

119TH CONGRESS  
1ST SESSION

# S. 1208

To amend title 5, United States Code, to address records maintained on individuals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 31, 2025

Mr. WYDEN (for himself, Mr. MARKEY, Mr. MERKLEY, and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To amend title 5, United States Code, to address records maintained on individuals, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Privacy Act Mod-  
5 ernization Act of 2025”.

6 **SEC. 2. MODERNIZING PRIVACY ACT DEFINITIONS.**

7 (a) RECORDS.—Section 552a(a) of title 5, United  
8 States Code, is amended—

9 (1) in paragraph (2), by striking “a citizen of  
10 the United States or an alien lawfully admitted for

1 permanent residence” and inserting the following: “a  
2 natural person who is—

3 “(A) a United States person, as defined in  
4 section 101 of the Foreign Intelligence Surveil-  
5 lance Act of 1978 (50 U.S.C. 1801); or

6 “(B) in the United States;”;

7 (2) by striking paragraphs (4) and (5) and in-  
8 serting the following:

9 “(4) the term ‘record’ means any personally  
10 identifiable information processed by an agency;

11 “(5) the term ‘system of records’ means a  
12 group of any records maintained by or for, or other-  
13 wise under the control of, any agency;”;

14 (3) in paragraph (12), by striking “and” at the  
15 end;

16 (4) in paragraph (13), by striking the period at  
17 the end and inserting a semicolon; and

18 (5) by adding at the end the following:

19 “(14) the term ‘personally identifiable informa-  
20 tion’ means any information that identifies, or is  
21 linked or reasonably linkable, alone or in combina-  
22 tion with other data, to—

23 “(A) an individual; or

24 “(B) a device that identifies, or is linked  
25 or reasonably linkable to, an individual; and

1           “(15) the term ‘process’, with respect to per-  
2           sonally identifiable information, means to perform  
3           an operation or set of operations on the personally  
4           identifiable information, including by storing, ana-  
5           lyzing, organizing, structuring, using, modifying, or  
6           otherwise handling the personally identifiable infor-  
7           mation, whether or not by automated means.”.

8           (b) MATCHING PROGRAMS.—Section 552a(a)(8)(A)  
9 of title 5, United States Code, is amended—

10           (1) in the matter preceding clause (i), by strik-  
11           ing “of”;

12           (2) in clause (i), in the matter preceding sub-  
13           clause (I), by striking “two or more automated sys-  
14           tems of records or a system of records with non-  
15           Federal records” and inserting the following: “in-  
16           volving any data from 1 or more systems of  
17           records”; and

18           (3) in clause (ii), by striking “two or more” and  
19           inserting “of 2 or more”.

20           (c) GOVERNMENT CONTRACTORS.—Section  
21 552a(m)(1) of title 5, United States Code, is amended by  
22 striking “for the operation by or on behalf of the agency  
23 of a system of records to accomplish an agency function”  
24 and inserting “or other agreement, including with another

1 agency, for the operation by or on behalf of the agency  
2 of a system of records”.

3 (d) TECHNICAL AMENDMENTS.—Section 552a of  
4 title 5, United States Code, is amended—

5 (1) in subsection (a)—

6 (A) in paragraph (1), by striking “section  
7 552(e)” and inserting “section 552(f)”; and

8 (B) in paragraph (8)(B)—

9 (i) in clause (iv)(III), by striking “sec-  
10 tion 404(e), 464, or 1137” and inserting  
11 “section 464 or 1137”; and

12 (ii) in clause (x), by striking “section  
13 3(d)(4) of the Achieving a Better Life Ex-  
14 perience Act of 2014” and inserting “sec-  
15 tion 529A(d)(4) of the Internal Revenue  
16 Code of 1986”; and

17 (2) in subsection (l), by striking “National Ar-  
18 chives of the United States” each place that term  
19 appears and inserting “National Archives and  
20 Records Administration”.

21 **SEC. 3. STRENGTHENING PROTECTIONS FOR INDIVIDUALS.**

22 (a) ADDITIONAL PROTECTIONS FOR COLLECTIONS,  
23 USES, AND DISCLOSURES.—Section 552a of title 5,  
24 United States Code, is amended—

1           (1) in subsection (a)(7), by inserting “and is  
2           appropriate and reasonably necessary for the effi-  
3           cient and effective conduct of the Government” be-  
4           fore the semicolon at the end;

5           (2) in subsection (b)(1), by inserting “and that  
6           disclosure is consistent with, and related to, a pur-  
7           pose described under subsection (e)(4)(D) of this  
8           section” before the semicolon at the end; and

9           (3) in subsection (e)—

10           (A) in the matter preceding paragraph (1),  
11           by striking “that maintains a system of  
12           records”;

