

LIABILITY TO LIEN ON: FRAUDULENT LIENS AND THE NEED FOR ADDITIONAL PROTECTION IN INDIANA

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INTRODUCTION

In the summer of 2024, an Indiana man named Michael-Tyrone Sturghiss recorded \$20 million liens on the homes of Lance Hamner, the Johnson County prosecutor, and the Honorable K. Mark Loyd, the presiding Franklin City Court judge.¹ The source of the alleged debts was “kidnapping,” stemming from Sturghiss’s arrest and subsequent prosecution in the county for failing to identify himself during a traffic stop.² Filing these documents cost Sturghiss \$50 and the effort it took to travel to the county’s recording office with his homemade “Notice of Lien.”³ There, despite the facially frivolous nature of the underlying claims, Indiana law required the county recorder to accept the forms and enter them into the public record.⁴ Although Sturghiss could never collect these vast sums, the filings achieved their purpose the moment the recording office received them. Compared to the ease with which Sturghiss submitted the claims, removing the filings required the victims to resort to court action. Despite this harassing effect, Sturghiss committed no crime.

Regardless of their legal deficiencies, these filings are not an isolated occurrence. Across the country, state and federal officials at all levels of government are battling efforts by sovereign citizens, a loose association of anti-government extremists who do not acknowledge the legitimacy of the United States,⁵ to harass agencies and interfere with official processes.⁶ Often, these individuals file fraudulent liens and other financial documents aimed at encumbering the private property of public officials in retaliation for perceived mistreatment by the legal system.⁷ These practices are so damaging and widespread that the Federal Bureau of Investigation (FBI) has labeled the

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1. Notice of Lien, Michael-Tyrone Sturghiss (July 9, 2024) (on file with author).

2. *Id.*; State v. Sturghiss, No. 41H01-2405-CM-000408 (filed May 13, 2024), <https://public.courts.in.gov/mycase/#/vw/CaseSummary/eyJ2Ijp7IkNhc2VUb2tIbI6IINJbUlrczdMYzIzSWGdNdTBCRE9XLXpkZmJtenZycmhwLXpPS3JSY1V6MFUxIn19> [<https://perma.cc/K3GN-8K42>].

3. Recording each lien would have cost \$25 in Indiana. IND. CODE § 36-2-7-10(c)(1) (2024).

4. IND. CODE § 26-1-9.1-520 (2024); IND. CODE § 26-1-9.1-516(b) (2024).

5. *See* ANTI-DEFAMATION LEAGUE, THE SOVEREIGN CITIZEN MOVEMENT IN THE UNITED STATES 5–6 (2023), <https://www.adl.org/sites/default/files/pdfs/2024-12/The-Sovereign-Citizen-Movement-in-the-United-States.pdf> [<https://perma.cc/54PS-QQMZ>].

6. *Id.* at 11.

7. NAT’L ASS’N OF SEC’YS OF STATE, STATE STRATEGIES TO SUBVERT FRAUDULENT UNIFORM COMMERCIAL CODE (UCC) FILINGS: A REPORT FOR STATE BUSINESS FILING AGENCIES 4–5 (2014), <https://www.nass.org/sites/default/files/surveys/2017-08/final-nass-report-bogus-filings-040914.pdf> [<https://perma.cc/FP3Q-EGRF>].

conduct “paper terrorism.”⁸

In response to this fraudulent behavior, jurisdictions nationwide have acted to deter the threat by implementing criminal penalties. Currently, thirty-seven states,⁹ the District of Columbia,¹⁰ and the federal government prosecute individuals who engage in these schemes.¹¹ The precise contours of these laws vary widely, but each protects government employees against illegitimate filings.¹² Because of these measures, covered officials can perform their duties without fear of this harassment by aggrieved citizens.

Yet despite the nearly nationwide consensus that criminalizing such practices is necessary to deter the behavior, Indiana has failed to adopt any similar safeguard.¹³ Instead, fraudulent filing victims in Indiana must resort to court action to remove the lien and pursue costs from the perpetrator.¹⁴ This civil remedy places too heavy a burden on the recipient of the attack and provides insufficient assurances of compensation; sovereign citizens do not acknowledge

8. Erica Goode, *In Paper War, Flood of Liens Is the Weapon*, N.Y. TIMES (Aug. 23, 2013), <https://www.nytimes.com/2013/08/24/us/citizens-without-a-country-wage-battle-with-liens.html> [https://perma.cc/XNX2-N8ZW].

9. See generally ALA. CODE § 13A-9-12 (2024); ALASKA STAT. ANN. § 11.46.560 (West 2024); ARIZ. REV. STAT. ANN. § 33-420(E) (2024); ARK. CODE ANN. § 5-37-215(b) (West 2024); CAL. PENAL CODE § 115 (West 2024); COLO. REV. STAT. ANN. § 18-5-114 (West 2024); FLA. STAT. § 817.535(2)(a) (2024); GA. CODE ANN. § 16-10-20.1(b) (West 2024); HAW. REV. STAT. § 507D-7(c) (2024); 720 ILL. COMP. STAT. 5/32-4f (2024); KAN. STAT. ANN. § 21-5940 (2024); KY. REV. STAT. ANN. § 434.155 (West 2024); LA. STAT. ANN. § 14:133.6 (2024); ME. REV. STAT. ANN. tit. 17-A, § 706-A (West 2024); MD. CODE ANN., CRIM. LAW § 3-808 (West 2024); MICH. COMP. LAWS § 440.9501(6) (2024); MINN. STAT. § 609.7475 (2024); MISS. CODE ANN. § 97-7-73 (2024); MO. REV. STAT. § 570.095 (2024); NEB. REV. STAT. § 28-935 (2024); NEV. REV. STAT. § 108.226(4) (2024); N.H. REV. STAT. ANN. § 478:42(V) (2024); N.J. REV. STAT. § 2C:21-42 (2024); N.Y. PENAL LAW § 175.35 (McKinney 2024); N.C. GEN. STAT. ANN. § 14-118.6 (West 2024); N.D. CENT. CODE ANN. § 41-10-02 (West 2024); S.C. CODE ANN. § 36-9-501 (2024); S.D. CODIFIED LAWS § 22-11-28 (2024); TENN. CODE ANN. § 39-17-117 (West 2024); TEX. PENAL CODE ANN. § 37.101 (West 2024); UTAH CODE ANN. § 76-6-503.5 (West 2024); VA. CODE ANN. § 18.2-213.2 (West 2024); W. VA. CODE § 61-5-27a(c) (2024); WIS. STAT. § 943.60 (2024); WYO. STAT. ANN. § 29-1-601(c) (West 2024) (referencing the thirty-five states that expressly criminalize filing fraudulent liens, security statements, or UCC documents). See also *Gruff v. Dep’t of State*, 934 A.2d 769, 769–70 (Pa. Commw. Ct. 2007) (applying 18 PA. STAT. AND CONS. STAT. ANN. § 4911 (West 2024) to a fraudulent lien); *State v. Coleman*, No. 106631, 2018 WL 5096086, at *1, *5 (Ohio Ct. App. Oct. 18, 2018) (applying OHIO REV. CODE ANN. § 2921.52(B)(4) (West 2024) to a fraudulent lien) (referencing the two states that have applied general fraudulent filing statutes to false liens).

10. D.C. CODE ANN. § 50-1215 (West 2024).

11. 18 U.S.C. § 1521.

12. See generally statutes cited *supra* note 9 (protecting public officials explicitly by identifying them as a protected class, such as Illinois’s approach, 720 ILL. COMP. STAT. 5/32-4f, or implicitly by applying blanket prohibitions against fraudulent filings, such as Kentucky’s approach, KY. REV. STAT. ANN. § 434.155).

13. Both attempts to introduce criminal penalties in Indiana have failed to advance out of committee. H.R. 1343, 123d Gen. Assemb., Reg. Sess. (Ind. 2024); H.R. 1019, 124th Gen. Assemb., Reg. Sess. (Ind. 2025).

14. IND. CODE § 26-1-9.1-902 (2024).

the government's legitimacy and often refuse to pay judgments against them.¹⁵ As a result, Indiana's current laws leave Hoosiers' public officials vulnerable to private harm. The State must address this deficiency.

This Note argues that the Indiana General Assembly should criminalize knowingly filing a fraudulent lien against public officials. Part I of this Note provides an overview of the sovereign citizen movement and the threat its paper terrorism tactics pose. This part shows that the movement's beliefs and organization are largely decentralized but that its adherents employ similar lien-filing strategies against the government. Part II discusses Indiana's current approach to bogus filings and the shortfalls of its remedies. This part demonstrates that Indiana does not have a sufficient mechanism in place to fight against these extremist tactics. Part III examines statutes other jurisdictions use to combat paper terrorism. Taking the most desirable elements of each of these examples, Part IV proposes a model statutory scheme for Indiana to enact. This final part argues for criminal penalties that increase in severity with subsequent violations for those who knowingly file fraudulent liens against government employees. Without appropriate safeguards, Indiana leaves its public officials vulnerable to anti-government harassment.

I. PAPER TERRORISM AND THE SOVEREIGN CITIZEN MOVEMENT

A. Sovereign Citizens: What Do They Believe?

Although the government classifies sovereign citizens under a common moniker, these individuals do not belong to an overarching institution. Instead, as the FBI's definition suggests, sovereign citizens are "[a] network of loosely affiliated individuals [l]iving within the United States [w]ho believe federal, state, and local governments are operating illegitimately."¹⁶ The movement as it exists today emerged in the 1980s when its more united predecessor group, the Posse Comitatus,¹⁷ faded out.¹⁸ The current adherents of the sovereign citizen movement are "loosely affiliated," and not centralized.¹⁹ These men and women

15. Michael N. Colacci, *Sovereign Citizens: A Cult Movement That Demands Legislative Resistance*, 17 RUTGERS J. L. & RELIGION 153, 156–57 (2015).

16. DOMESTIC TERRORISM OPERATIONS UNIT, FED. BUREAU OF INVESTIGATION, SOVEREIGN CITIZENS: AN INTRODUCTION FOR LAW ENFORCEMENT 1 (2010), <https://info.publicintelligence.net/FBI-SovereignCitizens.pdf> [<https://perma.cc/7EG5-9KW3>].

