

107TH CONGRESS
1ST SESSION

H. R. 583

To establish the Commission for the Comprehensive Study of Privacy
Protection.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2001

Mr. HUTCHINSON (for himself, Mr. MORAN of Virginia, Mr. BRADY of Texas, Ms. GRANGER, Mr. GREENWOOD, Mr. LUCAS of Oklahoma, and Mr. RILEY) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To establish the Commission for the Comprehensive Study
of Privacy Protection.

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 “Privacy Commission
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Americans are increasingly concerned about
9 their civil liberties and the security and use of their

1 personal information, including medical records, edu-
2 cational records, library records, magazine subscrip-
3 tion records, records of purchases of goods and other
4 payments, and driver's license numbers.

5 (2) Commercial entities are increasingly aware
6 that consumers expect them to adopt privacy policies
7 and take all appropriate steps to protect the per-
8 sonal information of consumers.

9 (3) There is a growing concern about the con-
10 fidentiality of medical records, because there are in-
11 adequate Federal guidelines and a patchwork of con-
12 fusing State and local rules regarding privacy pro-
13 tection for individually identifiable patient informa-
14 tion.

15 (4) In light of recent changes in financial serv-
16 ices laws allowing for increased sharing of informa-
17 tion between traditional financial institutions and in-
18 surance entities, a coordinated and comprehensive
19 review is necessary regarding the protections of per-
20 sonal data compiled by the health care, insurance,
21 and financial services industries.

22 (5) The use of Social Security numbers has ex-
23 panded beyond the uses originally intended.

24 (6) Use of the Internet has increased at as-
25 tounding rates, with approximately 5 million current

1 Internet sites and 64 million regular Internet users
2 each month in the United States alone.

3 (7) Financial transactions over the Internet
4 have increased at an astounding rate, with 17 mil-
5 lion American households spending \$20 billion shop-
6 ping on the Internet last year.

7 (8) Use of the Internet as a medium for com-
8 mercial activities will continue to grow, and it is esti-
9 mated that by the end of 2000, 56 percent of the
10 companies in the United States will sell their prod-
11 ucts on the Internet.

12 (9) There have been reports of surreptitious
13 collection of consumer data by Internet marketers
14 and questionable distribution of personal information
15 by on-line companies.

16 (10) In 1999, the Federal Trade Commission
17 found that 87 percent of Internet sites provided
18 some form of privacy notice, which represented an
19 increase from 15 percent in 1998.

20 (11) The United States is the leading economic
21 and social force in the global information economy,
22 largely because of a favorable regulatory climate and
23 the free flow of information. It is important for the
24 United States to continue that leadership. As na-
25 tions and governing bodies around the world begin

1 to establish privacy standards, these standards will
2 directly affect the United States.

3 (12) The shift from an industry-focused econ-
4 omy to an information-focused economy calls for a
5 reassessment of the most effective way to balance
6 personal privacy and information use, keeping in
7 mind the potential for unintended effects on tech-
8 nology development, innovation, the marketplace,
9 and privacy needs.

10 (13) This Act shall not be construed to prohibit
11 the enactment of legislation on privacy issues by the
12 Congress during the existence of the Commission. It
13 is the responsibility of the Congress to act to protect
14 the privacy of individuals, including individuals'
15 medical and financial information. Various commit-
16 tees of the Congress are currently reviewing legisla-
17 tion in the area of medical and financial privacy.
18 Further study by the Commission established by this
19 Act should not be considered a prerequisite for fur-
20 ther consideration or enactment of financial or med-
21 ical privacy legislation by the Congress.

22 **SEC. 3. ESTABLISHMENT.**

23 There is established a commission to be known as the
24 "Commission for the Comprehensive Study of Privacy
25 Protection" (in this Act referred to as the "Commission").

1 **SEC. 4. DUTIES OF COMMISSION.**

2 (a) STUDY.—The Commission shall conduct a study
3 of issues relating to protection of individual privacy and
4 the appropriate balance to be achieved between protecting
5 individual privacy and allowing appropriate uses of infor-
6 mation, including the following:

7 (1) The monitoring, collection, and distribution
8 of personal information by Federal, State, and local
9 governments, including personal information col-
10 lected for a decennial census, and such personal in-
11 formation as a driver’s license number.