13           (B) in paragraph (2), by striking “under  
14           Federal programs”;

15           (C) in paragraph (4)—

16           (i) by amending subparagraph (D) to  
17           read as follows:

18           “(D) any purpose for which the informa-  
19           tion is intended to be used, including each rou-  
20           tine use;”;

21           (ii) in subparagraph (H), by striking  
22           “and” at the end;

23           (iii) in subparagraph (I), by inserting  
24           “and” after the semicolon; and

1 (iv) by adding at the end the fol-  
2 lowing:

3 “(J) the legal authority for each purpose  
4 for which the records contained in the system  
5 are used, which shall contain a citation to the  
6 applicable law, executive order, or other author-  
7 ity;”;

8 (D) in paragraph (11), by striking “and”  
9 at the end;

10 (E) in paragraph (12), by striking the pe-  
11 riod at the end and inserting a semicolon; and

12 (F) by adding at the end the following:

13 “(13) use records only for a legally authorized  
14 purpose; and

15 “(14) take reasonable efforts to ensure that a  
16 record that is disclosed contains the minimum  
17 amount of information necessary to accomplish the  
18 purpose of the disclosure.”.

19 (b) ADDITIONAL PROTECTIONS FOR MATCHING PRO-  
20 GRAMS.—Section 552a(a)(8)(B) of title 5, United States  
21 Code, is amended—

22 (1) by amending clause (ii) to read as follows:

23 “(ii) matches performed to support  
24 any research or statistical project, if the

1 results of the match are not intended to be  
2 used, and are not used, to—

3 “(I) make decisions concerning  
4 the rights, benefits, or privileges of  
5 specific individuals; or

6 “(II) take any adverse financial,  
7 personnel, or disciplinary action, or  
8 any other adverse action, against Fed-  
9 eral personnel;”;

10 (2) in clause (viii), by inserting “or” after the  
11 semicolon at the end;

12 (3) by striking clause (ix); and

13 (4) by redesignating clause (x) as clause (ix).

14 (c) ADDITIONAL CIVIL REMEDIES.—Section 552a(g)  
15 of title 5, United States Code, is amended—

16 (1) in paragraph (1)—

17 (A) by amending subparagraph (D) to read  
18 as follows:

19 “(D) fails to comply with any other provi-  
20 sion of this section, or any rule promulgated  
21 thereunder, in such a way as to have, or that  
22 could reasonably lead to, an adverse effect on  
23 any person (including any State or territory (or  
24 any political subdivision of any State or terri-  
25 tory) or any Indian Tribe),”; and

1 (B) in the flush text following subpara-  
2 graph (D), by inserting “or person, as applica-  
3 ble,” after “the individual”; and

4 (2) by amending paragraph (4) to read as fol-  
5 lows:

6 “(4) In any suit brought under the provisions of sub-  
7 section (g)(1)(C) or (D) of this section—

8 “(A) the court may provide such preliminary  
9 and other equitable or declaratory relief as may be  
10 appropriate; and

11 “(B) if the court determines that the agency  
12 acted in a manner that was intentional or willful, the  
13 United States shall be liable to the individual or per-  
14 son, as applicable, in an amount equal to the sum  
15 of—

16 “(i) actual damages, including nonpecu-  
17 niary damages, sustained by the individual or  
18 person as a result of the refusal or failure, but  
19 in no case shall an individual or person entitled  
20 to recovery receive less than the sum of \$1,000;

21 “(ii) the costs of the action together with  
22 reasonable attorney fees as determined by the  
23 court; and

24 “(iii) punitive damages in an amount de-  
25 termined appropriate by the court.”.

1 (d) ADDITIONAL CRIMINAL PENALTIES.—Section  
2 552a(i) of title 5, United States Code, is amended—

3 (1) in paragraph (1), by adding at the end the  
4 following: “A person who commits an offense de-  
5 scribed in the previous sentence with the intent to  
6 sell, transfer, use, or disclose a record described in  
7 that sentence for commercial advantage, personal  
8 gain, or malicious harm shall be guilty of a felony  
9 and fined not more than \$250,000, imprisoned for  
10 not more than 10 years, or both.”; and

11 (2) in paragraph (3), by striking “misdemeanor  
12 and fined not more than \$5,000” and inserting “fel-  
13 ony and fined not more than \$100,000”.

14 **SEC. 4. EFFECTIVE DATES.**

15 (a) DEFINITIONS.—In this section:

16 (1) AGENCY; MATCHING PROGRAM; RECIPIENT  
17 AGENCY; RECORD; SOURCE AGENCY; SYSTEM OF  
18 RECORDS.—The terms “agency”, “matching pro-  
19 gram”, “recipient agency”, “record”, “source agen-  
20 cy”, and “system of records” have the meanings  
21 given those terms in section 552a of title 5, United  
22 States Code, as amended by section 2.

