

106TH CONGRESS
2^D SESSION

H. R. 4049

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 2000

Mr. HUTCHINSON (for himself, Mr. MORAN of Virginia, Ms. GRANGER, Mr. BRADY of Texas, Mr. DAVIS of Florida, Ms. PRYCE of Ohio, Mr. SUNUNU, Mr. BARRETT of Wisconsin, Mr. COBURN, Mr. DICKEY, Mr. KLECZKA, Mr. PITTS, Mr. GREENWOOD, Mr. RILEY, Mr. DUNCAN, Mr. LUCAS of Oklahoma, Mr. KOLBE, Mr. CAMPBELL, Mrs. KELLY, Mr. DAVIS of Virginia, and Mr. VITTER) 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:

1 (1) Americans are increasingly concerned about
2 their civil liberties and the security and use of their
3 personal information, including medical records, edu-
4 cational records, library records, magazine subscrip-
5 tion records, records of purchases of goods and other
6 payments, and driver's license numbers.

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

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

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

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

1 (6) Use of the Internet has increased at as-
2 tounding rates, with approximately 5 million current
3 Internet sites and 64 million regular Internet users
4 each month in the United States alone.

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

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

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

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

22 (11) The United States is the leading economic
23 and social force in the global information economy,
24 largely because of a favorable regulatory climate and
25 the free flow of information. It is important for the

1 United States to continue that leadership. As na-
2 tions and governing bodies around the world begin
3 to establish privacy standards, these standards will
4 directly affect the United States.

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

12 **SEC. 3. ESTABLISHMENT.**

13 There is established a commission to be known as the
14 “Commission for the Comprehensive Study of Privacy
15 Protection” (in this Act referred to as the “Commission”).

16 **SEC. 4. DUTIES OF COMMISSION.**

17 (a) STUDY.—The Commission shall conduct a study
18 of issues relating to protection of individual privacy and
19 the appropriate balance to be achieved between protecting
20 individual privacy and allowing appropriate uses of infor-
21 mation, including the following:

22 (1) The monitoring, collection, and distribution
23 of personal information by Federal, State, and local
24 governments, including personal information col-

1 lected for a decennial census, and such personal in-
2 formation as a driver's license number.

3 (2) Current efforts to address the monitoring,
4 collection, and distribution of personal information
5 by Federal and State governments, individuals, or
6 entities, including—

7 (A) existing statutes and regulations relat-
8 ing to the protection of individual privacy, such
9 as section 552a of title 5, United States Code
10 (commonly referred to as the Privacy Act of
11 1974) and section 552 of title 5, United States
12 Code (commonly referred to as the Freedom of
13 Information Act);

14 (B) legislation pending before the Con-
15 gress;

16 (C) privacy protection efforts undertaken
17 by the Federal Government, State governments,
18 foreign governments, and international gov-
19 erning bodies;

20 (D) privacy protection efforts undertaken
21 by the private sector; and

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

24 (3) The monitoring, collection, and distribution
25 of personal information by individuals or entities, in-

1 including access to and use of medical records, finan-
2 cial records (including credit cards, automated teller
3 machine cards, bank accounts, and Internet trans-
4 actions), personal information provided to on-line
5 sites accessible through the Internet, Social Security
6 numbers, insurance records, education records, and
7 driver's license numbers.

8 (b) FIELD HEARINGS.—

9 (1) IN GENERAL.—The Commission shall con-
10 duct at least four field hearings in each of the five
11 geographical regions of the United States.

12 (2) BOUNDARIES.—For purposes of this sub-
13 section, the Commission may determine the bound-
14 aries of the five geographical regions of the United
15 States.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 18 months
18 after appointment of all members of the
19 Commission—

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

22 (B) the Commission shall submit the ap-
23 proved report to the Congress and the Presi-
24 dent.

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

4 (A) Findings on potential threats posed to
5 individual privacy.

6 (B) Analysis of purposes for which sharing
7 of information is appropriate and beneficial to
8 consumers.

9 (C) Analysis of the effectiveness of existing
10 statutes, regulations, private sector self-regu-
11 latory efforts, technology advances, and market
12 forces in protecting individual privacy.

13 (D) Recommendations on whether addi-
14 tional legislation is necessary, and if so, specific
15 suggestions on proposals to reform or augment
16 current laws and regulations relating to indi-
17 vidual privacy.

