

117TH CONGRESS
1ST SESSION

H. R. 3388

To amend title 18, United States Code, to increase penalties for certain computer fraud and related offenses that involve critical infrastructure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 20, 2021

Mr. FALLON introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, to increase penalties for certain computer fraud and related offenses that involve critical infrastructure, 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 “Protecting Critical In-
5 frastructure Act of 2021”.

1 **SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION**
2 **WITH CRITICAL INFRASTRUCTURE.**

3 Section 1030(c) of title 18, United States Code, is
4 amended—

5 (1) in paragraph (4)(G), by striking the period
6 at the end and inserting “; or”; and

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

9 “(5) a fine under this title and imprisonment
10 for not less than 30 years or for life, in the case of
11 an offense that involves critical infrastructure (as
12 such term is defined in section 1016(e) of Public
13 Law 107–56 (42 U.S.C. 5195c(e))).”.

14 **SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO FOR-**
15 **EIGN PERSONS THAT KNOWINGLY ACCESS**
16 **CRITICAL INFRASTRUCTURE.**

17 (a) IMPOSITION OF SANCTIONS.—The President shall
18 impose the sanctions described in subsection (b) with re-
19 spect to any foreign person that the President determines
20 knowingly accesses or attempts to access critical infra-
21 structure (as such term is defined in section 1016(e) of
22 Public Law 107–56 (42 U.S.C. 5195c(e))) for the purpose
23 of harming—

24 (1) the national security or defense of the
25 United States; or

1 (2) the safety and security of any United States
2 citizen or alien lawfully admitted for permanent resi-
3 dence.

4 (b) SANCTIONS DESCRIBED.—

5 (1) IN GENERAL.—The sanctions described in
6 this subsection with respect to a foreign person de-
7 termined by the President to be subject to sub-
8 section (a) are the following:

9 (A) ASSET BLOCKING.—The President
10 shall exercise of all powers granted to the Presi-
11 dent by the International Emergency Economic
12 Powers Act (50 U.S.C. 1701 et seq.) to the ex-
13 tent necessary to block and prohibit all trans-
14 actions in property and interests in property of
15 the foreign person if such property and inter-
16 ests in property are in the United States, come
17 within the United States, or are or come within
18 the possession or control of a United States
19 person.

20 (B) INADMISSIBILITY OF CERTAIN INDIVIDUALS.—
21

22 (i) INELIGIBILITY FOR VISAS, ADMIS-
23 SION, OR PAROLE.—In the case of a for-
24 eign person who is an individual, the for-
25 eign person is—

1 (I) inadmissible to the United
2 States;

3 (II) ineligible to receive a visa or
4 other documentation to enter the
5 United States; and

6 (III) otherwise ineligible to be
7 admitted or paroled into the United
8 States or to receive any other benefit
9 under the Immigration and Nation-
10 ality Act (8 U.S.C. 1101 et seq.).

11 (ii) CURRENT VISAS REVOKED.—

12 (I) IN GENERAL.—In the case of
13 a foreign person who is an individual,
14 the visa or other documentation
15 issued to the person shall be revoked,
16 regardless of when such visa or other
17 documentation is or was issued.

18 (II) EFFECT OF REVOCATION.—
19 A revocation under subclause (I)
20 shall—

21 (aa) take effect immediately;

22 and

23 (bb) automatically cancel
24 any other valid visa or entry doc-

1 umentation that is in the per-
2 son's possession.

3 (2) PENALTIES.—A person that violates, at-
4 tempts to violate, conspires to violate, or causes a
5 violation of any regulation, license, or order issued
6 to carry out paragraph (1)(A) shall be subject to the
7 penalties set forth in subsections (b) and (c) of sec-
8 tion 206 of the International Emergency Economic
9 Powers Act (50 U.S.C. 1705) to the same extent as
10 a person that commits an unlawful act described in
11 subsection (a) of that section.

12 (3) EXCEPTION TO COMPLY WITH UNITED NA-
13 TIONS HEADQUARTERS AGREEMENT.—Sanctions
14 under paragraph (1)(B) shall not apply to a foreign
15 person who is an individual if admitting the person
16 into the United States is necessary to permit the
17 United States to comply with the Agreement regard-
18 ing the Headquarters of the United Nations, signed
19 at Lake Success June 26, 1947, and entered into
20 force November 21, 1947, between the United Na-
21 tions and the United States, or other applicable
22 international obligations.

23 (c) WAIVER.—The President may, on a case-by-case
24 basis and for periods not to exceed 180 days, waive the
25 application of sanctions imposed with respect to a foreign

1 person under this section if the President certifies to the
2 appropriate congressional committees not later than 15
3 days before such waiver is to take effect that the waiver
4 is vital to the national security interests of the United
5 States.

6 (d) IMPLEMENTATION AUTHORITY.—The President
7 may exercise all authorities provided to the President
8 under sections 203 and 205 of the International Emer-
9 gency Economic Powers Act (50 U.S.C. 1702 and 1704)
10 for purposes of carrying out this section.

11 (e) REGULATORY AUTHORITY.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the President
14 shall promulgate such regulations as are necessary
15 for the implementation of this section.

16 (2) NOTIFICATION TO CONGRESS.—Not less
17 than 10 days before the promulgation of regulations
18 under paragraph (1), the President shall notify and
19 provide to the appropriate congressional committees
20 the proposed regulations and an identification of the
21 provisions of this section that the regulations are im-
22 plementing.

23 (f) DEFINITIONS.—In this section:

24 (1) ADMITTED; ALIEN.—The terms “admitted”
25 and “alien” have the meanings given those terms in

1 section 101(a) of the Immigration and Nationality
2 Act (8 U.S.C. 1101(a)).

3 (2) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Affairs, the
7 Committee on the Judiciary, the Committee on
8 Ways and Means, and the Committee on Finan-
9 cial Services of the House of Representatives;
10 and

11 (B) the Committee on Foreign Relations,
12 the Committee on the Judiciary, the Committee
13 on Finance, and the Committee on Banking,
14 Housing, and Urban Affairs of the Senate.

15 (3) FOREIGN PERSON.—The term “foreign per-
16 son” means a person that is not a United States
17 person.

18 (4) KNOWINGLY.—The term “knowingly”, with
19 respect to conduct, a circumstance, or a result,
20 means that a person has actual knowledge, or should
21 have known, of the conduct, the circumstance, or the
22 result.

23 (5) PERSON.—The term “person” means an in-
24 dividual or entity.

1 (6) PROPERTY; INTEREST IN PROPERTY.—The
2 terms “property” and “interest in property” have
3 the meanings given the terms “property” and “prop-
4 erty interest”, respectively, in section 576.312 of
5 title 31, Code of Federal Regulations, as in effect on
6 the day before the date of the enactment of this Act.

7 (7) UNITED STATES PERSON.—The term
8 “United States person” means—

9 (A) an individual who is a United States
10 citizen or an alien lawfully admitted for perma-
11 nent residence to the United States;

12 (B) an entity organized under the laws of
13 the United States or any jurisdiction within the
14 United States, including a foreign branch of
15 such an entity; or

16 (C) any person in the United States.

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