

Subsec. (g). Pub. L. 104-294, §604(b)(36)(C), substituted “violation of this section” for “violation of the section”.

Pub. L. 104-294, §201(5), struck out “, other than a violation of subsection (a)(5)(B),” before “may maintain a civil action” and substituted “involving damage as defined in subsection (e)(8)(A)” for “of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb)”.

Subsec. (h). Pub. L. 104-294, §604(b)(36)(D), substituted “subsection (a)(5)” for “section 1030(a)(5) of title 18, United States Code” before period at end.

1994—Subsec. (a)(3). Pub. L. 103-322, §290001(f), inserted “adversely” before “affects the use of the Government’s”.

Subsec. (a)(5). Pub. L. 103-322, §290001(b), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “intentionally accesses a Federal interest computer without authorization, and by means of one or more instances of such conduct alters, damages, or destroys information in any such Federal interest computer, or prevents authorized use of any such computer or information, and thereby—

“(A) causes loss to one or more others of a value aggregating \$1,000 or more during any one year period; or

“(B) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or”.

Subsec. (c)(3)(A). Pub. L. 103-322, §290001(c)(2), inserted “(A)” after “(a)(5)”.

Subsec. (c)(4). Pub. L. 103-322, §290001(c)(1), (3), (4), added par. (4).

Subsec. (g). Pub. L. 103-322, §290001(d), added subsec. (g).

Subsec. (h). Pub. L. 103-322, §290001(e), added subsec. (h).

1990—Subsec. (a)(1). Pub. L. 101-647, §3533, substituted “paragraph y” for “paragraph r”.

Subsec. (e)(3). Pub. L. 101-647, §1205(e), inserted “commonwealth,” before “possession or territory of the United States”.

Subsec. (e)(4)(G). Pub. L. 101-647, §2597(j)(2), which directed substitution of a semicolon for a period at end of subpar. (G), could not be executed because it ended with a semicolon.

Subsec. (e)(4)(H), (I). Pub. L. 101-647, §2597(j), added subpars. (H) and (I).

1989—Subsec. (e)(4)(A). Pub. L. 101-73, §962(a)(5)(A), substituted “an institution,” for “a bank”.

Subsec. (e)(4)(C) to (H). Pub. L. 101-73, §962(a)(5)(B), (C), redesignated subpars. (D) to (H) as (C) to (G), respectively, and struck out former subpar. (C) which read as follows: “an institution with accounts insured by the Federal Savings and Loan Insurance Corporation;”.

1988—Subsec. (a)(2). Pub. L. 100-690 inserted a comma after “financial institution” and struck out the comma that followed a comma after “title 15”.

1986—Subsec. (a). Pub. L. 99-474, §2(b)(2), struck out last sentence which read as follows: “It is not an offense under paragraph (2) or (3) of this subsection in the case of a person having accessed a computer with authorization and using the opportunity such access provides for purposes to which such access does not extend, if the using of such opportunity consists only of the use of the computer.”

Subsec. (a)(1). Pub. L. 99-474, §2(c), substituted “or exceeds authorized access” for “, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend”.

Subsec. (a)(2). Pub. L. 99-474, §2(a), (c), substituted “intentionally” for “knowingly”, substituted “or exceeds authorized access” for “, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend”, struck out “as such terms are defined in the Right to Financial Privacy Act of 1978 (12

U.S.C. 3401 et seq.),” after “financial institution,” inserted “or of a card issuer as defined in section 1602(n) of title 15,” and struck out “or” appearing at end.

Subsec. (a)(3). Pub. L. 99-474, §2(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “knowingly accesses a computer without authorization, or having accessed a computer with authorization, uses the opportunity such access provides for purposes to which such authorization does not extend, and by means of such conduct knowingly uses, modifies, destroys, or discloses information in, or prevents authorized use of, such computer, if such computer is operated for or on behalf of the Government of the United States and such conduct affects such operation;”.

Subsec. (a)(4) to (6). Pub. L. 99-474, §2(d), added pars. (4) to (6).

Subsec. (b). Pub. L. 99-474, §2(e), struck out par. (1) designation and par. (2) which provided a penalty for persons conspiring to commit an offense under subsec. (a).

Subsec. (c). Pub. L. 99-474, §2(f)(9), substituted “(b)” for “(b)(1)” in introductory text.