12 (2) Current efforts to address the monitoring,
13 collection, and distribution of personal information
14 by Federal and State governments, individuals, or
15 entities, including—

16 (A) existing statutes and regulations relat-
17 ing to the protection of individual privacy, such
18 as section 552a of title 5, United States Code
19 (commonly referred to as the Privacy Act of
20 1974) and section 552 of title 5, United States
21 Code (commonly referred to as the Freedom of
22 Information Act);

23 (B) legislation pending before the Con-
24 gress;

25 (C) privacy protection efforts undertaken
26 by the Federal Government, State governments,

1 foreign governments, and international gov-
2 erning bodies;

3 (D) privacy protection efforts undertaken
4 by the private sector; and

5 (E) self-regulatory efforts initiated by the
6 private sector to respond to privacy issues.

7 (3) The monitoring, collection, and distribution
8 of personal information by individuals or entities, in-
9 cluding access to and use of medical records, finan-
10 cial records (including credit cards, automated teller
11 machine cards, bank accounts, and Internet trans-
12 actions), personal information provided to on-line
13 sites accessible through the Internet, Social Security
14 numbers, insurance records, education records, and
15 driver's license numbers.

16 (4) Employer practices and policies with respect
17 to the financial and health information of employees,
18 including—

19 (A) whether employers use or disclose em-
20 ployee financial or health information for mar-
21 keting, employment, or insurance underwriting
22 purposes;

23 (B) what restrictions employers place on
24 disclosure or use of employee financial or health
25 information;

1 (C) employee rights to access, copy, and
2 amend their own health records and financial
3 information;

4 (D) what type of notice employers provide
5 to employees regarding employer practices with
6 respect to employee financial and health infor-
7 mation; and

8 (E) practices of employer medical depart-
9 ments with respect to disclosing employee
10 health information to administrative or other
11 personnel of the employer.

12 (5) The extent to which individuals in the
13 United States can obtain redress for privacy viola-
14 tions.

15 (6) The extent to which older individuals and
16 disabled individuals are subject to exploitation in-
17 volving the disclosure or use of their financial infor-
18 mation.

19 (b) FIELD HEARINGS.—

20 (1) IN GENERAL.—The Commission shall con-
21 duct at least 2 field hearings in each of the 5 geo-
22 graphical regions of the United States.

23 (2) BOUNDARIES.—For purposes of this sub-
24 section, the Commission may determine the bound-

1 aries of the five geographical regions of the United
2 States.

3 (c) REPORT.—

4 (1) IN GENERAL.—Not later than 18 months
5 after appointment of all members of the
6 Commission—

7 (A) a majority of the members of the Com-
8 mission shall approve a report; and

9 (B) the Commission shall submit the ap-
10 proved report to the Congress and the Presi-
11 dent.

12 (2) CONTENTS.—The report shall include a de-
13 tailed statement of findings, conclusions, and rec-
14 ommendations, including the following:

15 (A) Findings on potential threats posed to
16 individual privacy.

17 (B) Analysis of purposes for which sharing
18 of information is appropriate and beneficial to
19 consumers.

20 (C) Analysis of the effectiveness of existing
21 statutes, regulations, private sector self-regu-
22 latory efforts, technology advances, and market
23 forces in protecting individual privacy.

24 (D) Recommendations on whether addi-
25 tional legislation is necessary, and if so, specific

1 suggestions on proposals to reform or augment
2 current laws and regulations relating to indi-
3 vidual privacy.

4 (E) Analysis of purposes for which addi-
5 tional regulations may impose undue costs or
6 burdens, or cause unintended consequences in
7 other policy areas, such as security, law en-
8 forcement, medical research, or critical infra-
9 structure protection.

10 (F) Cost analysis of legislative or regu-
11 latory changes proposed in the report.

12 (G) Analysis of the impact of altering ex-
13 isting protections for individual privacy on the
14 overall operation and functionality of the Inter-
15 net, including the impact on the private sector.

16 (H) Recommendations on non-legislative
17 solutions to individual privacy concerns, includ-
18 ing education, market-based measures, industry
19 best practices, and new technology.

20 (I) Review of the effectiveness and utility
21 of third-party verification of privacy statements,
22 including specifically with respect to existing
23 private sector self-regulatory efforts.

24 (d) ADDITIONAL REPORT.—Together with the report
25 under subsection (c), the Commission shall submit to the

1 Congress and the President any additional report of dis-
2 senting opinions or minority views by a member or mem-
3 bers of the Commission.

4 (e) INTERIM REPORT.—The Commission may submit
5 to the Congress and the President an interim report ap-
6 proved by a majority of the members of the Commission.

7 **SEC. 5. MEMBERSHIP.**

8 (a) NUMBER AND APPOINTMENT.—The Commission
9 shall be composed of 17 members appointed as follows:

10 (1) 2 members appointed by the President.

11 (2) 4 members appointed by the majority leader
12 of the Senate.

