

107TH CONGRESS  
1ST SESSION

# H. R. 3482

To provide greater cybersecurity.

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IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2001

Mr. SMITH of Texas (for himself and Mr. BOEHLERT) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide greater cybersecurity.

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 “Cyber Security En-  
5 hancement Act of 2001”.

6 **TITLE I—COMPUTER CRIME**

7 **SEC. 101. AMENDMENT OF SENTENCING GUIDELINES RE-**  
8 **LATING TO CERTAIN COMPUTER CRIMES.**

9 The United States Sentencing Commission shall  
10 amend the Federal sentencing guidelines and, if appro-  
11 priate, promulgate guidelines or policy statements or  
12 amend existing policy statements to address—

1           (1) the potential and actual loss resulting from  
2           an offense under section 1030 of title 18, United  
3           States Code;

4           (2) the level of sophistication and planning in-  
5           volved in the offense;

6           (3) the growing incidence of such offenses and  
7           the need to provide an effective deterrent against  
8           them;

9           (4) whether or not the offense was committed  
10          for purposes of commercial advantage or private fi-  
11          nancial benefit;

12          (5) whether or not the defendant acted with  
13          malicious intent to cause harm in committing the of-  
14          fense;

15          (6) the extent to which the offense violated the  
16          privacy rights of individuals harmed by the offense;

17          (7) whether the offense involved a computer  
18          used by the Government in furtherance of national  
19          defense, national security, or the administration of  
20          justice; and

21          (8) any other factor the Commission considers  
22          appropriate.

23 **SEC. 102. EMERGENCY DISCLOSURE EXCEPTION.**

24          Section 2702(b) of title 18, United States Code, is  
25          amended—

1 (1) by striking “or” at the end of paragraph  
2 (5);

3 (2) by striking subparagraph (C) of paragraph  
4 (6); and

5 (3) by striking the period at the end of para-  
6 graph (6) and inserting “; or”; and

7 (4) by inserting after paragraph (6) the fol-  
8 lowing:

9 “(7) to a governmental entity, if the provider,  
10 in good faith, believes that an emergency involving  
11 danger of death or serious physical injury to any  
12 person requires disclosure of the information without  
13 delay.”.

14 **SEC. 103. GOOD FAITH EXCEPTION.**

15 Section 2520(d)(3) of title 18, United States Code,  
16 is amended by inserting “or 2511(2)(i)” after “2511(3)”.

17 **SEC. 104. NATIONAL INFRASTRUCTURE PROTECTION CEN-**  
18 **TER.**

19 (a) IN GENERAL.—The Attorney General, acting  
20 through the Federal Bureau of Investigation, shall estab-  
21 lish and maintain a National Infrastructure Protection  
22 Center (hereinafter in this section referred to as the “Cen-  
23 ter”) to serve as a national focal point for threat assess-  
24 ment, warning, investigation, and response to attacks on

1 the Nation’s critical infrastructure for both physical and  
2 cyber sources.

3 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
4 are authorized to be appropriated for fiscal year 2003 to  
5 carry out this section, \$57, 500,000.

6 **SEC. 105. INTERNET ADVERTISING OF ILLEGAL DEVICES.**

7 Section 2512(1)(c) of title 18, United States Code,  
8 is amended—

9 (1) by inserting “on the Internet,” after “hand-  
10 bill,”;

11 (2) by inserting “or” after “magazine,”; and

12 (3) by inserting “in any” before “other publica-  
13 tion”.

14 **SEC. 106. INCREASED PENALTY.**

15 Section 1030(c) of title 18, United States Code, is  
16 amended—

17 (1) by striking “and” at the end of paragraph

18 (3);

19 (2) in each of subparagraphs (A) and (C) of  
20 paragraph (4), by inserting “except as provided in  
21 paragraph (5),” before “a fine under this title”;

22 (3) by striking the period at the end of para-  
23 graph (4)(C) and inserting “; and”; and

24 (4) by adding at the end the following:

1           “(5) if the offender knowingly causes or at-  
2           tempts to cause death or serious bodily injury in a  
3           violation of subsection (a)(5)(A)(i), a fine under this  
4           title, imprisonment for any term of years or for life,  
5           or both.”.

