

105TH CONGRESS  
1ST SESSION

# H. R. 537

To amend the law popularly known as the Presidential Records Act of 1978 and the law popularly known as Privacy Act, to ensure that Federal Bureau of Investigation records containing sensitive background security information that are provided to the White House are properly protected for privacy and security.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1997

Mrs. MALONEY of New York introduced the following bill; which was referred to the Committee on Government Reform and Oversight

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## A BILL

To amend the law popularly known as the Presidential Records Act of 1978 and the law popularly known as Privacy Act, to ensure that Federal Bureau of Investigation records containing sensitive background security information that are provided to the White House are properly protected for privacy and security.

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 “Background Security  
5       Records Act of 1997”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The procedures used by the White House  
4 and the Federal Bureau of Investigation to protect  
5 the privacy and security of records containing sen-  
6 sitive background security information have been in-  
7 adequate to provide that protection.

8 (2) Under chapter 22 of title 44, United States  
9 Code, popularly known as the “Presidential Records  
10 Act of 1978”, upon the conclusion of a President’s  
11 term of office the Archivist of the United States as-  
12 sumes responsibility for all Presidential records, in-  
13 cluding records that were provided by the Federal  
14 Bureau of Investigation and that contain sensitive  
15 background security information on individuals hav-  
16 ing access to the White House.

17 (3) The Archivist is required to deposit all such  
18 Presidential records in a Presidential archival depos-  
19 itory or other archival facility. Thereafter, the  
20 records are not readily available to an incoming  
21 President for use to review the security of individ-  
22 uals who have a continuing need for access to the  
23 White House, including permanent employees of the  
24 White House.

25 (4) After deposit in a Presidential archival de-  
26 pository or other archival facility, such records and

1 the sensitive background information they contain  
2 are eventually available to researchers, cannot be re-  
3 stricted from the public for more than 12 years, and  
4 therefore are not afforded the level of privacy and  
5 security which are appropriate for these sensitive  
6 records.

7 (5) To request such files from the Federal Bu-  
8 reau of Investigation or to otherwise review the secu-  
9 rity of individuals who have a continuing need for  
10 access to the White House, the White House needs  
11 accurate lists of all individuals employed by, detailed  
12 to, or otherwise having a continuing need for access  
13 to the White House.

14 (b) PURPOSE.—The purpose of this Act is to ensure  
15 that Federal Bureau of Investigation records containing  
16 sensitive background security information that are pro-  
17 vided to the White House are properly protected for pri-  
18 vacy and security.

19 **SEC. 3. SPECIAL PROTECTIONS FOR FEDERAL BUREAU OF**  
20 **INVESTIGATION BACKGROUND SECURITY**  
21 **RECORDS PROVIDED TO THE WHITE HOUSE.**

22 (a) SPECIAL TREATMENT UNDER PRESIDENTIAL  
23 RECORDS ACT OF 1978.—Chapter 22 of title 44, United  
24 States Code, popularly known as the “Presidential

1 Records Act of 1978”, is amended in section 2202 by add-  
2 ing at the end the following new subsection:

3 “(g)(1) Any record provided by the Federal Bureau  
4 of Investigation to the White House for the purpose of  
5 providing background security information on any per-  
6 son—

7 “(A) shall not be a Presidential record for pur-  
8 poses of subsection (f); and

9 “(B) upon the conclusion of a President’s term  
10 of office, or if a President serves consecutive terms  
11 upon the conclusion of the last term—

12 “(i) except as provided in clause (ii), shall  
13 be returned to the Federal Bureau of Investiga-  
14 tion; and

15 “(ii) in the case of a record that was pro-  
16 vided by the Federal Bureau of Investigation  
17 for the purpose of providing background secu-  
18 rity information on an individual who the Presi-  
19 dent determines continues to have a need for  
20 access to the White House, shall be maintained  
21 at the White House in accordance with regula-  
22 tions prescribed by the Director of the Federal  
23 Bureau of Investigation.

24 “(2) The Secretary of the Treasury shall maintain  
25 and periodically provide to the President and the Director

1 of the Federal Bureau of Investigation, accurate lists of  
2 individuals who are employed in or detailed to the White  
3 House.

4 “(3) For purposes of this subsection, the term ‘White  
5 House’ means any of the following:

6 “(A) The White House Office.

7 “(B) The Office of Administration in the Exec-  
8 utive Office of the President.

9 “(C) The Office of Policy Development.

10 “(D) The Office of National Drug Control Pol-  
11 icy.

12 “(E) Any other office located on the White  
13 House grounds.”.

14 (b) SPECIAL REQUIREMENTS UNDER PRIVACY  
15 ACT.—Section 552a of title 5, United States Code, popu-  
16 larly known as the “Privacy Act”, is amended by adding  
17 at the end the following new subsection:

18 “(w)(1) Any record provided by the Federal Bureau  
19 of Investigation to the White House for the purpose of  
20 providing background security information on a person  
21 shall be maintained at the White House as a Federal Bu-  
22 reau of Investigation record, in accordance with all laws  
23 applicable to such a record and regulations prescribed by  
24 the Director of the Federal Bureau of Investigation.

1       “(2) No record containing sensitive background infor-  
2 mation on a person shall be disclosed by the Federal Bu-  
3 reau of Investigation to the White House unless—

4               “(A) the request for such record is in writing  
5 and contains—

6                       “(i) the consent of that person given with-  
7 in 30 days of the date of the request;

8                       “(ii) a statement of the reason the record  
9 is being requested; and

10                      “(iii) a certification by the person who  
11 signs the request that the information will be  
12 used only for official purposes; and

13               “(B) the request for such records is approved  
14 and signed by—

15                      “(i) the Counsel to the President; or

16                      “(ii) an individual employed in the Coun-  
17 sel’s office who has been specifically designated  
18 for that purpose and whose identity and quali-  
19 fications for that purpose have been published  
20 in the Federal Register.

21       “(3) The requirements of this subsection may be  
22 waived only in extraordinary circumstances, and upon a  
23 written request provided to the Director of the Federal  
24 Bureau of Investigation and signed by the President or  
25 the Counsel to the President and the Attorney General.

1       “(4) The Director of the Federal Bureau of Inves-  
2   tigation shall issue regulations to implement the require-  
3   ments of this section.

4       “(5) For purposes of this subsection, the term ‘White  
5   House’ means any of the following:

6           “(A) The White House Office.

7           “(B) The Office of Administration in the Exec-  
8   utive Office of the President.

9           “(C) The Office of Policy Development.

10          “(D) The Office of National Drug Control Pol-  
11   icy.

12          “(E) Any other office located on the White  
13   House grounds”.

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