

106TH CONGRESS
1ST SESSION

S. 1437

To protect researchers from compelled disclosure of research in Federal courts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 1999

Mr. MOYNIHAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect researchers from compelled disclosure of research in Federal courts, 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 “Thomas Jefferson Re-
5 searcher’s Privilege Act of 1999”.

6 **SEC. 2. FREEDOM OF INFORMATION REQUESTS.**

7 Section 552(b)(4) of title 5, United States Code, is
8 amended—

9 (1) by inserting “(A)” after “(4)”; and

10 (2) by adding at the end the following:

1 “(B) data, records, or information, includ-
2 ing actual research documents, collected or pro-
3 duced in the conduct of or as a result of study
4 or research on academic, commercial, scientific,
5 or technical issues, including—

6 “(i) unpublished lecture notes, unpub-
7 lished research notes, data, processes, re-
8 sults or other confidential information
9 from research which is in progress, unpub-
10 lished or not yet verified; or

11 “(ii) any other information related to
12 research, the disclosure of which could
13 affect—

14 “(I) the conduct or outcome of
15 the research;

16 “(II) the likelihood of similar re-
17 search in the future;

18 “(III) the ability to obtain pat-
19 ents or copyrights from the research;
20 or

21 “(IV) any other proprietary
22 rights any entity may have in the re-
23 search or results of the research;”.

1 **SEC. 3. FEDERAL RULES OF CIVIL PROCEDURE.**

2 Rule 45(c)(3) of the Federal Rules of Civil Procedure
3 is amended—

4 (1) in subparagraph (A)—

5 (A) in clause (iv) by striking the period
6 and inserting a comma and “or”; and

7 (B) by adding at the end the following:

8 “(v) requires disclosure of data, records, or
9 information, including actual research docu-
10 ments, collected or produced in the conduct of
11 or as a result of study or research on academic,
12 commercial, scientific, or technical issues,
13 including—

14 “(I) unpublished lecture notes, unpub-
15 lished research notes, data, processes, re-
16 sults or other confidential information
17 from research which is in any progress, un-
18 published or not yet verified, or

19 “(II) any other information related to
20 research, the disclosure of which could af-
21 fect the conduct or outcome of the re-
22 search, the likelihood of similar research in
23 the future, the ability to obtain patents or
24 copyrights from the research, or any other
25 proprietary rights any entity may have in

1 the research or results of the research.”;

2 and

3 (2) in subparagraph (B)—

4 (A) in clause (iii) by inserting “or” after
5 the comma; and

6 (B) by inserting after clause (iii) the fol-
7 lowing:

8 “(iv) requires disclosure of data, records,
9 or information, including actual research docu-
10 ments, collected or produced in the conduct of
11 or as a result of study or research on academic,
12 commercial, scientific, or technical issues,
13 including—

14 “(I) unpublished lecture notes, unpub-
15 lished research notes, data, processes, re-
16 sults or other confidential information
17 from research which is in any progress, un-
18 published or not yet verified, or

19 “(II) any other information related to
20 research, the disclosure of which could af-
21 fect the conduct or outcome of the re-
22 search, the likelihood of similar research in
23 the future, the ability to obtain patents or
24 copyrights from the research, or any other
25 proprietary rights any entity may have in

1 the research or the results of the re-
2 search.”.

3 **SEC. 4. FEDERAL RULES OF EVIDENCE.**

4 Article V of the Federal Rules of Evidence is amend-
5 ed by adding after rule 501 the following:

6 **“Rule 502. Privilege for research information**

7 “A person engaged in the study or research of aca-
8 demic, commercial, scientific, or technical issues may
9 claim the privilege to refuse to disclose data, records, or
10 information, including actual research documents, con-
11 cerning that study or research. Such person may refuse
12 to disclose unpublished lecture notes, unpublished research
13 notes, data, processes, results, or other confidential infor-
14 mation from research which is in any progress, unpub-
15 lished or not yet verified, and any other information re-
16 lated to research, the disclosure of which could affect the
17 conduct or outcome of the research, the likelihood of simi-
18 lar research in the future, the ability to obtain patents
19 or copyrights from the research, or any other proprietary
20 rights any entity may have in the research or the results
21 of the research.”.

1 **SEC. 5. REPEAL OF REQUIREMENT REGARDING DATA PRO-**
2 **DUCED UNDER FEDERAL GRANTS AND**
3 **AGREEMENTS AWARDED TO INSTITUTIONS**
4 **OF HIGHER EDUCATION, HOSPITALS, AND**
5 **OTHER NONPROFIT ORGANIZATIONS.**

6 The fifth and sixth provisos under the subheading
7 “SALARIES AND EXPENSES” under the heading “OFFICE
8 OF MANAGEMENT AND BUDGET” under title III of
9 the Treasury and General Government Appropriations
10 Act, 1999 (Public Law 105–277; 112 Stat. 2681–495) are
11 repealed.

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