

108TH CONGRESS
1ST SESSION

H. R. 1303

IN THE SENATE OF THE UNITED STATES

OCTOBER 14, 2003

Received; read twice and referred to the Committee on Governmental Affairs

AN ACT

To amend the E-Government Act of 2002 with respect to
rulemaking authority of the Judicial Conference.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. RULEMAKING AUTHORITY OF JUDICIAL CON-**
2 **FERENCE.**

3 Section 205(c) of the E-Government Act of 2002
4 (Public Law 107–347; 44 U.S.C. 3501 note) is amended
5 by striking paragraph (3) and inserting the following:

6 “(3) PRIVACY AND SECURITY CONCERNS.—

7 “(A)(i) The Supreme Court shall prescribe
8 rules, in accordance with sections 2072 and
9 2075 of title 28, United States Code, to protect
10 privacy and security concerns relating to elec-
11 tronic filing of documents and the public avail-
12 ability under this subsection of documents filed
13 electronically or converted to electronic form.

14 “(ii) Such rules shall provide to the extent
15 practicable for uniform treatment of privacy
16 and security issues throughout the Federal
17 courts.

18 “(iii) Such rules shall take into consider-
19 ation best practices in Federal and State courts
20 to protect private information or otherwise
21 maintain necessary information security.

22 “(iv) Except as provided in clause (v), to
23 the extent that such rules provide for the redac-
24 tion of certain categories of information in
25 order to protect privacy and security concerns,
26 such rules shall provide that a party that wish-

1 es to file an otherwise proper document con-
2 taining such protected information may file an
3 unredacted document under seal, which shall be
4 retained by the court as part of the record, and
5 which, at the discretion of the court and subject
6 to any applicable rules issued in accordance
7 with chapter 131 of title 28, United States
8 Code, shall be either in lieu of, or in addition
9 to, a redacted copy in the public file.

10 “(v) Such rules may require the use of ap-
11 propriate redacted identifiers in lieu of pro-
12 tected information described in clause (iv) in
13 any pleading, motion, or other paper filed with
14 the court (except with respect to a paper that
15 is an exhibit or other evidentiary matter, or
16 with respect to a reference list described in this
17 subclause), or in any written discovery re-
18 sponse—

19 “(I) by authorizing the filing under
20 seal, and permitting the amendment as of
21 right under seal, of a reference list that—

22 “(aa) identifies each item of
23 unredacted protected information that
24 the attorney or, if there is no attor-

1 ney, the party, certifies is relevant to
2 the case; and

3 “(bb) specifies an appropriate re-
4 dacted identifier that uniquely cor-
5 responds to each item of unredacted
6 protected information listed; and

7 “(II) by providing that all references
8 in the case to the redacted identifiers in
9 such reference list shall be construed, with-
10 out more, to refer to the corresponding
11 unredacted item of protected information.

12 “(B)(i) Subject to clause (ii), the Judicial
13 Conference of the United States may issue in-
14 terim rules, and interpretive statements relating
15 to the application of such rules, which conform
16 to the requirements of this paragraph and
17 which shall cease to have effect upon the effec-
18 tive date of the rules required under subpara-
19 graph (A).

20 “(ii) Pending issuance of the rules required
21 under subparagraph (A), any rule or order of
22 any court, or of the Judicial Conference, pro-
23 viding for the redaction of certain categories of
24 information in order to protect privacy and se-
25 curity concerns arising from electronic filing or

1 electronic conversion shall comply with, and be
2 construed in conformity with, subparagraph
3 (A)(iv).

4 “(C) Not later than 1 year after the rules
5 prescribed under subparagraph (A) take effect,
6 and every 2 years thereafter, the Judicial Con-
7 ference shall submit to Congress a report on
8 the adequacy of those rules to protect privacy
9 and security.”.

 Passed the House of Representatives October 7,
2003.

Attest:

JEFF TRANDAHL,

Clerk.