6 **SEC. 107. PROVIDER ASSISTANCE.**

7           (a) SECTION 2703.—Section 2703(e) of title 18,  
8           United States Code, is amended by inserting “statutory  
9           authorization” after “subpoena”.

10          (b) SECTION 2511.—Section 2511(2)(a)(ii) of title  
11          18, United States Code, is amended by inserting “, statu-  
12          tory authorization,” after “court order”.

13           **TITLE II—OFFICE OF SCIENCE**  
14                           **AND TECHNOLOGY**

15 **SEC. 201. ESTABLISHMENT OF OFFICE; DIRECTOR.**

16           (a) ESTABLISHMENT.—

17               (1) IN GENERAL.—There is hereby established  
18               within the Department of Justice an Office of  
19               Science and Technology (hereinafter in this title re-  
20               ferred to as the “Office”).

21               (2) AUTHORITY.—The Office shall be under the  
22               general authority of the Assistant Attorney General,  
23               Office of Justice Programs, and shall be independent  
24               of the National Institute of Justice.

1 (b) DIRECTOR.—The Office shall be headed by a Di-  
2 rector, who shall be appointed from the career Senior Ex-  
3 ecutive Service. The rate of basic pay of the Director shall  
4 be not less than the rate of basic pay, as of the date of  
5 the enactment of this Act, of the director of the office abol-  
6 ished under section 204.

7 **SEC. 202. MISSION OF OFFICE; DUTIES.**

8 (a) MISSION.—The mission of the Office shall be—

9 (1) to serve as the national focal point for work  
10 on law enforcement technology; and

11 (2) to carry out programs that, through the  
12 provision of equipment, training, and technical as-  
13 sistance, improve the safety and effectiveness of law  
14 enforcement technology and improve access to such  
15 technology by Federal, State, and local law enforce-  
16 ment agencies.

17 (b) DUTIES.—In carrying out its mission, the Office  
18 shall have the following duties:

19 (1) To provide recommendations and advice to  
20 the Attorney General.

21 (2) To establish and maintain advisory groups  
22 (which shall be exempt from the provisions of the  
23 Federal Advisory Committee Act (5 U.S.C. App.)) to  
24 assess the law enforcement technology needs of Fed-  
25 eral, State, and local law enforcement agencies.

1           (3) To establish and maintain performance  
2 standards in accordance with the Federal Tech-  
3 nology Transfer Act of 1986 (15 U.S.C. 3701 et  
4 seq.) for, and test and evaluate law enforcement  
5 technologies that may be used by, Federal, State,  
6 and local law enforcement agencies.

7           (4) To establish and maintain a program to  
8 certify, validate, and mark, or otherwise recognize,  
9 law enforcement technology products that conform  
10 to standards set by the Office.

11           (5) To work with other entities within the De-  
12 partment of Justice, other Federal agencies, and the  
13 executive office of the President to establish a co-  
14 ordinated Federal approach on issues related to law  
15 enforcement technology.

16           (6) To carry out research, development, testing,  
17 and evaluation in fields that would improve the safe-  
18 ty, effectiveness, and efficiency of law enforcement  
19 technologies used by Federal, State, and local law  
20 enforcement agencies, including, but not limited to—

21                   (A) weapons capable of preventing use by  
22 unauthorized persons, including personalized  
23 guns;

24                   (B) protective apparel;

1 (C) bullet-resistant and explosion-resistant  
2 glass;

3 (D) monitoring systems and alarm systems  
4 capable of providing precise location informa-  
5 tion;

6 (E) wire and wireless interoperable com-  
7 munication technologies;

8 (F) tools and techniques that facilitate in-  
9 vestigative and forensic work, including com-  
10 puter forensics;

11 (G) equipment for particular use in  
12 counterterrorism, including devices and tech-  
13 nologies to disable terrorist devices;

14 (H) guides to assist State and local law en-  
15 forcement agencies;

16 (I) DNA identification technologies; and

17 (J) tools and techniques that facilitate in-  
18 vestigations of computer crime.

19 (7) To administer a program of research, devel-  
20 opment, testing, and demonstration to improve the  
21 interoperability of voice and data public safety com-  
22 munications.

23 (8) To serve on the Technical Support Working  
24 Group of the Department of Defense, and on other  
25 relevant interagency panels, as requested.