17. The Posse Comitatus movement was a far-right group that believed there was no legitimate government beyond the county level. TERRI A. MARCH-SAFBOM, WEAPONS OF MASS DISTRACTION: STRATEGIES FOR COUNTERING THE PAPER TERRORISM OF SOVEREIGN CITIZENS 16–17 (2018), <https://www.hsdl.org/c/view?docid=811407> [<https://perma.cc/GP4E-TL9W>]. Unlike the modern sovereign citizen movement, Posse Comitatus had direct ties to the white supremacist Christian Identity Movement. *Id.*

18. See ANTI-DEFAMATION LEAGUE, *supra* note 5, at 5.

19. Christine M. Sarteschi, *Sovereign Citizens: A Narrative Review with Implications of Violence Towards Law Enforcement*, 60 AGGRESSION AND VIOLENT BEHAV., Sep.–Oct. 2021, at 1, 1.

unite in their shared belief that the government is unlawful or without constitutional power, but they generally do not organize together.²⁰ Therefore, the movement contains no identifiable leaders and there is no established infrastructure that individuals may join.²¹ Instead, followers tend to act independently as “lone wolves,”²² or in like-minded groups that unite to discuss ideology and draft paperwork.²³

Because of this decentralized structure, adherents of the sovereign citizen movement also lack a monolithic belief system.²⁴ Although actors share a core understanding that some legal defect has rendered the authority of the state flawed,²⁵ they reach this conclusion in different ways. Most often, adherents cite to three general ideological explanations for their conviction that the government is operating illegitimately: the illegality of the Fourteenth Amendment, the “redemption” theory, and “Moorish” privileges.²⁶

Many sovereign citizens believe that the passage of the Fourteenth Amendment in 1868 was illegal and that it “tricked” individuals into renouncing their state citizenship.²⁷ This renouncement of “original” state citizenship then created two classes of Americans: “de facto” citizens and “de jure” citizens.²⁸ Under this theory, most Americans are “de facto” citizens, which followers also refer to as “Fourteenth Amendment citizens”²⁹ or “federal citizens.”³⁰ De facto citizens have unknowingly traded away their original constitutional freedoms in exchange for federal citizenship.³¹ In effect, these citizens have agreed to subject themselves to the jurisdiction of federal and state governments by

20. *Id.* at 1, 8.

21. *Id.*

22. DEVON M. BELL, *THE SOVEREIGN CITIZEN MOVEMENT: THE SHIFTING IDEOLOGICAL WINDS* 17 (2016), <https://apps.dtic.mil/sti/tr/pdf/AD1027164.pdf> [<https://perma.cc/XT9W-SEJU>].

23. DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 3.

24. BELL, *supra* note 22, at 30.

25. Samuel Barrows, *Sovereigns, Freeman, and Desperate Souls: Towards A Rigorous Understanding of Pseudolitigation Tactics in United States Courts*, 62 B.C. L. REV. 905, 912 (2021).

26. J.M. BERGER, *WITHOUT PREJUDICE: WHAT SOVEREIGN CITIZENS BELIEVE* 6–10 (2016), <https://extremism.gwu.edu/sites/g/files/zaxdzs5746/files/downloads/JMB%20Sovereign%20Citizens.pdf> [<https://perma.cc/M7L6-7QU6>].

27. BELL, *supra* note 22, at 9.

28. See Michael Crowell, *A Quick Guide to Sovereign Citizens*, ADMIN. OF JUST. BULL., UNIV. OF N.C. SCH. OF GOV'T AT CHAPEL HILL, at 2 (Nov. 2015), <https://www.sog.unc.edu/sites/default/files/reports/aojb1504.pdf> [<https://perma.cc/LKP2-V9EH>]; ANTI-DEFAMATION LEAGUE, *THE SOVEREIGN CITIZEN MOVEMENT: COMMON DOCUMENTARY IDENTIFIERS & EXAMPLES* 1 (2016), <https://www.adl.org/sites/default/files/documents/assets/pdf/combating-hate/Sovereign-Citizen-Documentary-Identifiers.pdf> [<https://perma.cc/R5WS-B7LN>]; BERGER, *supra* note 26, at 3–4.

29. See, e.g., *United States v. Stouder*, No. 3:04-1044, 2005 WL 2715666, at *2 (M.D. Tenn. Sep. 2, 2005) (referencing defendant's claim that he is a “free and lawful man who is a Sovereign Citizen/National, and who is not a 14th Amendment individual/citizen of the United States.”).

30. See Crowell, *supra* note 28, at 2.

31. See *id.*

accepting the benefits of enacted laws and regulations.³² Conversely, sovereign citizens claim to be “de jure” citizens, or “original citizens of the states.”³³ Unlike de facto citizens, this latter class retains complete constitutional protection and all rights due at common law but remains immune from all state and federal laws, regulations, and courts.³⁴ These sovereigns hold that anyone can reclaim the privileges owed to him as a de jure citizen by denouncing or rescinding federal citizenship,³⁵ which involves disassociating from government regulation.³⁶ Therefore, an identifying characteristic of these sovereign citizens is their common refusal to obey regulatory laws, pay taxes, or obtain any type of government-issued licenses.³⁷

Other followers subscribe to the “strawman” or “redemption” theory.³⁸ This view holds that when the United States moved away from the gold standard in 1933, it went bankrupt.³⁹ As a result, the federal government used its citizens to secure the value of the dollar for international trade.⁴⁰ To accomplish this scheme, the government established secret United States Treasury Department accounts for each citizen, known as strawman accounts, to serve as collateral for the federal currency.⁴¹ These sovereign citizens hold that the government then issued social security numbers and birth certificates as a way of registering citizens for these third-party entities that use their name.⁴² These adherents believe that because they have discovered this procedure, they can charge debts to their strawman account by filing a mixture of Internal Revenue Service (IRS)

32. *See id.*

33. *See id.*

34. *See id.*; BERGER, *supra* note 26, at 3–4. *See, e.g., Stouder*, 2005 WL 2715666, at *2.

35. Crowell, *supra* note 28, at 2. *See, e.g., Clarke v. Allen*, No. 3:17-CV-00582-MMD-WGC, 2020 WL 3510921, at *2 (D. Nev. June 29, 2020) (concluding that the plaintiff’s attempts to divide himself into two legal entities as a result of the Fourteenth Amendment was a legal fiction repeatedly rejected by the courts); *United States v. Mitchell*, 405 F. Supp. 2d 602, 604–05 (D. Md. 2005) (connecting defendants’ assertions that they were “‘flesh and blood’ men” with other sovereign citizen arguments in the district rooted in the belief that Fourteenth Amendment federal citizenship could be rejected).

36. *See* BELL, *supra* note 22, at 9, 38; Crowell, *supra* note 28, at 2.

37. *See, e.g.,* BELL, *supra* note 22, at 9, 38.

38. *Id.* at 8.

39. *Id.* For an example of a litigant using this argument, see *Keybank, N.A. v. Brightly*, No. NNHCV166062161S, 2018 WL 4419476, at *3–4 (Conn. Super. Ct. Aug. 29, 2018) (rejecting a civil litigant’s “redemptionist theories” after the individual cited Pub. L. No. 73–10, 28 Stat. 31 (1933) as a payment defense).

40. BELL, *supra* note 22, at 8.

41. *Id.*; DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 1; *McLaughlin v. CitiMortgage, Inc.*, 726 F. Supp. 2d 201, 209–10 (D. Conn. 2010) (explaining the redemptionist theory).

42. DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 6; *McLaughlin*, 726 F. Supp. 2d at 210–11 (observing that defendant’s assertion that the name printed on court filings belonged to his “STRAWMAN” indicated his adherence to the sovereign citizen movement).

and Uniform Commercial Code (UCC) forms.⁴³ They also rely on other fraudulent financing documents, such as illegitimate promissory notes and offset bonds.⁴⁴

The third common branch of sovereign citizens classify as “Moorish.”⁴⁵ This sect is predominantly Black and tends to be more organized than the other groups.⁴⁶ Moorish adherents supplement traditional sovereign views of government illegitimacy with reference to a 1786 treaty between the United States and Morocco.⁴⁷ These followers believe that the treaty grants them special privileges as “Moors” and places them beyond the jurisdiction of the United States government.⁴⁸ Because of this perceived heritage, these individuals often use fraudulent diplomatic license plates and homemade “world passports”⁴⁹ to exercise their self-proclaimed immunity from the laws of the United States.⁵⁰ Furthermore, courts note that filings from Moorish sovereign citizens frequently contain references to United Nations documents, the Barbary Treaties, the United States Constitution, the president, self-made quasi-documents, Earth coordinates, and “principalities” and “territories.”⁵¹

These three branches are not all-inclusive,⁵² and believers frequently combine elements of each,⁵³ but sovereign citizens across the spectrum rely on similar tactics and “pseudo-legal” arguments in their encounters with courts and other government entities.⁵⁴ They often file voluminous paperwork with

43. DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 1. For an example of common “redemptionist” legal arguments, see *Monroe v. Beard*, 536 F.3d 198, 203 n.4 (3d Cir. 2008) (detailing a publication circulating in federal prisons titled *Cracking the Code* that advocated for the abuse of UCC filings to free inmates’ respective “strawman” accounts).

44. DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 6.

45. ANTI-DEFAMATION LEAGUE, *supra* note 5, at 9.

46. *See id.*

47. *Id.*

48. *See Bey v. Bray*, No. 4:22-CV-933-SDJ-KPJ, 2023 WL 5987393, at *3 (E.D. Tex. Aug. 1, 2023) (referencing plaintiff’s assertion he was a “True Al Moroccan Noble Indigenes of the Land” not bound by United States Laws as a result of the “The Treaty of Peace and Friendship Between the United States and Morocco-Seventeen Eighty-Seven”); *Bey v. State*, 847 F.3d 559, 559–60 (7th Cir. 2017) (rejecting defendant’s argument that he was an “Aboriginal Indigenous Moorish-American” that could not be taxed in Indiana).

49. *Murakush Caliphate of Amexem Inc. v. New Jersey*, 790 F. Supp. 2d 241, 245 (D.N.J. 2011).

50. *See id.*; ANTI-DEFAMATION LEAGUE, *supra* note 5, at 9.

51. *Murakush Caliphate*, 790 F. Supp. 2d at 249.

52. *See Crowell*, *supra* note 28, at 3.

