New Federal Law Targets ID Theft, Cybercrime

President Bush last week signed into law a bill that seeks to make it easier for prosecutors to go after cybercrooks, while ensuring that identity theft victims are compensated for their time and trouble when convicted identity thieves are forced to cough up ill-gotten gains.

The Identity Theft Enforcement and Restitution Act of 2008 [http://www.govtrack.us/congress/billtext.xpd?bill=h110-5938](http://www.govtrack.us/congress/billtext.xpd?bill=h110-5938) lowers the bar prosecutors need to clear before bringing hacking and other cybercrime charges against an individual. Under current federal cybercrime laws, prosecutors must show that the illegal activity caused at least $5,000 in damages before they can bring charges for unauthorized access to a computer. The new law eliminates that requirement.

The law makes it a felony, during any one-year period, to damage 10 or more protected computers used by or for the federal government or a financial institution, and directs the U.S. Sentencing Commission to review its guidelines and consider increasing the penalties for those convicted of identity theft, computer fraud, illegal wiretapping or breaking into computer systems.

The new law allows federal courts to prosecute when the cybercriminal and the victim live in the same state. Under current law, federal courts only have jurisdiction if the thief uses interstate communication to access the victim’s PC. In addition, the law also expands the definition of cyber-extortion.

Identity theft victims could find it easier to win compensation for their trouble as a result of this law, assuming their attackers are brought to justice. The law requires that in cases where convicted identity thieves are ordered to pay restitution, the victim should get a chunk of that money “equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.”

Some ID theft victims can spend thousands of dollars and months or years dealing with credit bureaus and debtors from accounts fraudulently opened in their names, but the law doesn’t appear to take into account lost opportunities associated with identity theft. According to the Federal Trade Commission, some consumers victimized by identity theft may lose out on job opportunities or be denied loans for education, housing or cars because of negative information on their credit reports. In rare cases, they may even be arrested for crimes they did not commit.