1           (9) To develop, and disseminate to State and  
2 local law enforcement agencies, technical assistance  
3 and training materials for law enforcement per-  
4 sonnel, including prosecutors.

5           (10) To operate the regional National Law En-  
6 forcement and Corrections Technology Centers and,  
7 to the extent necessary, establish additional centers  
8 through a competitive process.

9           (11) To administer a program of acquisition,  
10 research, development, and dissemination of ad-  
11 vanced investigative analysis and forensic tools to as-  
12 sist State and local law enforcement agencies in  
13 combating cybercrime.

14           (12) To support research fellowships in support  
15 of its mission.

16           (13) To serve as a clearinghouse for informa-  
17 tion on law enforcement technologies.

18           (14) To represent the United States and State  
19 and local law enforcement agencies, as requested, in  
20 international activities concerning law enforcement  
21 technology.

22           (15) To enter into contracts and cooperative  
23 agreements and provide grants, which may require  
24 in-kind or cash matches from the recipient, as nec-  
25 essary to carry out its mission.

1           (16) To carry out other duties assigned by the  
2       Attorney General to accomplish the mission of the  
3       Office.

4       (c) COMPETITION REQUIRED.—Except as otherwise  
5       expressly provided by law, all research and development  
6       carried out by or through the Office shall be carried out  
7       on a competitive basis.

8       (d) INFORMATION FROM FEDERAL AGENCIES.—Fed-  
9       eral agencies shall, upon request from the Office and in  
10      accordance with Federal law, provide the Office with any  
11      data, reports, or other information requested, unless com-  
12      pliance with such request is otherwise prohibited by law.

13      (e) PUBLICATIONS.—Decisions concerning publica-  
14      tions issued by the Office shall rest solely with the Direc-  
15      tor of the Office.

16      (f) TRANSFER OF FUNDS.—The Office may transfer  
17      funds to other Federal agencies or provide funding to non-  
18      Federal entities through grants, cooperative agreements,  
19      or contracts to carry out its duties under this section.

20      (g) ANNUAL REPORT.—The Director of the Office  
21      shall include with the budget justification materials sub-  
22      mitted to Congress in support of the Department of Jus-  
23      tice budget for each fiscal year (as submitted with the  
24      budget of the President under section 1105(a) of title 31,

1 United States Code) a report on the activities of the Of-  
2 fice. Each such report shall include the following:

3 (1) For the period of 5 fiscal years beginning  
4 with the fiscal year for which the budget is  
5 submitted—

6 (A) the Director’s assessment of the needs  
7 of Federal, State, and local law enforcement  
8 agencies for assistance with respect to law en-  
9 forcement technology and other matters con-  
10 sistent with the mission of the Office; and

11 (B) a strategic plan for meeting such  
12 needs of such law enforcement agencies.

13 (2) For the fiscal year preceding the fiscal year  
14 for which such budget is submitted, a description of  
15 the activities carried out by the Office and an eval-  
16 uation of the extent to which those activities success-  
17 fully meet the needs assessed under paragraph  
18 (1)(A) in previous reports.

19 **SEC. 203. DEFINITION OF LAW ENFORCEMENT TECH-**  
20 **NOLOGY.**

21 For the purposes of this title, the term “law enforce-  
22 ment technology” includes investigative and forensic tech-  
23 nologies, corrections technologies, and technologies that  
24 support the judicial process.

1 **SEC. 204. ABOLISHMENT OF OFFICE OF SCIENCE AND**  
2 **TECHNOLOGY OF NATIONAL INSTITUTE OF**  
3 **JUSTICE; TRANSFER OF FUNCTIONS.**

4 (a) **TRANSFERS FROM OFFICE WITHIN NIJ.**—The  
5 Office of Science and Technology of the National Institute  
6 of Justice is hereby abolished, and all functions and activi-  
7 ties performed immediately before the date of the enact-  
8 ment of this Act by the Office of Science and Technology  
9 of the National Institute of Justice are hereby transferred  
10 to the Office.