53. *See, e.g., Murakush Caliphate*, 790 F. Supp. 2d at 242 (discussing interplay between the Moorish and redemptionist movements); *Mason v. Anderson*, No. CV H-15-2952, 2016 WL 4398680, at *2 (S.D. Tex. Aug. 18, 2016) (rejecting plaintiff’s references to strawman trusts, bible verses, and the Fourteenth Amendment of the Constitution).

54. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 4; BELL, *supra* note 22, at 8.

groundless references to common law,⁵⁵ the Bible,⁵⁶ the United States Constitution,⁵⁷ Supreme Court decisions,⁵⁸ and foreign treaties⁵⁹ as binding authority.⁶⁰ Furthermore, law enforcement and government staff recognize sovereign citizens by their use of capital letters and unnecessary colons when writing their names, unusual copyrights, notaries for documents when not required, and phrases such as “accepted for value” or “SLS,”⁶¹ among other idiosyncrasies.⁶² Finally, these individuals routinely refuse to pay taxes or obtain or show government identification forms and permits.⁶³ The most extreme among them engage in varying levels of sabotage against the government, including violence against law enforcement.⁶⁴

B. Sovereign Citizens: Who Are the Believers?

Rather than making it inaccessible, the movement’s amorphous organizational structure and unorthodox beliefs, combined with the growth of the internet, drive its expansion.⁶⁵ In 1976, the predecessor movement, Posse Comitatus, reached an estimated 12,000 to 50,000 members across twenty-three states.⁶⁶ Today, there are between 300,000⁶⁷ and 400,000 sovereign citizens spread across the country.⁶⁸

Furthermore, the movement’s flexibility allows it to transcend ethnic lines.⁶⁹ Although the first waves of sovereign citizens were predominantly white, the Anti-Defamation League now considers the movement the most multicultural

55. *Wolshlager v. Gast*, No. 1:19-CV-293, 2019 WL 2250752, at *1 (W.D. Mich. May 2, 2019) (referencing plaintiff’s complaint that he was a “SOVEREIGN, COMMON LAW CITIZEN” with the right to travel).

56. *In re Marcantel*, No. CV 23-180-BAJ-EWD, 2023 WL 3190435, at *1 n.6 (M.D. La. Apr. 3, 2023) (referring to Bible quotes in a filing).

57. *Wilson v. Ally*, No. CV 3:23-5151-SAL-SVH, 2023 WL 11694112, at *5 (D.S.C. Oct. 26, 2023) (holding that a sovereign citizen’s general invocation of the Constitution was insufficient to state a claim).

58. *Perkins v. Ivey*, 772 F. App’x 245, 247 (5th Cir. 2019) (rejecting a sovereign citizen’s citation of *Lozman v. City of Riviera Beach*, 568 U.S. 115 (2013), which he used to assert that he was not operating a “vessel” and was thus immune from laws governing vehicles).

59. *In re Mooreese El*, No. 3:21-MC-3-BJB, 2021 WL 4594666, at *1 (W.D. Ky. Oct. 6, 2021) (commenting on the trend of sovereign citizens to refer to eighteenth-century treaties).

60. See NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 4; BELL, *supra* note 22, at 8.

61. “Sovereign Living Soul.” DOMESTIC TERRORISM OPERATIONS UNIT, *supra* note 16, at 2.

62. *Id.*

63. *Sovereign Citizens Movement*, S. POVERTY L. CTR. (2023), <https://www.splcenter.org/fighting-hate/extremist-files/ideology/sovereign-citizens-movement> [<https://perma.cc/T4GK-Q3ZS>].

64. SEE SARTESCHI, *SUPRA* NOTE 19, AT 1.

65. BELL, *supra* note 22, at 53–54.

66. JAMES RIDGEWAY, *BLOOD IN THE FACE* 133 (2d ed. 1995).

67. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 4.

68. ANTI-DEFAMATION LEAGUE, *supra* note 5, at 21.

69. BELL, *supra* note 22, at 38.

among the American far right.⁷⁰ Because sovereign citizens unite over their belief that the United States government is illegitimate, they welcome all individuals who share this understanding, regardless of their background.⁷¹ As a result, there are now rapidly growing numbers of Black, Hispanic, and Hawaiian adherents.⁷²

Even within these diverse populations, the movement does not confine itself to disadvantaged or traditionally vulnerable populations. Despite their eccentric practices, recent studies show that most sovereign citizens are not delusional or mentally ill.⁷³ Instead, the ideology flourishes across the spectrum of Americans who are distrustful of the United States government.⁷⁴ Perceived mistreatment by elected officials and the disinformation that spread during the COVID-19 pandemic and recent presidential elections spurred the group's recent growth.⁷⁵ Whereas the original sovereigns were traditionally older, white, and from rural regions of the country, a growing number of young men and women of various backgrounds are now joining the ranks.⁷⁶ Many of these individuals are more affluent than their predecessors.⁷⁷

Finally, prison inmates comprise the largest body of believers. Since the 1990s, sovereign citizens behind bars have spread their message to other incarcerated individuals.⁷⁸ These populations are the most vulnerable to sovereign ideals because individuals either deem they have nothing to lose by trying the tactics or are eager to believe that the paperwork will set them free.⁷⁹ Even if those prospects are unappealing, prisoners recognize the filings as an opportunity to harass those who arrested and sentenced them.⁸⁰ This practice is now notorious, so much so that in 2022 the Indiana Court of Appeals classified the sovereign citizen movement as a "prison gang" in *Parks v. State*.⁸¹

C. Paper Terrorism and the Weaponization of Liens

Beyond their shared belief in government illegitimacy, sovereign citizens engage in a common scheme of "paper terrorism."⁸² Paper terrorism is "the use

70. ANTI-DEFAMATION LEAGUE, *supra* note 5, at 10.

71. BELL, *supra* note 22, at 18.

72. *Id.* at 38.

73. Sarteschi, *supra* note 19, at 1, 9.

74. See Rachel Goldwasser, *New Recruits: Sovereign Citizenship Takes Hold Among Younger, Affluent, Female Communities*, S. POVERTY L. CTR. (June 4, 2024), <https://www.splcenter.org/year-hate-extremism-2023/new-recruits> [<https://perma.cc/6JVR-MGSQ>].

75. See *id.*

76. See *id.*; ANTI-DEFAMATION LEAGUE, *supra* note 5, at 9.

77. Goldwasser, *supra* note 74.

78. ANTI-DEFAMATION LEAGUE, *supra* note 5, at 25.

79. *Id.*

80. See, e.g., *United States v. Neal*, 776 F.3d 645 (9th Cir. 2015).

81. *Parks v. State*, No. 21A-MI-1320, 2022 WL 288167, at *3 (Ind. Ct. App. Feb. 1, 2022), *transfer denied sub nom.*, *Warren Parks v. State*, 188 N.E.3d 846 (Ind. 2022).

82. ANTI-DEFAMATION LEAGUE, *supra* note 5, at 11–12.

of bogus legal documents and filings, or the misuse of legitimate documents and filings . . . to harass, intimidate, and retaliate against . . . perceived enemies.”⁸³ Although the term is broad enough to include IRS and other official filings intended to overwhelm government offices or to “free” the sovereign citizen from government control, fraudulent liens are the most popular tactic since the 1970s.⁸⁴

Sovereign citizens record liens on property to cloud title and inconvenience the recipient rather than secure a legally enforceable debt.⁸⁵ When a lien is legitimate, it is a property right.⁸⁶ Traditionally, a creditor files a lien to establish his interest in a debtor’s property arising from law or contract.⁸⁷ That interest may be perfected and valid, or “merely claimed.”⁸⁸ Similarly, encumbrances are claims of liability that attach to property.⁸⁹ The legal authority underlying these property claims can be statutory,⁹⁰ derive from the common law,⁹¹ or arise from a binding agreement.⁹² Those who wish to file⁹³ a lien in Indiana may record a Claim of Lien Affidavit or Affidavit of Lien with a county recorder or rely on a

83. *Id.* at 11.

84. *Id.* at 11–12.

85. *Id.* at 12.

86. *United States v. Reed*, 668 F.3d 978, 982 (8th Cir. 2012).

87. *Id.* at 983.

88. *Id.* at 982.

89. *Id.*

90. Statutory claims tend to be non-consensual, meaning that the debtor does not need to agree to the use of his property as collateral for the interest to be binding. Mark Williams, *Different types of liens provide creditors with different rights*, WOLTERS KLUWER (Feb. 26, 2024), <https://www.wolterskluwer.com/en/expert-insights/different-lien-types-provide-creditors-with-different-rights#:~:text=Statutory%20liens%20arise%20by%20operation%20of%20law&text=In%20certain%20circumstances%2C%20creditors%20obtain,Mechanic's%20liens> [https://perma.cc/8URA-CYZ4]. In Indiana, non-consensual statutory grounds for claiming an interest in real property include mechanic’s liens, IND. CODE § 32-28-3-1 (2024), consumer loans and mortgages, IND. CODE § 32-28-3-2 (2024), judgment liens, IND. CODE § 34-55-9-2 (2024), and tax liens, IND. CODE § 6-1.1-22-13 (2024). For a definition of a non-consensual mechanic’s lien, see *Serv. Steel Warehouse Co., L.P. v. U.S. Steel Corp.*, 182 N.E.3d 840, 844 (Ind. 2022) (“[A] supplier that furnished materials for the erection of a building . . . can have a lien on that building and the accompanying land.”).

91. IND. CODE § 32-28-13-1 (2024). To create a common law lien in Indiana, there must be a debt, and the creditor must possess the debtor’s collateral. *Ball State Univ. v. Irons*, 27 N.E.3d 717, 721 (Ind. 2015).

92. IND. CODE § 26-1-9.1-109 (2024) (enumerating property interests that may arise from agreement). The statute includes secured transactions that create a security interest by contract, sale, or consignment. *Id.* Apart from agricultural liens, these agreements must be consensual, meaning that the debtor needs to agree to use his personal property as collateral. *Id.* Such agreements do not extend to a debtor’s real property. *Id.* For an example of these principles, see *Merrillville 2548, Inc. v. BMO Harris Bank N.A.*, 39 N.E.3d 382, 393 (Ind. Ct. App. 2015) (holding that the trial court erred in applying § 26-1-9.1-109 to the creation of a contractual leasehold mortgage, which is a lien on real property, because the UCC governs only security interests in personal property).

