideration for a promise or agreement to pay,
30 anything of pecuniary value.”;

31 (5) in subsection (g)—

32 (A) by striking “subclauses (I), (II), (III), (IV), or (V) of subsection (c)(4)(A)(i)” and
33 inserting “clause (i), (ii), (iii), (iv), or (v) of subsection (c)(5)(B)”;

34 (B) by striking “subsection (c)(4)(A)(i)(I)” and inserting “subsection (c)(5)(B)(i)”;

35 (6) by striking subsection (i) and inserting the following:

36 “(i) Criminal Forfeiture.—

37 “(1) The court, in imposing sentence on any person convicted of a violation of this
38 section, or convicted of conspiracy to violate this section, shall order, in addition to any

1 other sentence imposed and irrespective of any provision of State law, that such person
2 forfeit to the United States—

3 “(A) such person’s interest in any property, real or personal, that was used or
4 intended to be used to commit or to facilitate the commission of such violation; and

5 “(B) any property, real or personal, constituting or derived from any gross proceeds,
6 or any property traceable to such property, that such person obtained, directly or
7 indirectly, as a result of such violation.

8 “(2) The criminal forfeiture of property under this subsection, including any seizure and
9 disposition of the property, and any related judicial or administrative proceeding, shall be
10 governed by the provisions of section 413 of the Comprehensive Drug Abuse Prevention
11 and Control Act of 1970 (21 U.S.C. 853), except subsection (d) of that section.”; and

12 (7) by striking subsection (j) and inserting the following:

13 “(j) Civil Forfeiture.—

14 “(1) The following shall be subject to forfeiture to the United States and no property right
15 shall exist in them:

16 “(A) Any personal property, real or personal, that was used or intended to be used to
17 commit or to facilitate the commission of any violation of this section, or a conspiracy
18 to violate this section.

19 “(B) Any property, real or personal, constituting or is derived from any gross
20 proceeds obtained directly or indirectly, or any property traceable to such property, as
21 a result of the commission of any violation of this section, or a conspiracy to violate
22 this section.

23 “(2) Seizures and forfeitures under this subsection shall be governed by the provisions of
24 chapter 46 relating to civil forfeitures, except that such duties as are imposed on the
25 Secretary of the Treasury under the customs laws described in section 981(d) shall be
26 performed by such officers, agents, and other persons as may be designated for that purpose
27 by the Secretary of Homeland Security or the Attorney General.”.

28 (b) Technical and Conforming Amendment.—Section 7431(e)(3) of the Internal Revenue
29 Code of 1986 is amended by striking “subparagraph (B)” and inserting “subparagraph (B)(iii)”.