



(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. _____

To impose liability on State officers and employees who fail to prevent fraud, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. CLINE introduced the following bill; which was referred to the Committee
on _____

A BILL

To impose liability on State officers and employees who fail
to prevent fraud, 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 “Fraud Accountability
5 and Mandatory Sentencing Act”.

6 **SEC. 2. PERSONAL LIABILITY FOR STATE OFFICERS AND**
7 **EMPLOYEES.**

8 (a) PROHIBITION.—It shall be unlawful for any offi-
9 cer or employee of a State who has knowledge of fraud

1 in the administration of or use of a covered benefit within
2 that State, and the power to prevent or aid in preventing
3 the continuing commission of the same, to fail or refuse
4 so to do.

5 (b) ENFORCEMENT.—The Attorney General may
6 bring a civil action against an officer or employee who vio-
7 lates subsection (a) in a United States district court for
8 appropriate relief, including—

9 (1) in the case of aggregate loss to a govern-
10 mental entity of \$500,000 or less, damages in an
11 amount not exceeding the amount of aggregate loss
12 resulting from such violation; and

13 (2) in the case of aggregate loss to a govern-
14 mental entity exceeding \$500,000, damages in an
15 amount not exceeding 3 times the amount of aggre-
16 gate loss resulting from such violation.

17 (c) IMMUNITY.—No immunity that would otherwise
18 be available as a result of a defendant acting within the
19 scope of their office or employment at the time of the vio-
20 lation out of which the claim arose shall apply in any ac-
21 tion under this section.

22 (d) DEFINITIONS.—In this section:

23 (1) COVERED BENEFIT.—The term “covered
24 benefit” means any benefit under—

1 (A) the supplemental nutrition assistance
2 program established under the Food and Nutri-
3 tion Act of 2008 (7 U.S.C. 2011 et seq.);

4 (B) the old-age, survivors, and disability
5 insurance program under title II of the Social
6 Security Act (42 U.S.C. 401 et seq.);

7 (C) the State unemployment compensation
8 programs receiving funding under title III of
9 the Social Security Act (42 U.S.C. 501 et seq.);

10 (D) the income assistance program under
11 title XVI of the Social Security Act (42 U.S.C.
12 1381 et seq.);

13 (E) the health insurance program under
14 title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.);

16 (F) a State plan under title XIX of the So-
17 cial Security Act (42 U.S.C. 1396 et seq.) (or
18 waiver of such plan);

19 (G) the program under the Child Care and
20 Development Block Grant Act of 1990 (42
21 U.S.C. 9857 et seq.); or

22 (H) any other program pursuant to which
23 funds are made available to States.

24 (2) Loss.—

1 (A) IN GENERAL.—The term “loss” means
2 the greater of actual loss, intended loss, or the
3 gain that resulted from the fraudulent conduct.

4 (B) ACTUAL LOSS.—The term “actual
5 loss” means the reasonably foreseeable pecu-
6 niary harm that resulted from the fraudulent
7 conduct.

8 (C) INTENDED LOSS.—The term “intended
9 loss” means the pecuniary harm that the fraud-
10 ulent actor purposely sought to inflict, including
11 intended pecuniary harm that would have been
12 impossible or unlikely to occur.

13 (D) PECUNIARY HARM.—The term “pecu-
14 niary harm” means harm that is monetary or
15 that otherwise is readily measurable in money.

16 (E) REASONABLY FORESEEABLE PECU-
17 NIARY HARM.—The term “reasonably foresee-
18 able pecuniary harm” means pecuniary harm
19 that the fraudulent actor knew or, under the
20 circumstances, reasonably should have known,
21 was a potential result of the offense.

22 **SEC. 3. MANDATORY MINIMUM SENTENCES.**

23 (a) IN GENERAL.—Subchapter A of chapter 227 of
24 title 18, United States Code, is amended by inserting after
25 section 3559 the following:

1 **“§ 3559A. Mandatory minimum sentences for certain**
2 **fraud offenses**

3 “(a) MANDATORY MINIMUM.—Notwithstanding any
4 other provision of law, a defendant who has been found
5 guilty of a covered fraud offense that involves a covered
6 benefit shall be sentenced as follows with respect to crimi-
7 nal conduct that occurred after the date of enactment of
8 this section:

9 “(1) For any violation involving loss of less
10 than \$40,000, not less than 1 year in prison, and
11 not more than life.