93. Filing a purported lien does not create an enforceable lien or encumbrance, but the recording is necessary to perfect a legitimate legal interest. *United States v. Reed*, 668 F.3d 978, 982–83 (8th Cir. 2012).

UCC submission.⁹⁴ This latter option, a UCC filing, is by far the most common because states nationwide have similar formatting standards, and the documentation is widely available.⁹⁵

Sovereign citizens taking advantage of the UCC's infrastructure rely on a UCC-1, also known as a financing statement.⁹⁶ This form is a lien-identifying document on which a filer provides the names of the debtor and creditor, a return address, and a description of the collateral property.⁹⁷ Because the submission standards for financing statements require little specificity of the alleged collateral, sovereign citizens usually include either the address and legal description of a purported debtor's residence, or the phrase "all personal and real property."⁹⁸ If these elements are present, the statement is "sufficient," and the recorder generally must file it.⁹⁹ These forms do not require the debtor's signature, which allows filers to submit these documents unilaterally and without the victim's consent.¹⁰⁰

Sovereign citizens rely on these liens because filing them is cheap,¹⁰¹ easy, and unrestricted.¹⁰² Typical statements claim enormous debts, ranging into the millions of dollars, that bear no relation to reality.¹⁰³ For example, in 2018, a sovereign citizen named Timothy Pate filed a series of liens in Georgia against

94. See David J. Cook, *Addressing the Problem of Bogus Liens*, L.A. LAW., Dec. 2013, at 12, 12.

95. See NAT'L ASS'N OF SEC'YS OF STATE, *supra* note 7, at 3.

96. *Reed*, 668 F.3d at 983.

97. *Id.*; Cook, *supra* note 94, at 12.

98. *Reed*, 668 F.3d at 983; Cook, *supra* note 94, at 12.

99. *Reed*, 668 F.3d at 983.

100. Cook, *supra* note 94, at 12.

101. The nationwide average filing cost is between \$10 and \$25 per UCC filing. Wolters Kluwer Compliance Solution Staff, *What Is a UCC Filing? Learn the Basics*, WOLTERS KLUWER (Aug. 26, 2022), <https://www.wolterskluwer.com/en/expert-insights/what-is-a-ucc-filing#:~:text=With%20the%20myriad%20of%20jurisdictions,unnecessary%20or%20unwanted%20budget%20surprises> [<https://perma.cc/Q3UR-UAKH>]. In Indiana, filing a financing statement (UCC-1) with the Secretary of State costs just less than \$15. *Fee Calculator*, INBIZ, <https://inbiz.in.gov/Inbiz/FeeCalculator/Index> [<https://perma.cc/5FTF-6YHN>] (last visited Dec. 1, 2024). The standard cost for filing a UCC Financing Statement or other lien in county recording offices in Indiana is \$25. IND. CODE § 36-2-7-10(c)(1) (2024).

102. See Barrows, *supra* note 25, at 926–27.

103. NAT'L ASS'N OF SEC'YS OF STATE, *supra* note 7, at 5. For examples of extravagant claims, see *Hout v. Off. of the Governor*, 538 P.3d 702, 703 (Alaska 2023) (detailing a fraudulent UCC Financing Statement claiming Alaska's Governor owed a sovereign citizen \$250 million in gold dollars); *United States v. Croteau*, 819 F.3d 1293, 1299 (11th Cir. 2016) (adding that the sovereign citizen defendant filed several fraudulent liens alleging debts up to \$300 million); *State v. Wilson*, No. 106862, 2019 WL 259456, at *1 (Ohio Ct. App. Jan. 17, 2019) (referring to defendant's \$10,000,000 lien on a clerk of courts); *United States v. Phillips*, No. 1:12-CR-872, 2014 WL 4628588, at *1 (N.D. Ill. Sep. 16, 2014) (alleging a sovereign citizen filed twelve liens, each claiming \$100 billion debts, against officers and employees of the United States); *United States v. James*, No. 5:14-CV-387-OC-30PRL, 2015 WL 7351394, at *2–5 (M.D. Fla. Nov. 20, 2015) (discussing defendant sovereign citizen's seven UCC Financing Statements alleging \$100 million debts and two additional statements alleging \$12.4 billion debts against federal judges and prosecutors).

several United States magistrate judges, the former United States Treasury Secretary, the IRS commissioner, the Treasury inspector general, a federal bankruptcy judge, the United States Bankruptcy clerk of the court, and others for values ranging between \$15 million and \$100 million.¹⁰⁴ Although filers like Pate cannot collect these sums because there is no legally recognized debt to secure, these liens still enter the public record and damage the recipient in several ways.¹⁰⁵

First, these attacks cost the victim time and money. Whereas the perpetrator can submit these liens with ease, recipients bear the heavier burden of seeking judicial action to strike the filing from the record.¹⁰⁶ This legal avenue generally requires hiring and paying an attorney.¹⁰⁷ The National Association of Secretaries of State acknowledges that this process can cost the average individual several thousands of dollars and take months or years.¹⁰⁸ Additionally, by the time the supposed debtor can remove the lien, the recording will have already harmed his credit score.¹⁰⁹ Resolving this damage adds to the financial burden and takes even longer.¹¹⁰

Second, fraudulent liens cause added inconvenience and embarrassment to the alleged debtors who fail to receive notice of the filing. Often, recipients do not discover these liens until they attempt to sell their home or apply for credit.¹¹¹ It is at this time that prospective lenders and creditors detect the presence of the alleged encumbrances while searching the UCC and other public records prior to dealing.¹¹² The presence of the lien may then “impede, delay, or increase the cost of a credit transaction, the refinancing of a home, or a loan to buy a home.”¹¹³ In extreme cases, these filings cause deals to falter and result in litigation between parties.¹¹⁴

Finally, these practices tend to intimidate victims and prevent responsive action. When individuals discover a retaliatory lien, they often fear they will provoke the attacker into making additional filings.¹¹⁵ This threat of future harassment dissuades many recipients from initiating the litigation necessary to

104. Press Release, U.S. Att’y Off., S. Dist. of Ga., ‘Sovereign Citizen’ Who Targeted Federal Judges and Government Officials Sentenced to 25 Years in Prison (Jan. 28, 2020), <https://www.justice.gov/usao-sdga/pr/sovereign-citizen-who-targeted-federal-judges-and-government-officials-sentenced-25> [<https://perma.cc/YXD2-ZVP2>].

105. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 5.

106. *Monroe v. Beard*, 536 F.3d 198, 209 (3d Cir. 2008).

107. *Id.*

108. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 3.

109. *Monroe*, 536 F.3d at 209.

110. *Id.*

111. Michael Mastrony, *Common-Sense Responses to Radical Practices: Stifling Sovereign Citizens in Connecticut*, 48 CONN. L. REV. 1013, 1027 (2016).

112. *Id.*

113. Cook, *supra* note 94, at 12.

114. *Id.*

115. *Id.*

punish filers.¹¹⁶

II. INDIANA'S APPROACH TO FRAUDULENT FILINGS

A. Pre-Filing Administrative Remedies

The National Association of Secretaries of State recommends that states adopt pre-filing administrative remedies as part of a comprehensive plan to combat sovereign citizens' bogus filings.¹¹⁷ The Association defines pre-filing administrative remedies as any grant of discretionary power allowing the Secretary of State's office to refuse to file false or fraudulent UCC records.¹¹⁸ When recorders reject fraudulent financial statements prior to entry, it saves "time and resources often required to remove the filing from the public record."¹¹⁹ It also prevents the lingering effects that a bogus filing will have on the victim since filings cost money to remove and can cause immediate damage to credit.¹²⁰

Indiana adopted this pre-filing administrative remedy in 2013 when it enacted Indiana Code section 26-1-9.1-901.¹²¹ This statute permits the Secretary of State to reject a financing statement where there is reasonable cause to believe it is materially false, forged, fraudulent, or intended to harass.¹²² This statute is helpful, but contains several flaws that hinder it from slowing and preventing bogus filings.

First, those responsible for vetting lien documents are unprepared and ill-equipped for the task. Pre-filing remedies require active review of all financial statements submitted to the office, both in person and electronically.¹²³ Filing offices have neither the staff nor the experience in the relevant law to examine each document and adjudicate whether the claimed debt exists.¹²⁴ Even if they were capable, such efforts would undermine filing efficiency and lead to backlog because staff would need to scrutinize every claim.¹²⁵ Furthermore, such an intensive process risks denying lawful security interests.¹²⁶ If recording offices have broad discretion, they may mistakenly remove or refuse to file legitimate liens by bona fide creditors.¹²⁷ This is dangerous because a refusal to

116. *Id.*

117. See NAT'L ASS'N OF SEC'YS OF STATE, *supra* note 7, at 8.

118. *Id.*

119. *Id.*

120. *Id.*

121. IND. CODE § 26-1-9.1-901 (2024) (effective Apr. 24, 2013).

122. *Id.*

123. NAT'L ASS'N OF SEC'YS OF STATE, *supra* note 7, at 8.

124. Harry C. Sigman, *Improvements (?) to the UCC Article 9 Filing System*, 46 GONZ. L. REV. 457, 490 (2011).

125. See *id.* at 488–91.

126. Barrows, *supra* note 25, at 926–27.

127. See *id.* at 927.

file a valid financing statement does not render the underlying lien void.¹²⁸ Instead, that valid lien becomes “hidden” from those searching the record, but remains enforceable against the property owner.¹²⁹ This can cloud title and cause problems in bankruptcy.¹³⁰

Second, section 26-1-9.1-901 only grants refusal authority to the Secretary of State. County recorders, who also file UCC financing statements and other lien-identifying documents, do not have the same discretion.¹³¹ Indiana Code section 26-1-9.1-520 requires that Indiana recording offices accept all financing documents except those that lack the correct filing fee, are illegible, do not abide by stationery requirements, or fail to identify the debtor or the property affected.¹³² This acceptance of all correctly filed documents, no matter how illegitimate, constitutes an “open drawer policy” that is incapable of slowing fraudulent behavior.¹³³ Even the Secretary of State, with authority to review documents before filing, has no duty to do so.¹³⁴ Therefore, Indiana law permits only one office the discretion to reject fraudulent liens, and provides no incentive to exercise it.