13 (3) 3 members appointed by the minority leader
14 of the Senate.

15 (4) 4 members appointed by the Speaker of the
16 House of Representatives.

17 (5) 3 members appointed by the minority leader
18 of the House of Representatives.

19 (6) 1 member, who shall serve as Chairperson
20 of the Commission, appointed jointly by the Presi-
21 dent, the majority leader of the Senate, and the
22 Speaker of the House of Representatives.

23 (b) DIVERSITY OF VIEWS.—The appointing authori-
24 ties under subsection (a) shall seek to ensure that the
25 membership of the Commission has a diversity of views

1 and experiences on the issues to be studied by the Com-
2 mission, such as views and experiences of Federal, State,
3 and local governments, the media, the academic commu-
4 nity, consumer groups, public policy groups and other ad-
5 vocacy organizations, business and industry (including
6 small business), the medical community, civil liberties ex-
7 perts, and the financial services industry.

8 (c) DATE OF APPOINTMENT.—The appointment of
9 the members of the Commission shall be made not later
10 than 30 days after the date of the enactment of this Act.

11 (d) TERMS.—Each member of the Commission shall
12 be appointed for the life of the Commission.

13 (e) VACANCIES.—A vacancy in the Commission shall
14 be filled in the same manner in which the original appoint-
15 ment was made.

16 (f) COMPENSATION; TRAVEL EXPENSES.—Members
17 of the Commission shall serve without pay, but shall re-
18 ceive travel expenses, including per diem in lieu of subsist-
19 ence, in accordance with sections 5702 and 5703 of title
20 5, United States Code.

21 (g) QUORUM.—A majority of the members of the
22 Commission shall constitute a quorum, but a lesser num-
23 ber may hold hearings.

24 (h) MEETINGS.—

1 (1) IN GENERAL.—The Commission shall meet
2 at the call of the Chairperson or a majority of its
3 members.

4 (2) INITIAL MEETING.—Not later than 45 days
5 after the date of the enactment of this Act, the
6 Commission shall hold its initial meeting.

7 **SEC. 6. DIRECTOR; STAFF; EXPERTS AND CONSULTANTS.**

8 (a) DIRECTOR.—

9 (1) IN GENERAL.—Not later than 30 days after
10 the appointment of the Chairperson of the Commis-
11 sion, the Chairperson of the Commission shall ap-
12 point a Director without regard to the provisions of
13 title 5, United States Code, governing appointments
14 to the competitive service.

15 (2) PAY.—The Director shall be paid at the
16 rate payable for level III of the Executive Schedule
17 established under section 5314 of such title.

18 (b) STAFF.—The Director may appoint staff as the
19 Director determines appropriate.

20 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
21 LAWS.—

22 (1) IN GENERAL.—The staff of the Commission
23 shall be appointed without regard to the provisions
24 of title 5, United States Code, governing appoint-
25 ments in the competitive service.

1 (2) PAY.—The staff of the Commission shall be
2 paid in accordance with the provisions of chapter 51
3 and subchapter III of chapter 53 of that title relat-
4 ing to classification and General Schedule pay rates,
5 but at rates not in excess of the maximum rate for
6 grade GS–15 of the General Schedule under section
7 5332 of that title.

8 (d) EXPERTS AND CONSULTANTS.—The Director
9 may procure temporary and intermittent services under
10 section 3109(b) of title 5, United States Code.

11 (e) STAFF OF FEDERAL AGENCIES.—

12 (1) IN GENERAL.—Upon request of the Direc-
13 tor, the head of any Federal department or agency
14 may detail, on a reimbursable basis, any of the per-
15 sonnel of that department or agency to the Commis-
16 sion to assist it in carrying out this Act.

17 (2) NOTIFICATION.—Before making a request
18 under this subsection, the Director shall give notice
19 of the request to each member of the Commission.

20 **SEC. 7. POWERS OF COMMISSION.**

21 (a) HEARINGS AND SESSIONS.—The Commission
22 may, for the purpose of carrying out this Act, hold hear-
23 ings, sit and act at times and places, take testimony, and
24 receive evidence as the Commission considers appropriate.

1 The Commission may administer oaths or affirmations to
2 witnesses appearing before it.

3 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
4 ber or agent of the Commission may, if authorized by the
5 Commission, take any action which the Commission is au-
6 thorized to take by this section.

7 (c) OBTAINING OFFICIAL INFORMATION.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), if the Chairperson of the Commission
10 submits a request to a Federal department or agen-
11 cy for information necessary to enable the Commis-
12 sion to carry out this Act, the head of that depart-
13 ment or agency shall furnish that information to the
14 Commission.