18 (E) Analysis of purposes for which addi-
19 tional regulations may impose undue costs or
20 burdens, or cause unintended consequences in
21 other policy areas, such as security, law en-
22 forcement, medical research, or critical infra-
23 structure protection.

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

1 (G) Recommendations on non-legislative
2 solutions to individual privacy concerns, includ-
3 ing education, market-based measures, industry
4 best practices, and new technology.

5 (d) ADDITIONAL REPORT.—Together with the report
6 under subsection (c), the Commission shall submit to the
7 Congress and the President any additional report of dis-
8 senting opinions or minority views by a member of the
9 Commission.

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

13 **SEC. 5. MEMBERSHIP.**

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

16 (1) 4 members appointed by the President.

17 (2) 4 members appointed by the majority leader
18 of the Senate.

19 (3) 2 members appointed by the minority leader
20 of the Senate.

21 (4) 4 members appointed by the Speaker of the
22 House of Representatives.

23 (5) 2 members appointed by the minority leader
24 of the House of Representatives.

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

5 (b) DATE OF APPOINTMENT.—The appointment of
6 the members of the Commission shall be made not later
7 than 30 days after the date of the enactment of this Act.

8 (c) TERMS.—Each member of the Commission shall
9 be appointed for the life of the Commission.

10 (d) VACANCIES.—A vacancy in the Commission shall
11 be filled in the same manner in which the original appoint-
12 ment was made.

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

18 (f) QUORUM.—A majority of the members of the
19 Commission shall constitute a quorum, but a lesser num-
20 ber may hold hearings.

21 (g) MEETINGS.—

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

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

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

5 (a) DIRECTOR.—

6 (1) IN GENERAL.—On or after October 1,
7 2000, the Commission shall appoint a Director with-
8 out regard to the provisions of title 5, United States
9 Code, governing appointments to the competitive
10 service.

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

14 (b) STAFF.—The Director may appoint staff as the
15 Director determines appropriate.

16 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE
17 LAWS.—

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

22 (2) PAY.—The staff of the Commission shall be
23 paid in accordance with the provisions of chapter 51
24 and subchapter III of chapter 53 of that title relat-
25 ing to classification and General Schedule pay rates,

1 but at rates not in excess of the maximum rate for
2 grade GS-15 of the General Schedule under section
3 5332 of that title.

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

7 (e) STAFF OF FEDERAL AGENCIES.—

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

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

16 **SEC. 7. POWERS OF COMMISSION.**

17 (a) HEARINGS AND SESSIONS.—The Commission
18 may, for the purpose of carrying out this Act, hold hear-
19 ings, sit and act at times and places, take testimony, and
20 receive evidence as the Commission considers appropriate.
21 The Commission may administer oaths or affirmations to
22 witnesses appearing before it.

23 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
24 ber or agent of the Commission may, if authorized by the

1 Commission, take any action which the Commission is au-
2 thorized to take by this section.

3 (c) OBTAINING OFFICIAL DATA.—The Commission
4 may secure directly from any department or agency of the
5 United States information necessary to enable it to carry
6 out this Act. Upon request of the Chairperson of the Com-
7 mission, the head of that department or agency shall fur-
8 nish that information to the Commission.

9 (d) MAILS.—The Commission may use the United
10 States mails in the same manner and under the same con-
11 ditions as other departments and agencies of the United
12 States.

13 (e) ADMINISTRATIVE SUPPORT SERVICES.—Upon
14 the request of the Director, the Administrator of General
15 Services shall provide to the Commission, on a reimburs-
16 able basis, the administrative support services necessary
17 for the Commission to carry out this Act.

18 (f) GIFTS AND DONATIONS.—The Commission may
19 accept, use, and dispose of gifts or donations of services
20 or property to carry out this Act, but only to the extent
21 or in the amounts provided in advance in appropriation
22 Acts.

23 (g) CONTRACTS.—The Commission may contract
24 with and compensate persons and government agencies for

1 supplies and services, without regard to section 3709 of
2 the Revised Statutes (41 U.S.C. 5).

3 **SEC. 8. TERMINATION.**

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

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—There are authorized to be appro-
8 priated to the Commission \$2,500,000 to carry out this
9 Act.

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

13 **SEC. 10. BUDGET ACT COMPLIANCE.**

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

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