Finally, refusing to file a statement does nothing to stop a filer from trying again.¹³⁵ Recording offices must notify any person who submitted a rejected record of the “fact of and reason for the refusal.”¹³⁶ Therefore, even if a sovereign citizen makes an error for which the filing office can refuse the statement, the office will put him on notice of his mistake, and he is free to file again. The only limitation on filing is one’s willingness to pay the fee.¹³⁷ Therefore, pre-filing administrative remedies alone provide no incentive for sovereign citizens to stop filing, and many sovereign citizens become “serial” filers.¹³⁸

Although pre-filing administrative remedies are an effective tool for rejecting illegitimate financial statements, Indiana only grants this discretion to a single office. Furthermore, even if county filers had the same authority to refuse statements, this power would be unwieldy and impractical for their offices, which lack the resources and practical knowledge to review every document for accuracy. This responsibility also threatens to put legitimate liens at risk.

128. IND. CODE § 26-1-9.1-520(c) (2024).

129. *See* Barrows, *supra* note 25, at 927 n.155.

130. IND. CODE § 26-1-9.1-520(c); *See* Barrows, *supra* note 25, at 927 n.155.

131. IND. CODE § 26-1-9.1-520; IND. CODE § 26-1-9.1-516(b) (2024).

132. IND. CODE § 26-1-9.1-520; IND. CODE § 26-1-9.1-516(b).

133. Cook, *supra* note 94, at 13.

134. IND. CODE § 26-1-9.1-901(c) (2024).

135. Cook, *supra* note 94, at 13.

136. IND. CODE § 26-1-9.1-520(b).

137. *See* Cook, *supra* note 94, at 12.

138. *Id.* at 13.

B. Post-Filing Expedited Judicial Relief

In concert with pre-filing administrative remedies, the National Association of Secretaries of State also recommends the adoption of post-filing expedited judicial relief procedures to counter abuse of filing systems by sovereign citizens.¹³⁹ It defines post-filing judicial relief as any measure that “authorizes corrective action on an existing financing statement through an accelerated judicial review process.”¹⁴⁰ Such protections are necessary because victims cannot remove UCC filings on their own, and expungement requires an official court order terminating¹⁴¹ or purging¹⁴² the record.¹⁴³ These recommended post-filing systems provide a quicker, cheaper, and more streamlined approach to discharging fraudulent filings because they simplify the proceedings and reduce the fees traditionally associated with bringing the legal action.¹⁴⁴

Indiana codified its post-filing corrective procedures in Indiana Code section 26-1-9.1-902, which authorizes alleged debtors to file a motion for judicial review of any UCC-1 filing.¹⁴⁵ If a judge finds the financing statement fraudulent, he may declare the filing ineffective and terminate or purge the document from the record.¹⁴⁶ The court may also award filing fees, attorney’s fees, administrative expenses, and other reasonable costs at its discretion.¹⁴⁷

Although section 26-1-9.1-902 streamlines the removal process, the burden of combatting illegitimate filings falls squarely on the victim. The alleged debtor still must initiate the court action, which will generally require hiring legal counsel to maneuver the process.¹⁴⁸ Even if victims manage to navigate this procedure alone, they will exhaust time and money filing the appropriate paperwork and paying filing fees.¹⁴⁹

Additionally, this post-filing relief fails to address the core harm that fraudulent filings cause: inconvenience in commercial transactions. Because individuals do not generally discover these bogus liens until they engage in

139. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 9.

140. *Id.*

141. Termination may render a filing unenforceable, but the document remains on the record. PAUL HODNEFIELD, CORP. SERV. CO., WHITE PAPER: UCC TERMINATIONS AND THE DILIGENT SEARCHER 1 (2015), <https://www.cscglobal.com/cscglobal/pdfs/WP-UCC-Terminations-and-Searching.pdf> [<https://perma.cc/ZA7L-J65U>].

142. Purging involves the actual removal of the document from the filing index. *What’s the difference between a “lapsed” and “purged” UCC filing?*, FIRST CORP. SOLS.: RISK MGMT. BLOG, <https://ficoso.com/ucc/whats-the-difference-between-a-lapsed-and-purged-ucc-filing/> [<https://perma.cc/NM2Y-9DYA>] (last visited Feb. 17, 2025).

143. Cook, *supra* note 94, at 13; IND. CODE § 26-1-9.1-902(3) (2024).

144. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 9.

145. IND. CODE § 26-1-9.1-902(a).

146. IND. CODE § 26-1-9.1-902(b)(2)–(3).

147. IND. CODE § 26-1-9.1-902(b)(1).

148. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 10.

149. *Id.* at 3.

activity that relates to their credit, this post-filing removal process most often occurs at or after the time the filing causes harm.¹⁵⁰ Even with expedited relief, the filing will delay potential financial and real estate dealings and damage the victim's credit score in the time prior to judicial action.¹⁵¹

Finally, the removal of the financing statement does not automatically impose financial penalties on the filer.¹⁵² Instead, the court has discretion over whether to award fines and fees to the prevailing party.¹⁵³ Because Indiana does not mandate any financial penalties for engaging in this fraudulent activity, the expedited relief does not necessarily trigger liability for the perpetrator.¹⁵⁴ As a result, attackers can file damaging documentation without any assurance that they will need to repay the victim for any harm they cause.

Indiana's post-filing expedited judicial relief procedure provides a necessary mechanism for remedying the harm of fraudulent filings, but it does little to deter the conduct. The victim still bears the cost of initiating the removal process and fixing the damage the recorded liens caused. And he does so without the promise that the filer will compensate him for his efforts. Therefore, sovereign citizens can rely on their purported liens costing their victim time, money, and convenience without any guarantee that a court will impose fines on them in the process.

C. Civil Liability

The National Association of Secretaries of State also recommends civil penalties.¹⁵⁵ The Association acknowledges that many states impose court costs, attorney's fees, and other related expenses on harassment filers.¹⁵⁶ Specifically, the body highlights the approaches of West Virginia and Georgia, which permit fines of \$500 and up to \$10,000, respectively, for each fraudulent filing.¹⁵⁷ Unlike the administrative and judicial removal remedies, the threat of monetary loss disincentivizes future fraudulent filings by imposing costs on the offender.¹⁵⁸

Indiana recently adopted these UCC recommendations in two separate measures. First, where an alleged debtor shows a financing statement to be fraudulent, the court may award filing fees, attorney's fees, administrative fees, and other reasonable costs.¹⁵⁹ Second, in 2022, the Indiana General Assembly added financial penalties for failing to comply with proper filing deadlines and

150. Mastrony, *supra* note 111, at 1027.

151. *See, e.g.,* Monroe v. Beard, 536 F.3d 198, 209 (3d Cir. 2008).

152. *See* IND. CODE § 26-1-9.1-902(b) (stating the court "may" award costs and fees).

153. *See id.*

154. *See id.*

155. NAT'L ASS'N OF SEC'YS OF STATE, *supra* note 7, at 10.

156. *Id.*

157. *Id.*

158. *Id.*

159. IND. CODE § 26-1-9.1-902 (effective Apr. 24, 2013).

other statutory guidelines that will result in a \$500 fine for each deficiency.¹⁶⁰

Although monetary damages are necessary in Indiana's comprehensive approach to combatting fraudulent liens, they are not enough to outweigh the advantages of this paper terrorism tactic. First, the victim still generally needs to spend his time and money to hire an attorney to pursue the action.¹⁶¹ Second, these financial penalties extend only to UCC filings and do not protect against other claimed liens, such as a mechanic's lien.¹⁶² Finally, sovereign citizens that engage in this conduct are often indigent or unwilling to pay judgments against them.¹⁶³ Additionally, many flee the jurisdiction when they discover pending litigation.¹⁶⁴ Together, these shortcomings require that the victim proactively pursue damages through the courts without a reasonable guarantee that he will be able to collect the costs from the perpetrator.¹⁶⁵ Even with this threat of civil judgment, the risks associated with fraudulent filing do not outweigh the benefits of the document's harassing effect.

III. CRIMINAL LIABILITY

A. The Case for Criminal Punishment

Threat of punishment provides the necessary deterrent against sovereign citizens seeking to harass public officials. Generally, legislatures seek to discourage behavior by employing criminal sanctions.¹⁶⁶ Unlike civil penalties, which require the recipients of these retaliatory filings to pursue judicial remedies, penal laws allow lawmakers to set statewide standards for government engagement with these troublesome litigants.¹⁶⁷ Where these measures exist, potential filers face not only the risk that their victim might sue them for monetary damages but also the threat that the State will prosecute them.

The drafters of the UCC, the National Association of Secretaries of State, and legislatures across the country recognize that criminal liability is necessary to combat harassing lien filings. The official commentary to UCC section 9-518, concerning wrongfully filed records, states that the mere removal of filings is insufficient to combat abuses of the filing systems and recommends states implement their own criminal penalties.¹⁶⁸ Following the dramatic expansion of the sovereign citizen movement in the early 2000s, the National Association of Secretaries of State acknowledged, "fraudulent filings had become so

160. IND. CODE § 26-1-9.1-625 (2024) (effective July 1, 2022).

161. Cook, *supra* note 94, at 13.

162. *See* IND. CODE § 26-1-9.1-902; IND. CODE § 26-1-9.1-625 (applying fines only to violations of Indiana's codification of the UCC).

163. Cook, *supra* note 94, at 13.

164. *Id.*

165. *See* Mastrony, *supra* note 111, at 1030.

166. Barrows, *supra* note 25, at 932.

167. *Id.*

168. U.C.C. § 9-518 cmt. 3 (A.L.I. & UNIF. L. COMM'N 2023).

widespread and prolific, that new approaches were needed.”¹⁶⁹ As a result, that Association adopted the UCC drafters’ recommendation for criminal penalties and advocated for laws making it a felony to file a financing statement with the intent to harass another.¹⁷⁰

Finally, acknowledging the threat of the sovereign citizen movement and respecting these professional recommendations, thirty-seven states,¹⁷¹ the District of Columbia,¹⁷² and the federal government now recognize the value of criminal sanctions in deterring fraudulent lien filings.¹⁷³ All thirty-nine of these jurisdictions prosecute individuals for harassment filings that claim to encumber the property of government officials.¹⁷⁴ Among these are three of Indiana’s four neighbors: Kentucky,¹⁷⁵ Michigan,¹⁷⁶ and Illinois.¹⁷⁷

B. Model Approaches

Although jurisdictions across the country recognize the need for criminal sanctions for bogus filings, they differ widely in their approaches. Lawmakers have adopted different penalties and punishment schemes,¹⁷⁸ scienter requirements,¹⁷⁹ and protected classes.¹⁸⁰ The laws also apply to distinct

169. NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 7.

170. *Id.*

171. *See* statutes cited *supra* note 9.