15 (2) EXCEPTION FOR NATIONAL SECURITY.—If
16 the head of that department or agency determines
17 that it is necessary to guard that information from
18 disclosure to protect the national security interests
19 of the United States, the head shall not furnish that
20 information to the Commission.

21 (d) MAILS.—The Commission may use the United
22 States mails in the same manner and under the same con-
23 ditions as other departments and agencies of the United
24 States.

1 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
2 the request of the Director, the Administrator of General
3 Services shall provide to the Commission, on a reimburs-
4 able basis, the administrative support services necessary
5 for the Commission to carry out this Act.

6 (f) GIFTS AND DONATIONS.—The Commission may
7 accept, use, and dispose of gifts or donations of services
8 or property to carry out this Act, but only to the extent
9 or in the amounts provided in advance in appropriation
10 Acts.

11 (g) CONTRACTS.—The Commission may contract
12 with and compensate persons and government agencies for
13 supplies and services, without regard to section 3709 of
14 the Revised Statutes (41 U.S.C. 5).

15 (h) SUBPOENA POWER.—

16 (1) IN GENERAL.—The Commission may issue
17 subpoenas requiring the attendance and testimony of
18 witnesses and the production of any evidence relat-
19 ing to any matter that the Commission is empow-
20 ered to investigate by section 4. The attendance of
21 witnesses and the production of evidence may be re-
22 quired by such subpoena from any place within the
23 United States and at any specified place of hearing
24 within the United States.

1 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
2 son refuses to obey a subpoena issued under para-
3 graph (1), the Commission may apply to a United
4 States district court for an order requiring that per-
5 son to appear before the Commission to give testi-
6 mony, produce evidence, or both, relating to the
7 matter under investigation. The application may be
8 made within the judicial district where the hearing
9 is conducted or where that person is found, resides,
10 or transacts business. Any failure to obey the order
11 of the court may be punished by the court as civil
12 contempt.

13 (3) SERVICE OF SUBPOENAS.—The subpoenas
14 of the Commission shall be served in the manner
15 provided for subpoenas issued by a United States
16 district court under the Federal Rules of Civil Pro-
17 cedure for the United States district courts.

18 (4) SERVICE OF PROCESS.—All process of any
19 court to which application is made under paragraph
20 (2) may be served in the judicial district in which
21 the person required to be served resides or may be
22 found.

23 (i) RULES.—The Commission shall adopt other rules
24 as necessary for its operation.

1 **SEC. 8. TERMINATION.**

2 The Commission shall terminate 30 days after sub-
3 mitting a report under section 4(c).

4 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—There are authorized to be appro-
6 priated to the Commission \$5,000,000 to carry out this
7 Act.

8 (b) AVAILABILITY.—Any sums appropriated pursu-
9 ant to the authorization in subsection (a) shall remain
10 available until expended.

11 **SEC. 10. BUDGET ACT COMPLIANCE.**

12 Any new contract authority authorized by this Act
13 shall be effective only to the extent or in the amounts pro-
14 vided in advance in appropriation Acts.

15 **SEC. 11. PRIVACY PROTECTIONS.**

16 (a) DESTRUCTION OR RETURN OF INFORMATION RE-
17 QUIRED.—Upon the conclusion of the matter or need for
18 which individually identifiable information was disclosed
19 to the Commission, the Commission shall either destroy
20 the individually identifiable information or return it to the
21 person or entity from which it was obtained, unless the
22 individual that is the subject of the individually identifi-
23 able information has authorized its disclosure.

24 (b) DISCLOSURE OF INFORMATION PROHIBITED.—
25 The Commission—

1 (1) shall protect individually identifiable infor-
2 mation from improper use; and

3 (2) may not disclose such information to any
4 person, including the Congress or the President, un-
5 less the individual that is the subject of the informa-
6 tion has authorized such a disclosure.

7 (c) PROPRIETARY BUSINESS INFORMATION AND FI-
8 NANCIAL INFORMATION.—The Commission shall protect
9 from improper use, and may not disclose to any person,
10 proprietary business information and proprietary financial
11 information that may be viewed or obtained by the Com-
12 mission in the course of carrying out its duties under this
13 Act.

14 (d) INDIVIDUALLY IDENTIFIABLE INFORMATION DE-
15 FINED.—For the purposes of this Act, the term “individ-
16 ually identifiable information” means any information,
17 whether oral or recorded in any form or medium, that
18 identifies an individual, or with respect to which there is
19 a reasonable basis to believe that the information can be
20 used to identify an individual.

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