

107TH CONGRESS  
1ST SESSION

# S. 450

To amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 1, 2001

Mr. NELSON of Florida introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To amend the Gramm-Leach-Bliley Act to provide for enhanced protection of nonpublic personal information, including health information, 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 “Financial Institution  
5       Privacy Protection Act of 2001”.

6       **SEC. 2. PROTECTION OF PRIVATE HEALTH INFORMATION.**

7       Section 509(4) of the Gramm-Leach-Bliley Act (15  
8       U.S.C. 6809(4)) is amended by adding at the end the fol-  
9       lowing:

“(D) The term ‘nonpublic personal information’ includes health information, defined as any information, including genetic information, demographic information, and tissue samples collected from an individual, whether oral or recorded in any form or medium—

“(i) that is created or received by a health care provider, health researcher, health plan, health oversight agency, public health authority, employer, health or life insurer, school or university; and

“(ii) that —

“(I) relates to the past, present, or future physical or mental health or condition of an individual (including individual cells and their components), the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual; and

“(II) that identifies an individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual.”.

1 **SEC. 3. OPT-IN FOR SHARING OF INFORMATION.**

2 Section 502 of the Gramm-Leach-Bliley Act (15  
3 U.S.C. 6802) is amended—

4 (1) in subsection (a)—

5 (A) by inserting “any affiliate or” before  
6 “a nonaffiliated”;

7 (B) by striking “unless such” and insert-  
8 ing the following: “unless—

9 “(1) the institution provides”; and

10 (C) by striking the period at the end and  
11 inserting the following: “; and

12 “(2) the consumer to whom the information  
13 pertains—

14 “(A) has affirmatively consented (in writ-  
15 ing, in the case of health information, as de-  
16 fined in section 509(4)(D)), in accordance with  
17 rules prescribed under section 504, to the dis-  
18 closure of such information; and

19 “(B) has not withdrawn such consent.”;  
20 and

21 (2) by striking subsection (b) and inserting the  
22 following:

23 “(b) DENIAL OF SERVICE PROHIBITED.—A financial  
24 institution may not deny a financial product or a financial  
25 service to any consumer based on the refusal by the con-  
26 sumer to grant the consent required by this section.”.

1 **SEC. 4. COMPLIANCE OFFICERS.**

2 Section 503 of the Gramm-Leach-Bliley Act (15  
3 U.S.C. 6803) is amended by adding at the end the fol-  
4 lowing:

5 “(c) COMPLIANCE OFFICERS.—Each financial insti-  
6 tution shall designate a privacy compliance officer, who  
7 shall be responsible for ensuring compliance by the institu-  
8 tion with the requirements of this title and the privacy  
9 policies of the institution.”.

10 **SEC. 5. LIABILITY.**

11 Section 505 of the Gramm-Leach-Bliley Act (15  
12 U.S.C. 6805) is amended by adding at the end the fol-  
13 lowing:

14 “(e) CIVIL PENALTIES.—The Attorney General of  
15 the United States may bring a civil action in the appro-  
16 priate district court of the United States against any fi-  
17 nancial institution that engages in conduct constituting a  
18 violation of this title, and, upon proof of such violation—

19 “(1) the financial institution shall be subject to  
20 a civil penalty of not more than \$100,000 for each  
21 such violation; and

22 “(2) the officers and directors of the financial  
23 institution shall be subject to, and shall be person-  
24 ally liable for, a civil penalty of not more than  
25 \$10,000 for each such violation.”.