12 “(2) For any violation involving loss of \$40,000
13 or more but less than \$250,000, not less than 2
14 years in prison, and not more than life.

15 “(3) For any violation involving loss of
16 \$250,000 or more but less than \$5 million, not less
17 than 5 years in prison, and not more than life.

18 “(4) For violations involving loss of \$5,000,000
19 or more but less than \$50 million, not less than 10
20 years in prison, and not more than life.

21 “(5) For violations involving loss of
22 \$50,000,000 or more but less than \$100 million, not
23 less than 15 years in prison, and not more than life.

24 “(6) For violations involving loss of
25 \$100,000,000 or more, not less than 20 years in
26 prison, and not more than life.

1 “(b) SUCCESSIVE VIOLATION.—A defendant who
2 commits a covered fraud offense after the date on which
3 a prior conviction for a covered fraud offence becomes
4 final shall be sentenced to a term of imprisonment of not
5 less than twice the applicable term under subsection (a).

6 “(c) NO PROHIBITION.—Notwithstanding any other
7 provision of law, a court may not place on probation or
8 suspend the sentence of any person sentenced under this
9 section.

10 “(d) DEFINITIONS.—In this section:

11 “(1) COVERED BENEFIT.—The term ‘covered
12 benefit’ means any benefit under—

13 “(A) the supplemental nutrition assistance
14 program established under the Food and Nutri-
15 tion Act of 2008 (7 U.S.C. 2011 et seq.);

16 “(B) the old-age, survivors, and disability
17 insurance program under title II of the Social
18 Security Act (42 U.S.C. 401 et seq.);

19 “(C) the State unemployment compensa-
20 tion programs receiving funding under title III
21 of the Social Security Act (42 U.S.C. 501 et
22 seq.);

23 “(D) the income assistance program under
24 title XVI of the Social Security Act (42 U.S.C.
25 1381 et seq.);

1 “(E) the health insurance program under
2 title XVIII of the Social Security Act (42
3 U.S.C. 1395 et seq.);

4 “(F) a State plan under title XIX of the
5 Social Security Act (42 U.S.C. 1396 et seq.) (or
6 waiver of such plan);

7 “(G) the program under the Child Care
8 and Development Block Grant Act of 1990 (42
9 U.S.C. 9857 et seq.); or

10 “(H) any other program pursuant to which
11 funds are made available to States.

12 “(2) COVERED FRAUD OFFENSE.—The term
13 ‘covered fraud offense’ means an offense under—

14 “(A) section 201, 287, 371, 513, 641,
15 666(a)(1)(A), 1001, 1028, 1029, 1030, 1031,
16 1040, 1341, 1343, 1344, 1347, 1348, or 1349
17 of this title;

18 “(B) section 208 or 1632 of the Social Se-
19 curity Act (42 U.S.C. 408 or 1383a);

20 “(C) section 15 of the Food and Nutrition
21 Act of 2008 (7 U.S.C. 2024); or

22 “(D) section 6102 of title 38.

23 “(3) LOSS.—

1 “(A) IN GENERAL.—The term ‘loss’ means
2 the greater of actual loss, intended loss, or the
3 gain that resulted from the fraudulent conduct.

4 “(B) ACTUAL LOSS.—The term ‘actual
5 loss’ means the reasonably foreseeable pecu-
6 niary harm that resulted from the fraudulent
7 conduct.

8 “(C) INTENDED LOSS.—The term ‘in-
9 tended loss’ means the pecuniary harm that the
10 fraudulent actor purposely sought to inflict, in-
11 cluding intended pecuniary harm that would
12 have been impossible or unlikely to occur.

13 “(D) PECUNIARY HARM.—The term ‘pecu-
14 niary harm’ means harm that is monetary or
15 that otherwise is readily measurable in money.

16 “(E) REASONABLY FORESEEABLE PECU-
17 NIARY HARM.—The term ‘reasonably foresee-
18 able pecuniary harm’ means pecuniary harm
19 that the fraudulent actor knew or, under the
20 circumstances, reasonably should have known,
21 was a potential result of the offense.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 227 of title 18, United States Code, is amend-
24 ed by inserting after section 3559 the following:

 “3559A. Mandatory minimum sentences for certain fraud offenses.”.