11 (b) **AUTHORITY TO TRANSFER ADDITIONAL FUNC-**  
12 **TIONS.**—The Attorney General may transfer to the Office  
13 any other program or activity of the Department of Jus-  
14 tice that the Attorney General, in consultation with the  
15 Committee on the Judiciary of the Senate and the Com-  
16 mittee on the Judiciary of the House of Representatives,  
17 determines to be consistent with the mission of the Office.

18 (c) **TRANSFER OF FUNDS.**—

19 (1) **IN GENERAL.**—Any balance of appropria-  
20 tions that the Attorney General determines is avail-  
21 able and needed to finance or discharge a function,  
22 power, or duty of the Office or a program or activity  
23 that is transferred to the Office shall be transferred  
24 to the Office and used for any purpose for which  
25 those appropriations were originally available. Bal-  
26 ances of appropriations so transferred shall—

1 (A) be credited to any applicable appro-  
2 priation account of the Office; or

3 (B) be credited to a new account that may  
4 be established on the books of the Department  
5 of the Treasury;

6 and shall be merged with the funds already credited  
7 to that account and accounted for as one fund.

8 (2) LIMITATIONS.—Balances of appropriations  
9 credited to an account under paragraph (1)(A) are  
10 subject only to such limitations as are specifically  
11 applicable to that account. Balances of appropria-  
12 tions credited to an account under paragraph (1)(B)  
13 are subject only to such limitations as are applicable  
14 to the appropriations from which they are trans-  
15 ferred.

16 (d) TRANSFER OF PERSONNEL AND ASSETS.—With  
17 respect to any function, power, or duty, or any program  
18 or activity, that is transferred to the Office, those employ-  
19 ees and assets of the element of the Department of Justice  
20 from which the transfer is made that the Attorney General  
21 determines are needed to perform that function, power,  
22 or duty, or for that program or activity, as the case may  
23 be, shall be transferred to the Office.

24 (e) REPORT ON IMPLEMENTATION.—Not later than  
25 1 year after the date of the enactment of this Act, the

1 Attorney General shall submit to the Committee on the  
2 Judiciary of the Senate and the Committee on the Judici-  
3 ary of the House of Representatives a report on the imple-  
4 mentation of this title. The report shall—

5 (1) identify each transfer carried out pursuant  
6 to subsection (b);

7 (2) provide an accounting of the amounts and  
8 sources of funding available to the Office to carry  
9 out its mission under existing authorizations and ap-  
10 propriations, and set forth the future funding needs  
11 of the Office;

12 (3) include such other information and rec-  
13 ommendations as the Attorney General considers ap-  
14 propriate.

15 **SEC. 205. NATIONAL LAW ENFORCEMENT AND CORREC-**  
16 **TIONS TECHNOLOGY CENTERS.**

17 (a) IN GENERAL.—The Director of the Office shall  
18 operate and support National Law Enforcement and Cor-  
19 rections Technology Centers (hereinafter in this section  
20 referred to as “Centers”) and, to the extent necessary, es-  
21 tablish new centers through a merit-based, competitive  
22 process.

23 (b) PURPOSE OF CENTERS.—The purpose of the  
24 Centers shall be to—

1           (1) support research and development of law  
2 enforcement technology;

3           (2) support the transfer and implementation of  
4 technology;

5           (3) assist in the development and dissemination  
6 of guidelines and technological standards; and

7           (4) provide technology assistance, information,  
8 and support for law enforcement, corrections, and  
9 criminal justice purposes.

10       (c) ANNUAL MEETING.—Each year, the Director  
11 shall convene a meeting of the Centers in order to foster  
12 collaboration and communication between Center partici-  
13 pants.

14       (d) REPORT.—Not later than 12 months after the  
15 date of the enactment of this Act, the Director shall trans-  
16 mit to the Congress a report assessing the effectiveness  
17 of the existing system of Centers and identify the number  
18 of Centers necessary to meet the technology needs of Fed-  
19 eral, State, and local law enforcement in the United  
20 States.

21 **SEC. 206. COORDINATION WITH OTHER ENTITIES WITHIN**  
22 **DEPARTMENT OF JUSTICE.**

23       Section 102 of the Omnibus Crime Control and Safe  
24 Streets Act of 1968 (42 U.S.C. 3712) is amended in sub-

1 section (a)(5) by inserting “coordinate and” before “pro-  
2 vide”.

○