

emails, text messages, or electronic instant messages initiated by customers in response to the written materials, whether in hard copy or digital format, and in response to those interstate telephone calls, emails, text messages, or electronic instant messages does not conduct further solicitation.

(Added Pub. L. 115-70, title IV, § 402(a)(2), Oct. 18, 2017, 131 Stat. 1213.)

#### PRIOR PROVISIONS

A prior section 2325, added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 107-56, title X, § 1011(d), Oct. 26, 2001, 115 Stat. 396, related to definition of “telemarketing”, prior to repeal by Pub. L. 115-70, title IV, § 402(a)(2), Oct. 18, 2017, 131 Stat. 1213.

#### SHORT TITLE

Pub. L. 103-322, title XXV, § 250001, Sept. 13, 1994, 108 Stat. 2081, provided that: “This Act [probably should be “title”, meaning title XXV (§§ 250001-250008) of Pub. L. 103-322, which enacted this chapter, amended sections 1029, 1341, and 3059 of this title, and enacted provisions set out as notes under this section and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the ‘Senior Citizens Against Marketing Scams Act of 1994’.”

#### INFORMATION NETWORK

Pub. L. 103-322, title XXV, § 250008, Sept. 13, 1994, 108 Stat. 2088, as amended by Pub. L. 104-294, title VI, § 604(b)(29), Oct. 11, 1996, 110 Stat. 3508, provided that:

“(a) HOTLINE.—The Attorney General shall, subject to the availability of appropriations, establish a national toll-free hotline for the purpose of—

- “(1) providing general information on telemarketing fraud to interested persons; and
- “(2) gathering information related to possible violations of provisions of law amended by this title [see Short Title note above].

“(b) ACTION ON INFORMATION GATHERED.—The Attorney General shall work in cooperation with the Federal Trade Commission to ensure that information gathered through the hotline shall be acted on in an appropriate manner.”

#### § 2326. Enhanced penalties

A person who is convicted of an offense under section 1028, 1029, 1341, 1342, 1343, 1344, or 1347 or section 1128B of the Social Security Act (42 U.S.C. 1320a-7b), or a conspiracy to commit such an offense, in connection with the conduct of telemarketing or email marketing—

(1) shall be imprisoned for a term of up to 5 years in addition to any term of imprisonment imposed under any of those sections, respectively; and

(2) in the case of an offense under any of those sections that—

(A) victimized ten or more persons over the age of 55; or

(B) targeted persons over the age of 55,

shall be imprisoned for a term of up to 10 years in addition to any term of imprisonment imposed under any of those sections, respectively.

(Added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 105-184, §§ 3, 4, June 23, 1998, 112 Stat. 520; Pub. L. 115-70, title IV, § 402(a)(3), Oct. 18, 2017, 131 Stat. 1214.)

#### AMENDMENTS

2017—Pub. L. 115-70 substituted “1344, or 1347 or section 1128B of the Social Security Act (42 U.S.C. 1320a-7b)” for “or 1344” and inserted “or email marketing” after “telemarketing” in introductory provisions.

1998—Pub. L. 105-184 inserted “, or a conspiracy to commit such an offense,” after “or 1344” in introductory provisions and substituted “shall” for “may” in two places.

#### § 2327. Mandatory restitution

(a) IN GENERAL.—Notwithstanding section 3663 or 3663A, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution to all victims of any offense for which an enhanced penalty is provided under section 2326.

(b) SCOPE AND NATURE OF ORDER.—

(1) DIRECTIONS.—The order of restitution under this section shall direct the defendant to pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court pursuant to paragraph (2).

(2) ENFORCEMENT.—An order of restitution under this section shall be issued and enforced in accordance with section 3664 in the same manner as an order under section 3663A.

(3) DEFINITION.—For purposes of this subsection, the term “full amount of the victim’s losses” means all losses suffered by the victim as a proximate result of the offense.

(4) ORDER MANDATORY.—(A) The issuance of a restitution order under this section is mandatory.

(B) A court may not decline to issue an order under this section because of—

(i) the economic circumstances of the defendant; or

(ii) the fact that a victim has, or is entitled to, receive compensation for his or her injuries from the proceeds of insurance or any other source.

(c) VICTIM DEFINED.—In this section, the term “victim” has the meaning given that term in section 3663A(a)(2).

(Added Pub. L. 103-322, title XXV, § 250002(a)(2), Sept. 13, 1994, 108 Stat. 2082; amended Pub. L. 104-132, title II, § 205(e), Apr. 24, 1996, 110 Stat. 1232; Pub. L. 104-294, title VI, § 601(n), Oct. 11, 1996, 110 Stat. 3502; Pub. L. 105-184, § 5, June 23, 1998, 112 Stat. 520.)

#### AMENDMENTS

1998—Subsec. (a). Pub. L. 105-184, § 5(1), substituted “to all victims of any offense for which an enhanced penalty is provided under section 2326” for “for any offense under this chapter”.

Subsec. (c). Pub. L. 105-184, § 5(2), added subsec. (c) and struck out former subsec. (c) which read as follows:

“(c) DEFINITION.—For purposes of this section, the term ‘victim’ includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim’s estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such representative or guardian.”

1996—Subsec. (a). Pub. L. 104-132, § 205(e)(1), inserted “or 3663A” after “3663”.

Subsec. (b)(1). Pub. L. 104-132, § 205(e)(2)(A), reenacted heading without change and amended text generally.

Prior to amendment, text read as follows: “The order of restitution under this section shall direct that—

“(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim’s losses as determined by the court, pursuant to paragraph (3); and

“(B) the United States Attorney enforce the restitution order by all available and reasonable means.”