172. D.C. CODE ANN. § 50-1215 (West 2024).

173. 18 U.S.C. § 1521.

174. *See generally* statutes cited *supra* note 9 (protecting public officials explicitly by identifying them as a protected class, such as Illinois’s approach, 720 ILL. COMP. STAT. 5/32-4f (2024), or implicitly by applying blanket prohibitions against fraudulent filings, such as Kentucky’s approach, KY. REV. STAT. ANN. § 434.155 (West 2024)).

175. KY. REV. STAT. ANN. § 434.155.

176. MICH. COMP. LAWS § 440.9501 (2024).

177. 720 ILL. COMP. STAT. 5/32-4f.

178. *Compare* ARK. CODE ANN. § 5-37-215(c)(1) (West 2024) (rendering the first fraudulent filing a Class A misdemeanor, punishable by up to a year in prison), *and* WYO. STAT. ANN. § 29-1-601(c) (West 2024) (making fraudulent filings against public officials or employees a misdemeanor punishable by up to six months in prison and providing no enhancements for subsequent violations), *with* N.H. REV. STAT. ANN. § 478:42(V) (2024) (considering the first fraudulent lien a class B felony, punishable by up to seven years in prison), *and* FLA. STAT. § 817.535(2)(a) (2024) (holding that the first fraudulent filing offense is a felony of the third degree, punishable by up to five years in prison, and enhancing the felony level with each subsequent violation).

179. *Compare* ALASKA STAT. ANN. § 11.46.560(a)(1) (West 2024) (implementing a “reckless” standard), *with* ARIZ. REV. STAT. ANN. § 33-420(E) (2024) (requiring a “knowing” mindset), *and* D.C. CODE ANN. § 50-1215 (West 2024) (providing that a defendant must make a false lien statement “intentionally”).

180. *Compare* 18 U.S.C. § 1521 (sanctioning only filings made against federal employees), *with* N.H. REV. STAT. ANN. § 478:42(V) (criminalizing all fraudulent filings).

filings¹⁸¹ and are triggered at different levels of completion.¹⁸² Specifically, this paper discusses the approaches of the federal government,¹⁸³ Florida,¹⁸⁴ Nebraska,¹⁸⁵ and Tennessee.¹⁸⁶

Important to the discussion of these state statutes is the fact that fraudulent lien cases rarely make it to an appellate court.¹⁸⁷ One explanation is that many sovereign citizens represent themselves pro se and either do not appeal trial court decisions or they cannot perfect the paperwork necessary to file an appeal.¹⁸⁸ Additionally, courts consider many arguments so clearly frivolous that they dismiss them offhand without serious explanation.¹⁸⁹ Because of this lack of serious legal challenges, many courts have not had the opportunity to interpret these statutes. Therefore, analysis of these provisions occasionally requires reliance on the plain statutory text and reference to similar language found elsewhere.

1. Federal Statute.—Starting with the federal approach, Congress enacted 18 U.S.C. § 1521 as part of the Court Security Act of 2007.¹⁹⁰ The statute balances criminalizing a broad range of fraudulent conduct while simultaneously limiting its reach to activities seeking to harm federal employees. Generally, the law makes it illegal for anyone to attempt to file a retaliatory lien against the property of a federal employee “knowing or having

181. Compare CAL. PENAL CODE § 115 (West 2024) (criminalizing the submission of any false or forged instrument) and ALASKA STAT. ANN. § 11.46.560 (criminalizing any false lien document), with ARK. CODE ANN. § 5-37-215(c)(1) (criminalizing only fraudulent submissions under the UCC).

182. Compare TENN. CODE ANN. § 39-17-117 (West 2024) (triggering criminal liability at the preparation stage of a fraudulent lien), and FLA. STAT. § 817.535(2)(a) (triggering criminal liability the moment an individual attempts to file), with KY. REV. STAT. ANN. § 434.155 (2024) (requiring that the individual successfully file the illegal lien).

183. 18 U.S.C. § 1521.

184. FLA. STAT. § 817.535(2)(a).

185. NEB. REV. STAT. § 28-935 (2024).

186. TENN. CODE ANN. § 39-17-117(a)(1).

187. Crowell, *supra* note 28, at 3.

188. *Id.* For an example of a denied appeal, see *Jefferson v. Williams-Mapp*, No. W2021-01058-COA-R3-CV, 2022 WL 1836926, at *3–4 (Tenn. Ct. App. June 3, 2022) (concluding that the appellant’s brief did not comply with Tennessee’s rules for appellate review).

189. See *Taylor-Bey v. State*, 53 N.E.3d 1230 (Ind. Ct. App. 2016) (noting that sovereign citizen arguments denying jurisdiction should be rejected summarily); *United States v. Coleman*, 871 F.3d 470, 476 (6th Cir. 2017) (compiling cases rejecting frivolous arguments espoused by sovereign citizens and tax protesters).

190. Although the legislative history does not directly mention sovereign citizens, federal agencies have acknowledged that these individuals were the driving cause of the enactment. See, e.g., U.S. DEP’T OF JUST., CRIMINAL TAX MANUAL CHAPTER 27: FALSE RETALIATORY LIENS 1–2 (2015), https://www.justice.gov/d9/pages/attachments/2015/06/09/ctm_chapter_27.pdf [<https://perma.cc/7QMH-MV4Q>] (concluding that Congress enacted 18 U.S.C. § 1521 in 2007 in response to a growing number of retaliatory filings by sovereign citizens and tax protesters); *Jones v. Caruso*, 569 F.3d 258, 261 (6th Cir. 2009) (compiling fraudulent lien cases from the early 2000s).

reason to know” it contains false information.¹⁹¹

Regarding the prohibited conduct, § 1521 specifically punishes any actor who “files, attempts to file, or conspires to file” a false lien or encumbrance with a Class D felony,¹⁹² punishable by up to ten years in prison and a fine of up to \$250,000.¹⁹³ By including the attempt or the conspiracy to engage in a fraudulent filing, Congress did not confine the statute to completed acts.¹⁹⁴ Instead, it sought to prevent the harm from occurring, wherever possible.¹⁹⁵ This flexibility allows prosecutors to do two things.

First, the government may pursue individuals whose fraudulent financing statement never entered the public record because it never made it to the recording office, or the office refused to file it. An example of this preemptory prosecution occurred in *United States v. Neal*.¹⁹⁶ There, prison guards inspected mail the appellant, Neal,¹⁹⁷ attempted to send to his mother.¹⁹⁸ Inside a package, the authorities found UCC-1 financing statements identifying prison staffers as alleged debtors, and claiming these employees owed between \$5 thousand and \$45 million each.¹⁹⁹ The package also included instructions for Neal’s mother to file the documents.²⁰⁰ Although his forms never made it to a recording office, the court upheld Neal’s conviction under § 1521, holding that his creation of the forms with the instructions to file them was precisely the type of “conspiring to file” that the statute seeks to prohibit.²⁰¹

Second, this broad “attempts to file” language allows the government to prosecute sovereign citizens who make an error in the filing that renders it victimless. For example, in *United States v. Reed*, the appellant, Reed,²⁰² filed a \$5 million lien against the IRS agent who was pursuing him for tax fraud, but

191. The Act states, “[w]hoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.” 18 U.S.C. § 1521.

192. 18 U.S.C. § 3559(a)(4).

193. 18 U.S.C. § 3571.

194. *See* *United States v. Neal*, 776 F.3d 645, 653 (9th Cir. 2015).

195. *See id.*

196. *Id.*

197. Although the court did not label Neal as a sovereign citizen, they mention that he filed numerous nonsensical motions containing accusations indicative of the movement. For example, Neal alleged that the United States had no jurisdiction because it was a “corporation.” *Id.* at 650.

198. *Id.* at 649, 655.

199. *Id.* at 649.

200. *Id.*

201. *Id.* at 653.

202. The court does not explicitly label Reed as a sovereign citizen, but he displays characteristics traditionally associated with the movement. Specifically, Reed refused to pay taxes and alleged that the IRS officials owed him \$9 million for violating the copyright he owned on his name. *United States v. Reed*, 75 F.4th 396, 400 n.1 (4th Cir. 2023).

he used the agent's pseudonym rather than his legal name.²⁰³ Reed tried to argue this mistake rendered him free from liability because the alleged debtor was fictitious.²⁰⁴ The court refused this argument, reasoning that a filer need only attempt to file the lien against the property of a federal employee specified in 18 U.S.C. § 1114 and that Reed believed he was doing just that when he filed the statement.²⁰⁵ Section 1521's inclusion of attempt or conspiracy allows authorities to pursue those who engage in fraudulent conduct and does not require them to wait until a filer's conduct harms a victim before the government may sanction him.

In addition to its encompassing filing standards, the law's "knowingly" scienter requirement is broad enough to capture fraudulent activity without criminalizing honest mistakes. In *United States v. Hoffert*, the district court convicted Hoffert²⁰⁶ under 18 U.S.C. § 1521 after he filed liens against seven federal officials for \$8 million each.²⁰⁷ Hoffert challenged the conviction, claiming the fraudulent lien statute's "knowing or having reason to know" standard was overbroad and could permit the conviction of innocent persons who made errors on lien applications.²⁰⁸ The Third Circuit Court of Appeals disagreed and held that the statute was constitutional.²⁰⁹ It reasoned that § 1521's "knowing or having reason to know" of a lien's fraudulence operates under a reasonableness standard.²¹⁰ Thus, "having reason to know" puts potential offenders on notice that their exorbitant lien claims, which bear no connection to reality, will be unreasonable and thus criminal.²¹¹

Furthermore, this reasonableness standard prevents sovereign citizens from raising the defense that they believed their lien was legitimate. In *United States v. Williamson*, the trial court convicted appellant, Williamson, under § 1521 after he recorded liens for \$909,067,650 against two IRS agents.²¹² Williamson was a tax protester, rather than a sovereign citizen, but he argued on appeal that the trial court should have given a "good-faith" defense instruction.²¹³ This instruction would require the jury to find a defendant "not guilty" if it concluded that he genuinely believed the liens were legitimate at the time of filing.²¹⁴ The appellate court rejected this argument, holding that a genuine belief is irrelevant

203. *Id.* at 399.