23 (2) SPECIAL GOVERNMENT EMPLOYEE.—The  
24 term “special Government employee” has the mean-

1 ing given the term in section 202(a) of title 18,  
2 United States Code.

3 (3) TEMPORARY OR INTERMITTENT EXPERT OR  
4 CONSULTANT.—The term “temporary or intermit-  
5 tent expert or consultant” means an expert or con-  
6 sultant or an organization thereof, the services of  
7 which are procured pursuant to section 3109 of title  
8 5, United States Code.

9 (4) TEMPORARY TRANSITIONAL SCHEDULE C  
10 POSITION.—The term “temporary transitional  
11 Schedule C position” means a position established  
12 under section 213.3302 of title 5, Code of Federal  
13 Regulations, or any successor regulation.

14 (b) GENERAL EFFECTIVE DATE.—Except as pro-  
15 vided in subsection (c), the amendments made by sections  
16 2 and 3 shall take effect on the date that is 2 years after  
17 the date of enactment of this Act.

18 (c) EXCEPTIONS.—The amendments made by sec-  
19 tions 2 and 3 shall take effect on the date of enactment  
20 of this Act with respect to each of the following:

21 (1) Any use of a record by, any disclosure of a  
22 record by or to, any maintenance of a system of  
23 records by or for, any control of a system of records  
24 by, the taking of any other action that is governed  
25 by section 552a of title 5, United States Code (as

1 amended by this Act) by, or the taking of any of the  
2 preceding actions that is caused by any action by  
3 any of the following:

4 (A) The United States DOGE Service, or  
5 any successor organization.

6 (B) The U.S. DOGE Service Temporary  
7 Organization, or any successor organization.

8 (C) Any special Government employee, any  
9 temporary or intermittent expert or consultant,  
10 or any individual occupying a temporary transi-  
11 tional Schedule C position.

12 (D) Any agency not described in subpara-  
13 graph (A) or (B) that is headed by, or subject  
14 to the control of—

15 (i) the head of the entity described in  
16 subparagraph (A);

17 (ii) the head of the entity described in  
18 subparagraph (B); or

19 (iii) any person described in subpara-  
20 graph (C).

21 (E) Any DOGE Team (as described in Ex-  
22 ecutive Order 14158 (90 Fed. Reg. 8441), re-  
23 lating to establishing and implementing the  
24 President’s “Department of Government Effi-  
25 ciency”), or any successor organization.

1 (F) Any agency that is within, or subject  
2 to the review of, an entity described in subpara-  
3 graph (A), (B), (D), or (E).

4 (G) Any officer, employee, expert, consult-  
5 ant, contractor, volunteer, or other individual,  
6 without regard to title or compensation, of,  
7 within, or providing services to an entity de-  
8 scribed in subparagraph (A), (B), (D), (E), or  
9 (F).

10 (2) Any matching program in which—

11 (A) an entity or person described in any  
12 subparagraph of paragraph (1) is the source  
13 agency or recipient agency; or

14 (B) a system of records is maintained by  
15 or for, or otherwise under the control of, an en-  
16 tity or person described in any subparagraph of  
17 paragraph (1).

18 (d) APPLICABILITY.—If a person described in any  
19 subparagraph of paragraph (1) or (2) of subsection (c),  
20 outside of the capacity of the person as described in the  
21 applicable subparagraph, discloses a record, maintains a  
22 system of records, controls a system of records, partici-  
23 pates in a matching program, takes any other action that  
24 is governed by section 552a of title 5, United States Code  
25 (as amended by this Act), or causes any other person to

1 take any of the preceding actions, the exception under sub-  
2 section (c) shall still apply with respect to that action by  
3 that person.

4 **SEC. 5. RULE OF CONSTRUCTION.**

5 (a) DEFINITION.—In this section, the term “Privacy  
6 Act” means section 552a of title 5, United States Code,  
7 as in effect at any time before the date of enactment of  
8 this Act.

9 (b) RULE.—Nothing in this Act, or any amendment  
10 made by this Act, may be construed to create an inference  
11 with respect to the interpretation of any provision of the  
12 Privacy Act, any regulation promulgated under the Pri-  
13 vacy Act, or any application of such a provision or regula-  
14 tion, including with respect to the scope of activity covered  
15 under the Privacy Act, the legality of any activity under  
16 the Privacy Act, or the availability of any remedy or award  
17 of damages with respect to a violation of the Privacy Act.

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