Subsec. (b)(2). Pub. L. 104-132, §205(e)(2)(B), struck out “by victim” after “Enforcement” in heading and amended text generally. Prior to amendment, text read as follows: “An order of restitution may be enforced by a victim named in the order to receive the restitution as well as by the United States Attorney, in the same manner as a judgment in a civil action.”

Subsec. (b)(4)(C), (D). Pub. L. 104-132, §205(e)(2)(C), struck out subpars. (C) and (D), which related to court’s consideration of economic circumstances of defendant in determining schedule of payment of restitution orders, and court’s entry of nominal restitution awards where economic circumstances of defendant do not allow for payment of restitution, respectively.

Subsec. (b)(5) to (10). Pub. L. 104-132, §205(e)(2)(D), struck out pars. (5) to (10), which related, respectively, to more than 1 offender, more than 1 victim, payment schedule, setoff, effect on other sources of compensation, and condition of probation or supervised release.

Subsec. (c). Pub. L. 104-294, which directed substitution of “designee” for “delegee” wherever appearing, could not be executed because of amendment by Pub. L. 104-132, §205(e)(3), (4). See below.

Pub. L. 104-132, §205(e)(3), (4), redesignated subsec. (f) as (c) and struck out former subsec. (c) relating to proof of claim.

Subsecs. (d), (e). Pub. L. 104-132, §205(e)(3), struck out subsecs. (d) and (e) which read as follows:

“(d) MODIFICATION OF ORDER.—A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.

“(e) REFERENCE TO MAGISTRATE OR SPECIAL MASTER.—The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.”

Subsec. (f). Pub. L. 104-132, §205(e)(4), redesignated subsec. (f) as (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-132 effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104-132, set out as a note under section 2248 of this title.

§ 2328. Mandatory forfeiture

(a) IN GENERAL.—The court, in imposing sentence on a person who is convicted of any offense for which an enhanced penalty is provided under section 2326, shall order that the defendant forfeit to the United States—

(1) any property, real or personal, constituting or traceable to gross proceeds obtained from such offense; and

(2) any equipment, software, or other technology used or intended to be used to commit or to facilitate the commission of such offense.

(b) PROCEDURES.—The procedures set forth in section 413 of the Controlled Substances Act (21 U.S.C. 853), other than subsection (d) of that section, and in Rule 32.2 of the Federal Rules of Criminal Procedure, shall apply to all stages of a criminal forfeiture proceeding under this section.

(Added Pub. L. 115-70, title IV, §402(a)(4), Oct. 18, 2017, 131 Stat. 1214.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in subsec. (b), are set out in the Appendix to this title.

CHAPTER 113B—TERRORISM

- Sec. 2331. Definitions.
- 2332. Criminal penalties.
- 2332a. Use of weapons of mass destruction.
- 2332b. Acts of terrorism transcending national boundaries.
- [2332c. Repealed.]
- 2332d. Financial transactions.
- 2332e. Requests for military assistance to enforce prohibition in certain emergencies.
- 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.
- 2332g. Missile systems designed to destroy aircraft.
- 2332h. Radiological dispersal devices.
- 2332i. Acts of nuclear terrorism.
- 2333. Civil remedies.
- 2334. Jurisdiction and venue.
- 2335. Limitation of actions.
- 2336. Other limitations.
- 2337. Suits against Government officials.
- 2338. Exclusive Federal jurisdiction.
- 2339. Harboring or concealing terrorists.
- 2339A. Providing material support to terrorists.
- 2339B. Providing material support or resources to designated foreign terrorist organizations.
- 2339C. Prohibitions against the financing of terrorism.
- 2339D. Receiving military-type training from a foreign terrorist organization.<sup>1</sup>

CODIFICATION

Pub. L. 101-519, §132, Nov. 5, 1990, 104 Stat. 2250, known as the “Antiterrorism Act of 1990”, amended this chapter by adding sections 2331 and 2333 to 2338 and by amending former section 2331 and renumbering it as section 2332. Pub. L. 102-27, title IV, §402, Apr. 10, 1991, 105 Stat. 155, as amended by Pub. L. 102-136, §126, Oct. 25, 1991, 105 Stat. 643, repealed section 132 of Pub. L. 101-519, effective Nov. 5, 1990, and provided that effective Nov. 5, 1990, this chapter is amended to read as if section 132 of Pub. L. 101-519 had not been enacted.

PRIOR PROVISIONS

Another chapter 113B, consisting of sections 2340 to 2340B, was renumbered chapter 113C.

AMENDMENTS

- 2015—Pub. L. 114-23, title VIII, §811(b), June 2, 2015, 129 Stat. 311, added item 2332i.
- 2004—Pub. L. 108-458, title VI, §6911(a), Dec. 17, 2004, 118 Stat. 3775, added items 2332g and 2332h.
- 2002—Pub. L. 107-197, title I, §102(b), title II, §202(b), June 25, 2002, 116 Stat. 724, 727, added items 2332f and 2339C.
- 2001—Pub. L. 107-56, title VIII, §803(b), Oct. 26, 2001, 115 Stat. 377, added item 2339.
- 1998—Pub. L. 105-277, div. I, title II, §201(c)(2), Oct. 21, 1998, 112 Stat. 2681-871, struck out item 2332c “Use of chemical weapons”.
- 1996—Pub. L. 104-294, title VI, §605(q), Oct. 11, 1996, 110 Stat. 3510, redesignated item 2332d, relating to requests for military assistance to enforce prohibition in certain emergencies, as item 2332e, and moved the item to follow item 2332d, relating to financial transactions.
- Pub. L. 104-294, title VI, §604(b)(5), Oct. 11, 1996, 110 Stat. 3506, amended directory language of Pub. L.

<sup>1</sup> Editorially supplied. Section 2339D added by Pub. L. 108-458 without corresponding amendment of chapter analysis.