204. *Id.* at 401.

205. *Id.* at 401–02.

206. The court does not refer to Hoffert as a sovereign citizen, but he displays characteristics traditionally associated with the movement. Specifically, he alleged that his incarceration was illegal in the absence of a contract between himself and the United States Incorporation's "subcorporation, PENNSYLVANIA." *United States v. Hoffert*, 949 F.3d 782, 785 (3d Cir. 2020).

207. *Id.* at 787.

208. *Id.* at 788.

209. *Id.* at 789.

210. *Id.*

211. *Id.*

212. *United States v. Williamson*, 746 F.3d 987, 989 (10th Cir. 2014).

213. *Id.* at 993.

214. *Id.*

so long as that belief is unreasonable.²¹⁵ This reasonableness test considers the subjective understanding of the defendant, but it also recognizes what a reasonable person would infer from the information.²¹⁶ Although the court in *Williamson* did not apply this test to the facts of the case, it presumed that no reasonable person would have believed the \$909,067,650 in liens against IRS agents in their official capacity was reasonable.²¹⁷ Therefore, even sovereign citizens who believe their liens are legitimate are subject to prosecution under federal law.

Thus, this “knowing” mens rea requirement reaches not only intentional efforts to harass officials but also objectively unreasonable conduct. As a result, the government may still prosecute violators who are genuine believers that they are entitled to vast sums of money. This standard is valuable when dealing with sovereign citizens who might trust their lien is accurate or claim that they erred in good faith. Conversely, because this standard considers what a reasonable person would infer from the circumstances, individuals who make an honest error in the value of a legitimate lien do not violate § 1521.

Finally, 18 U.S.C. § 1521 limits its protection to liens filed against federal employees on account of their employment. Specifically, the law forbids filing fraudulent liens against “any officer or employee of the United States or any agency in any branch of the United States Government”²¹⁸ “on account of the performance of official duties.”²¹⁹ This “on account of” language means that the prosecution must prove the filer submitted the bogus financial document against the employee in retaliation for, or as a result of, his employment.²²⁰ Satisfying this element generally only requires showing some relationship between the defendant and the employee.²²¹ The statute, therefore, does not cover fraudulent liens that are unrelated to an individual’s employment with the federal government.

Because of this narrow scope, the United States charged only sixty-three individuals for violating 18 U.S.C. § 1521 between 2009 and 2022.²²² This relatively small number shows that restricting the law’s reach to action against federal employees on account of their duties has allowed the government to combat behavior without redirecting vast resources toward enforcement.

215. *Id.* at 994.

216. *Id.*

217. *See id.*

218. 18 U.S.C. § 1114.

219. 18 U.S.C. § 1521.

220. *See generally* United States v. Pate, 84 F.4th 1196, 1214 (11th Cir. 2023) (Grant, J., dissenting) (arguing that “on account of” means that an earlier act of the government official will serve as the requisite criminal motivation in the context of 18 U.S.C. § 1521); United States v. Reed, 75 F.4th 396, 401 (4th Cir. 2023) (noting that Congress’s intention in passing 18 U.S.C. § 1521 was to prevent harassment of federal employees on account of their duties).

221. CRIMINAL TAX MANUAL CHAPTER 27, *supra* note 189, at 8.

222. *Federal Criminal Case Processing Statistics Data Tool*, DEPT. OF JUST. BUREAU OF JUST. STAT., <https://fccps.bjs.ojp.gov/home.html?dashboard=FJSP-CriminalCodeStats&tab=CriminalCodeStatistics> [https://perma.cc/GU6M-AEF9] (last visited Mar. 17, 2025).

Furthermore, despite the infrequency of the charges, the penalties remain stern. The average prison sentence for violators of § 1521 is just over fifty-four months.²²³ Therefore, the limited protective scope of 18 U.S.C. § 1521 allows the federal government to enforce the statute both firmly and sparingly.

2. *State Statutes.*—

a. *Florida.*—Florida’s fraudulent filing approach resembles the federal standard but with broader protection and sterner penalties. It balances this additional breadth by elevating the prosecution’s burden to prove the filer’s intent. Specifically, Florida Statutes section 817.535(2)(a) makes it a felony of the third degree²²⁴ to submit any false representation of an interest in another’s property to a filing office with the intent to harass or defraud.²²⁵

Beginning with the penalties, Florida follows the National Association of Secretaries of State’s recommendation that harassment filings be a felony.²²⁶ Not only does the offense start as a felony of the third degree, but the statutory scheme also scales the penalties upward for repeat offenders.²²⁷ Specifically, section 817.535(2)(b) adds that a second violation against a private citizen will constitute a felony of the second degree.²²⁸ Section 817.535(2)(b)(3) then holds that where the alleged debtor is a public officer or employee, the offense begins as a felony of the second degree, and a subsequent violation will be a felony of the first degree.²²⁹ These increasingly stern punishments serve to deter serial filers who may be unaffected by low-level misdemeanor convictions.

Florida’s fraudulent lien statute also expands its reach beyond the federal standard by applying to private citizens. Whereas 18 U.S.C. § 1521 limits its protection to federal employees,²³⁰ Florida can prosecute any individual who attempts to harass another with a false financing statement.²³¹ Although this extension is helpful, it is not a necessity. It is less common for filers to attack non-governmental actors and introducing such blanket protections places

223. *Id.* (calculating the mean of the “Prison Determinate Mean” from 2009 to 2022 returns an average of 54.445 months).

224. A felony of the third degree, without habitual offender enhancements, carries a punishment of up to five years in prison, FLA. STAT. § 775.082(3)(c) (2024), and a \$5,000 fine. FLA. STAT. § 775.083(1)(c) (2024).

225. Florida law states that “[a] person who files or directs a filer to file, with the intent to defraud or harass another, any instrument containing a materially false, fictitious, or fraudulent statement or representation that purports to affect an owner’s interest in the property described in the instrument commits a felony of the third degree.” FLA. STAT. § 817.535(2)(a) (2024).

226. *See* NAT’L ASS’N OF SEC’YS OF STATE, *supra* note 7, at 7.

227. FLA. STAT. § 817.535(2)(b).

228. A felony of the second degree, without habitual offender enhancements, carries a punishment of up to fifteen years in prison, FLA. STAT. § 775.082(3)(d), and a \$10,000 fine. FLA. STAT. § 775.083(1)(b).

229. A felony of the first degree, without enhancements, carries a punishment of up to 30 years in prison, FLA. STAT. § 775.082(3)(b), and a \$10,000 fine. FLA. STAT. § 775.083(1)(b).

230. 18 U.S.C. § 1521; 18 U.S.C. § 1114.

231. FLA. STAT. § 817.535(2)(a).

additional strain on limited public resources.²³²

In order to prevent overreach, Florida balances these strict penalties and broader protection with a higher scienter requirement than the federal law requires. For a prosecutor to secure a conviction for fraudulent filing in Florida, he must prove, beyond a reasonable doubt, that the defendant “had the intent to defraud or harass another” at the time of filing.²³³ Although an enormous claim in a financing statement may support a finding of intent to harass, sovereign citizens regularly act with conviction, and they may genuinely believe that the lien secures a valid debt. For example, in *United States v. Hoffert*, Hoffert told the federal marshals questioning him about his claimed liens that he intended for “the marshals to seize and liquidate the property of the lien debtors.”²³⁴ Although the federal court found the \$8 million value of Hoffert’s liens and other circumstantial evidence sufficient to satisfy 18 U.S.C § 1521’s “knowing” standard of falsity,²³⁵ Hoffert’s genuine belief that the debts were real would complicate an effort to prove guilt under Florida’s “intent to defraud or harass” scienter standard.

While Florida’s strict and scaling penalties provide a strong deterrent to fraudulent filings and serve to punish those who victimize others with their paper terrorism tactics, these sweeping protections ultimately extend beyond what is necessary to combat the current threat of fraudulent filings by sovereign citizens. The statutory scheme has the effect of drawing authorities and prosecutors into murky waters by allowing civilian debtors to allege that legitimate financing statements are fraudulent and meant to harass. Furthermore, the intentional scienter standard places an overly high a burden on prosecutors dealing with the sovereign citizen movement. These populations are often so convinced of their beliefs that proving intent to defraud will be unnecessarily challenging.

b. Nebraska.—Nebraska’s statutory approach resembles Florida and the United States Code, but it employs an even more elaborate scheme to combat fraudulent filings. Specifically, Nebraska’s law makes it a Class IV felony²³⁶ to knowingly submit for filing any nonconsensual common-law lien, UCC financing without a bona fide security agreement, or any other document that attempts to harass any individual or obstruct government processes.²³⁷

232. See Norman M. Powell, *Bogus Filings—Some Legal and Policy Considerations*, 47 U.C.C. L. J. 43 (2017).

233. *In re* Standard Jury Instructions in Crim. Cases—Rep. No. 2016-02, 199 So. 3d 234, 239 (Fla. 2016).

234. *United States v. Hoffert*, 949 F.3d 782, 787 (3d Cir. 2020).

235. *Id.* at 791.

236. NEB. REV. STAT. § 28-935(2) (2024). In Nebraska, a Class IV felony carries a maximum of 2 years in prison and a \$10,000 fine. NEB. REV. STAT. § 28-105(1) (2024).

237. The Nebraska state code states:

The broad enumeration of prohibited conduct in the Nebraska statute criminalizes more conduct than both Florida and the federal government. Whereas the federal statute requires that the bogus filing serve as retaliation against its employees²³⁸ and Florida's law mandates an intent to defraud or harass,²³⁹ Nebraska punishes all fraudulent filings that the filer should have known were illegitimate.²⁴⁰ It explicitly lists nonconsensual common-law liens and unsecured UCC filings, before including the all-encompassing "any document filed in an attempt to harass" anyone or "obstruct a government operation."²⁴¹ In effect, the statute extends to every conceivable fraudulent lien filing regardless of its form or recipient. This flexibility allows the law to react to evolving paper terrorism tactics and not constrain itself to a narrow set of behaviors.

