



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 7, 2007

S. 2168

Identity Theft Enforcement and Restitution Act of 2007

As ordered reported by the Senate Committee on the Judiciary on November 1, 2007

CBO estimates that implementing S. 2168 would have no significant effect on the federal budget. Enacting the bill could increase revenues and direct spending, but CBO estimates that any such impact would be insignificant.

S. 2168 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

S. 2168 would expand the ability of the federal government to prosecute certain crimes related to identity theft and computer fraud. The bill would create new violations under the aggravated identity theft statute, including mail fraud, tax fraud, and passing counterfeit securities. Further, it would expand the definition of aggravated identity theft to include the conspiracy to commit such crimes. S. 2168 also would make it easier to prosecute criminal cases involving unauthorized access to a protected computer by eliminating the requirement that a victim's loss from stealing sensitive personal information exceed \$5,000. (Generally, a protected computer is exclusively used by or for the U.S. government or a financial institution.) Last, the bill would allow the prosecution of an offense that results in the damage of 10 or more protected computers, regardless of the monetary value of such damage.

Because the bill would establish new federal crimes, the government would be able to pursue cases that it otherwise could not prosecute. However, information from the Department of Justice indicates that the provisions of S. 2168 would apply to a relatively small number of offenders, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Convicted offenders of identity theft crimes specified in the bill would be subject to criminal fines, which are recorded as revenues, deposited in the Crime Victims Fund, and later spent. Convicted offenders could also be subject to the seizure of assets by the federal government. Proceeds from forfeited cash and the sale of assets are also recorded as revenues, deposited

into the Assets Forfeiture Fund, and spent mostly in the same year. Thus, enacting S. 2168 could increase both revenues deposited into those funds and direct spending from them. However, CBO expects that any such effects would not be significant because of the small number of cases involved.

The CBO staff contact for this estimate is Leigh Angres. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.