Subsec. (c)(1)(A). Pub. L. 99-474, §2(f)(1), substituted “under this title” for “of not more than the greater of \$10,000 or twice the value obtained by the offense”.

Subsec. (c)(1)(B). Pub. L. 99-474, §2(f)(2), substituted “under this title” for “of not more than the greater of \$100,000 or twice the value obtained by the offense”.

Subsec. (c)(2)(A). Pub. L. 99-474, §2(f)(3), (4), substituted “under this title” for “of not more than the greater of \$5,000 or twice the value obtained or loss created by the offense” and inserted reference to subsec. (a)(6).

Subsec. (c)(2)(B). Pub. L. 99-474, §2(f)(3), (5)–(7), substituted “under this title” for “of not more than the greater of \$10,000 or twice the value obtained or loss created by the offense”, “not more than” for “not than”, inserted reference to subsec. (a)(6), and substituted “; and” for the period at end of subpar. (B).

Subsec. (c)(3). Pub. L. 99-474, §2(f)(8), added par. (3).

Subsec. (e). Pub. L. 99-474, §2(g), substituted a dash for the comma after “As used in this section”, realigned remaining portion of subsection, inserted “(1)” before “the term”, substituted a semicolon for the period at the end, and added pars. (2) to (7).

Subsec. (f). Pub. L. 99-474, §2(h), added subsec. (f).

#### REPORTS TO CONGRESS

Section 2103 of Pub. L. 98-473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 2256, 3239 of this title; title 31 section 9703.

### § 1031. Major fraud against the United States

(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

- (1) to defraud the United States; or
- (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is \$1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.

(b) The fine imposed for an offense under this section may exceed the maximum otherwise pro-

vided by law, if such fine does not exceed \$5,000,000 and—

(1) the gross loss to the Government or the gross gain to a defendant is \$500,000 or greater; or

(2) the offense involves a conscious or reckless risk of serious personal injury.

(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed \$10,000,000.

(d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including—

(1) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;

(2) whether the defendant previously has been fined for a similar offense; and

(3) any other pertinent equitable considerations.

(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

(g)(1) In special circumstances and in his or her sole discretion, the Attorney General is authorized to make payments from funds appropriated to the Department of Justice to persons who furnish information relating to a possible prosecution under this section. The amount of such payment shall not exceed \$250,000. Upon application by the Attorney General, the court may order that the Department shall be reimbursed for a payment from a criminal fine imposed under this section.

(2) An individual is not eligible for such a payment if—

(A) that individual is an officer or employee of a Government agency who furnishes information or renders service in the performance of official duties;

(B) that individual failed to furnish the information to the individual's employer prior to furnishing it to law enforcement authorities, unless the court determines the individual has justifiable reasons for that failure;

(C) the furnished information is based upon public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or GAO report, hearing, audit or investigation, or from the news media unless the person is the original source of the information. For the purposes of this subsection, "original source" means an individual who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government; or

(D) that individual participated in the violation of this section with respect to which such payment would be made.

(3) The failure of the Attorney General to authorize a payment shall not be subject to judicial review.

(h) Any individual who—

(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

(Added Pub. L. 100-700, §2(a), Nov. 19, 1988, 102 Stat. 4631; amended Pub. L. 101-123, §2(a), Oct. 23, 1989, 103 Stat. 759; Pub. L. 103-322, title XXXIII, §330002(a), (f), Sept. 13, 1994, 108 Stat. 2140.)

AMENDMENTS

1994—Subsec. (g). Pub. L. 103-322, §330002(f), redesignated second subsec. (g) as (h).

Subsec. (g)(2)(A). Pub. L. 103-322, §330002(a), substituted "a Government" for "a government".

Subsec. (h). Pub. L. 103-322, §330002(f), redesignated second subsec. (g) as (h).

1989—Subsec. (g). Pub. L. 101-123 added, after subsec. (f), subsec. (g) relating to payments by the Attorney General.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2(b) of Pub. L. 101-123 provided that: "The amendment made by this section [amending this section] shall apply to contracts entered into on or after the date of the enactment of this Act [Oct. 23, 1989]."

SENTENCING GUIDELINES

Section 2(b) of Pub. L. 100-700 provided that: "Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987 [section 21 of Pub. L. 100-182, set out as a note under section 994 of Title 28, Judiciary and Judicial Procedure], the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred. The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982 of this title.

**§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution**

Whoever—