The Nebraska law also preemptively closes loopholes that sovereign citizens might seek to exploit. First, the statute states that a "lack of belief in the jurisdiction or authority of the state or the government of the United States is no defense to prosecution."²⁴² This is a direct rebuke of the sovereign citizen movement, rejecting this question of jurisdiction before a defendant can raise it. Second, the offense employs the same "knowing or having reason to know" that one is engaging in any of the prohibited filing activities as 18 U.S.C. § 1521. Although there are no appellate cases interpreting the matter, Nebraska will presumably employ a similar standard to the federal government's "reasonable person" approach.²⁴³ This flexibility is essential to combatting sovereign citizens who may claim that they filed the lien with a legitimate belief in the debt.

c. Tennessee.—Tennessee's approach mirrors Nebraska's coverage, but it goes a step further. Rather than enumerating each type of illegal lien filing, the

(1) A person commits the offense of fraudulently filing a financing statement, lien, or document if the person directly, or through an intermediary, submits for filing or recording in the public record, as defined in section 28-911:

(a) Any document purporting to create a nonconsensual common-law lien, as defined in section 52-1901, knowing or having reason to know that the lien is a nonconsensual common-law lien;

(b) A financing statement pursuant to article 9, Uniform Commercial Code, knowing or having reason to know that the financing statement is not based on a bona fide security agreement or was not authorized or authenticated by the alleged debtor identified in the financing statement or an authorized representative of the alleged debtor; or

(c) Any document filed in an attempt to harass an entity, individual, or public official or obstruct a government operation or judicial proceeding, knowing or having reason to know such document contained false information.

NEB. REV. STAT. § 28-935.

238. 18 U.S.C. § 1521.

239. FLA. STAT. § 817.535(2)(a) (2024).

240. NEB. REV. STAT. § 28-935.

241. *Id.*

242. NEB. REV. STAT. § 28-935(3).

243. *See United States v. Williamson*, 746 F.3d 987, 994 (10th Cir. 2014).

state makes it a Class E felony²⁴⁴ to knowingly prepare, file, or sign any document with the intent to encumber any real or personal property without a reasonable basis.²⁴⁵ To prevent abuse of this broad language, the statute also excludes specified populations from its reach.²⁴⁶

Unlike most jurisdictions, which require an attempt to file, Tennessee prohibits any effort to prepare a fraudulent lien.²⁴⁷ This means that an offender would not even need to complete the form or attempt to file. Although the courts of Tennessee have yet to interpret this element directly, they have relied on its language to define the offense.²⁴⁸ In *State v. Lyons*, the state supreme court differentiated fraudulent filing from its forgery counterpart.²⁴⁹ Relying on the statute's "prepare, sign, or file" language, the court held that the fraudulent filing offense requires only the intent to encumber another's property and not an "entry on the books" like forgery requires.²⁵⁰

Tennessee's statute also prevents over-criminalization by including protections for certain parties assisting in the lien filing process. One example is that the law does not apply to agents who prepare, sign, or file liens in the ordinary course of business.²⁵¹ Although other states may presume their fraudulent lien provisions do not apply to these individuals, this explicit exception for filers is relevant. Without this protection, a state risks penalizing recording offices whose duty it is to file these liens. Such an exemption is especially appropriate for officials with an obligation to file every submitted document.

IV. CLOSING THE GAP: A CRIMINALIZING APPROACH IN INDIANA

A. Model Statute

Drawing from the best elements of 18 U.S.C. § 1521, and the approaches of Florida,²⁵² Nebraska,²⁵³ and Tennessee,²⁵⁴ Indiana should adopt the following statute:

244. In Tennessee, a Class E felony carries a prison sentence of between one and six years and a fine of up to \$3,000. TENN. CODE ANN. § 40-35-111(b)(5) (West 2024).

245. In Tennessee, "It is an offense for any person to knowingly prepare, sign, or file any lien or other document with the intent to encumber any real or personal property when such person has no reasonable basis or any legal cause to place such lien or encumbrance on such real or personal property." TENN. CODE ANN. § 39-17-117(a)(1) (West 2024).

246. TENN. CODE ANN. § 39-17-117(c).

247. TENN. CODE ANN. § 39-17-117(a)(1).

248. *See State v. Lyons*, 669 S.W.3d 775 (Tenn. 2023).

249. *Id.*

250. *Id.* at 788.

251. TENN. CODE ANN. § 39-17-117(c).

252. FLA. STAT. § 817.535 (2024).

253. NEB. REV. STAT. § 28-935 (2024).

254. TENN. CODE ANN. § 39-17-117.

(1) A person who knowingly presents for filing or recording in a public record or a private record generally available to the public any false lien or claim relating to any real or personal property or directly affecting contractual relationships of a public officer or employee when such person knows or should have known that the contents or any part of the contents of the instrument are false, groundless, or frivolous commits filing a fraudulent financial statement, a Level 6 felony.

(a) This section does not apply to a register of deeds or other government employee who acts in the course of his or her official duties and files, enters, or records any instrument relating to title on behalf of another person.

(2) The first subsequent offense of fraudulently filing a financial statement is a Level 5 felony.

(3) The second subsequent offense of fraudulently filing a financial statement is a Level 4 felony.

This statute will do several things. First, the “knowing or should know” scienter requirement follows the federal standard.²⁵⁵ This mens rea encompasses bogus statements that sovereign citizens file to harass or intimidate and does not defer to the filer’s subjective belief. As the court held in *United States v. Williamson*, the “should know” mindset requirement applies a reasonable person standard.²⁵⁶ Thus, the statute will protect against filings that are unreasonable under the circumstances.²⁵⁷ This restriction prevents criminalizing honest filing mistakes, while retaining the ability to punish actors who engage in paper terrorism.

Second, the statute applies to the attempt, as well as the successful act of filing a fraudulent lien. This standard allows the state to pursue sovereign citizens and other filers who try to harass officials but make some mistake that prevents a recording office from filing the document. As the Fourth Circuit held in *United States v. Reed*, an error should not protect a filer from liability, nor should the state have to wait until a victim suffers harm to penalize the activity.²⁵⁸ Still, this “presents for filing” language does not go as far as jurisdictions like Tennessee that punish the preliminary act of creating the fraudulent document.²⁵⁹ Such a standard would sweep too broadly and risk overburdening law enforcement and endangering filers who make honest errors on drafts of proper paperwork.

255. See 18 U.S.C. § 1521.

256. *United States v. Williamson*, 746 F.3d 987, 994 (10th Cir. 2014).

257. *Id.*

258. *United States v. Reed*, 75 F.4th 396 (4th Cir. 2023).

259. TENN. CODE ANN. § 39-17-117(a)(1).

Third, this proposed law applies to filings in any generally available record. Because Indiana Code section 26-1-9.1-901 currently only grants filing discretion to the Secretary of State, public recorders throughout the state must file nearly every financial statement that the public sends them.²⁶⁰ Because this “open drawer” policy governs all local recording offices, they are most vulnerable to fraudulent statements. Indiana’s criminal approach must punish filings in any record viewable by the public.

Fourth, this statute follows the guidance of Florida Statutes section 817.535 and provides for scaling penalties beginning at the felony level. Paper terrorism poses a serious threat to Indiana officials, and those who engage in the practice are not making innocent mistakes. They are partaking in a course of intentional conduct that seeks to undermine legitimate public processes. The threat of a felony conviction and increasing criminal penalties serve as a serious deterrent to those seeking to harass Hoosier officials. When coupled with the state’s non-criminal remedies for removing illegitimate filings and imposing financial penalties, Indiana’s approach will make the potential cost of filing fraudulent liens greater than the potential benefit of inconveniencing victims. Right now, the allure of paper terrorism outweighs the risks in Indiana.

Fifth, this provision would adopt the sweeping breadth of Nebraska’s approach without enumerating each type of improper filing. Instead of referencing common-law liens, UCC financing statements, and other filings, this proposal for Indiana covers “any false lien or claim relating to any real or personal property.” Like Tennessee’s statute,²⁶¹ this language is concise and all-encompassing.

Finally, the statute would only protect public officers and employees. Sovereign citizens focus most of their attacks on government functions, and the corresponding threat to private citizens is low.²⁶² At the same time, authorities lack the resources to pursue every claim of financing statement fraud.²⁶³ Because the goal of the law is to combat paper terrorism attacks in Indiana, and not to turn prosecutors into the police of public records, it is best to limit the reach of the protected class to those government workers who are most at risk.

CONCLUSION

In the past forty years, sovereign citizens across the United States have leveraged their ability to file fraudulent financial statements under the UCC and the common law to harass public officials.²⁶⁴ These groups of loosely related anti-government extremists repeatedly engage in schemes of filing fraudulent, or otherwise unenforceable, liens against government officials in attempts to

260. IND. CODE § 26-1-9.1-520 (2024); IND. CODE § 26-1-9.1-516(b) (2024).

261. TENN. CODE ANN. § 39-17-117(a)(1).

262. Sarteschi, *supra* note 19, at 1.

263. *See generally* Powell, *supra* note 232, at 50–51.

264. Colacci, *supra* note 15, at 157.

undermine governmental processes or get revenge on those who arrested or convicted these citizens for other crimes.²⁶⁵

This Note examined the ongoing threat sovereign citizens and similar litigants pose to Indiana's courts, law enforcement, and other public officials. It analyzed the state's approach to fraudulent financing documents and discussed the benefits and shortcomings inherent to administrative remedies and financial penalties. Ultimately, this Note holds that the threat of criminal punishment is the only way to deter sovereign citizens from filing fraudulent liens. Because the sovereign citizen threat stretches nationwide, this Note looked to the criminal statutes of Florida, Nebraska, Tennessee, and the federal government. Combining the best elements from each, this Note recommended a model statute that protects public servants. This statute captures those filers who "knowingly" engage in fraudulent conduct but ensures that liability will not spread to those individuals who err in good faith. The law would provide the state with a necessary tool to deter sovereign citizens from harassing public officials and punish those who engage in such activity. The statute's self-constraining nature will allow it to accomplish these aims without introducing sweeping liability that would overburden law enforcement and state courts.

265. *Id.*