107TH CONGRESS 1ST SESSION

H. R. 2136

To protect the confidentiality of information acquired from the public for statistical purposes.

IN THE HOUSE OF REPRESENTATIVES

June 12, 2001

Mr. SAWYER (for himself and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To protect the confidentiality of information acquired from the public for statistical 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 "Confidential Informa-
- 5 tion Protection Act".
- 6 SEC. 2. FINDINGS AND PURPOSES.
- 7 (a) FINDINGS.—Congress finds the following:
- 8 (1) Consumers, citizens, businesses, and other
- 9 organizations have varying degrees of legal protec-

- tion when providing information to the Federal Gov ernment for strictly statistical purposes.
 - (2) The integrity and credibility of pledges of confidentiality by the Federal Government provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any Federal Government action.
 - (3) Protecting the privacy and confidentiality interests of individuals or organizations who provide information for Federal statistical programs serves both the interests of the public and the needs of society.
 - (4) Declining trust of the public in the protection of information provided to the Federal Government adversely affects both the accuracy and completeness of statistical analyses.
 - (5) Ensuring that information provided for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.
- 24 (b) Purposes.—The purposes of this Act are the following:

- (1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes is used exclusively for statistical purposes.
 - (2) To ensure that individuals or organizations who supply information to the Federal Government for statistical purposes will not have that information disclosed in identifiable form for any purpose other than a statistical purpose, without the consent of such individuals or organizations.
 - (3) To safeguard the confidentiality of individually identifiable information acquired for statistical purposes by controlling access to, and uses made of, such information.
 - (4) To respect the rights and privileges of the public by observing and promoting fair information practices.

17 SEC. 3. DEFINITIONS.

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- 18 As used in this Act:
- 19 (1) The term "respondent" means a person 20 who, or organization that, is requested or required 21 to supply information to an agency, is the subject of 22 information requested or required to be supplied to 23 an agency, or provides that information to an agen-24 cy.

- (2) The term "identifiable form" means any representation of information that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means.
 - (3) The term "nonstatistical purpose" means use of data in identifiable form for any purpose that is not a statistical purpose, and includes any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent.
 - (4) The term "agency" means any entity that falls within the definition of the term "executive agency" as defined in section 102 of title 31, United States Code, or "agency", as defined in section 3502 of title 44, United States Code.

(5) The term "statistical purpose"—

- (A) means the description, estimation, or analysis of the characteristics of groups without regard to the identities of individuals or organizations that comprise such groups; and
- (B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

- 1 (6) The term "statistical agency or unit" means 2 an agency or organizational unit of the executive 3 branch whose activities are predominantly the collec-4 tion, compilation, processing, or analysis of informa-5 tion for statistical purposes.
- (7) The term "agent" means a person des-6 7 ignated by an executive agency to perform, either in 8 the capacity of a Federal employee or otherwise, ex-9 clusively statistical activities under the supervision 10 or control of an officer or employee of that agency, 11 who agrees in writing to comply with all provisions 12 of law that affect information acquired by that agen-13 cy.

14 SEC. 4. LIMITATIONS ON USE AND DISCLOSURE OF DATA

- 15 AND INFORMATION.
- 16 (a) USE OF STATISTICAL DATA OR INFORMATION.—
 17 Data or information acquired by an agency for exclusively
 18 statistical purposes shall be used by the agency only for
 19 statistical purposes.
- 20 (b) DISCLOSURE OF STATISTICAL DATA OR INFOR-21 MATION.—Data or information acquired by an agency for 22 exclusively statistical purposes shall not be disclosed by 23 an agency in identifiable form, for any purpose other than
- 24 a statistical purpose, without the informed consent of the
- 25 respondent.

- 1 (c) Rule for Use of Data or Information for
- 2 Nonstatistical Purposes.—A statistical agency or
- 3 unit shall clearly distinguish any data or information it
- 4 collects for nonstatistical purposes (as authorized by law)
- 5 by a rule that provides that the respondent supplying the
- 6 data or information is fully informed, before the data or
- 7 information is collected, that the data or information will
- 8 be used for nonstatistical purposes.
- 9 (d) Designation of Agents.—A statistical agency
- 10 or unit may designate agents who may perform exclusively
- 11 statistical activities, subject to the limitations and pen-
- 12 alties described in this Act.

13 SEC. 5. COORDINATION AND OVERSIGHT OF POLICIES.

- 14 (a) In General.—The Director of the Office of
- 15 Management and Budget shall coordinate and oversee the
- 16 confidentiality and disclosure policies established by this
- 17 Act.
- 18 (b) REVIEW AND APPROVAL OF RULES.—The Direc-
- 19 tor shall review any rules proposed by an agency pursuant
- 20 to this Act for consistency with the provisions of this Act
- 21 and chapter 35 of title 44, United States Code, and such
- 22 rules shall be subject to the approval of the Director.

23 SEC. 6. EFFECT ON OTHER LAWS.

- 24 (a) TITLE 44, U.S.C.—This Act does not diminish
- 25 the authority under section 3510 of title 44, United States

- 1 Code, of the Director of the Office of Management and
- 2 Budget to direct, and of an agency to make, disclosures
- 3 that are not inconsistent with any applicable law.
- 4 (b) Exemption From Freedom of Information
- 5 Act.—Data or information acquired for exclusively statis-
- 6 tical purposes as described in section 4 is exempt from
- 7 mandatory disclosure under section 552 of title 5, United
- 8 States Code, pursuant to section 552(b)(3) of such title.
- 9 (c) Preemption of State Law.—Nothing in this
- 10 Act shall preempt applicable State law regarding the con-
- 11 fidentiality of data collected by the States.
- 12 (d) Construction.—Nothing in this Act shall be
- 13 construed as restricting or diminishing any confidentiality
- 14 protections that otherwise apply to data or information
- 15 collected for statistical purposes or nonstatistical pur-
- 16 poses.

17 SEC. 7. DISCLOSURE PENALTIES.

- An officer, employee, or agent of an agency who
- 19 knowingly, without the informed consent of the respond-
- 20 ent, discloses in identifiable form, for any purpose other
- 21 than a statistical purpose, data or information acquired
- 22 by an agency for an exclusively statistical purpose, shall
- 23 be found guilty of a class E felony and imprisoned for

- 1 not more than 5 years, or fined not more than \$250,000,
- 2 or both.

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