

104TH CONGRESS
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H. R. 3924

To provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records for statistical purposes under strong safeguards.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 1996

Mr. HORN (for himself and Mrs. MALONEY) introduced the following bill; which was referred to the Committee on Government Reform and Oversight

A BILL

To provide uniform safeguards for the confidentiality of information acquired for exclusively statistical purposes, and to improve the efficiency of Federal statistical programs and the quality of Federal statistics by permitting limited sharing of records for statistical purposes under strong safeguards.

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.—This Act may cited as the
4 “Statistical Confidentiality Act”.

5 SEC. 2. FINDINGS AND STATEMENT OF PURPOSES.—(a)

6 The Congress finds that—

1 (1) high quality Federal statistical products and
2 programs are essential for sound business and public
3 policy decisions;

4 (2) the challenge of providing high quality sta-
5 tistics has increased because our economy and soci-
6 ety are more complex, new technologies are avail-
7 able, and decisionmakers need more complete and
8 accurate data;

9 (3) maintaining quality requires full cooperation
10 between Federal statistical agencies and those per-
11 sons and organizations that respond to their re-
12 quests for information; and

13 (4) Federal statistical products and programs
14 can be improved, without reducing respondent co-
15 operation, by permitting carefully controlled sharing
16 of data with statistical agencies in a manner that is
17 consistent with confidentiality commitments made to
18 respondents.

19 (b) The purposes of this Act are to:

20 (1) Provide that individually identifiable infor-
21 mation furnished either directly or indirectly to des-
22 ignated statistical agencies for exclusively statistical
23 purposes shall not be disclosed in individually identi-
24 fiable form by such agencies for any other purpose
25 without the informed consent of the respondent,

1 (2) Prohibit the use by such agencies, in indi-
2 vidually identifiable form, of any information col-
3 lected, compiled or maintained solely for statistical
4 purposes under Federal authority to make any deci-
5 sion or take any action directly affecting the rights,
6 benefits, and privileges of the person to whom the
7 information pertains, except with the person's con-
8 sent,

9 (3) Reduce the reporting burden, duplication
10 and expense imposed on the public by permitting
11 inter-agency exchange, solely for statistical purposes,
12 of individually identifiable information needed for
13 statistical programs, and establishing safe conditions
14 for such exchanges,

15 (4) Reduce the cost and improve the accuracy
16 of statistical programs by facilitating cooperative
17 projects between statistical agencies, creating a safe
18 environment where expertise and data resources that
19 reside in different agencies can be brought together
20 to address the information needs of the public,

21 (5) Reduce the risk of unauthorized disclosure
22 of information maintained solely for statistical pur-
23 poses by designating specific statistical agencies that
24 are authorized to receive otherwise privileged infor-
25 mation for such purposes from other agencies, and

1 to prescribe specific conditions and procedures that
2 must be complied with in any such exchange,

3 (6) Establish a consistent basis under the re-
4 quirements of the Freedom of Information Act for
5 exempting a defined class of statistical information
6 from compulsory disclosure,

7 (7) Ensure that existing avenues for public ac-
8 cess to administrative data or information under the
9 Privacy Act or the Freedom of Information Act are
10 retained without change.

11 (8) Establish consistent procedural safeguards
12 for records disclosed exclusively for statistical pur-
13 poses, including both public input and an oversight
14 process to ensure fair information practices.

15 SEC. 3. DEFINITIONS.—For the purposes of this Act,
16 the term—

17 (1) “agency” means any Federal organization
18 that falls within the definition of “Executive agency”
19 in section 102 of title 31, United States Code, or
20 within the definition of “agency” in section 3502 of
21 title 44, United States Code;

22 (2) “agent” means a person designated by a
23 statistical data center to perform, either in the ca-
24 pacity of a Federal employee or otherwise, exclu-
25 sively statistical activities authorized by law under

1 the supervision or control of an officer or employee
2 of that center, and who has agreed in writing to
3 comply with all provisions of law that affect informa-
4 tion acquired by that center;

5 (3) “identifiable form” means any representa-
6 tion of information that permits information con-
7 cerning individual subjects to be reasonably inferred
8 by either direct or indirect means;

9 (4) “nonstatistical purpose” means any purpose
10 that is not a statistical purpose, and includes admin-
11 istrative, regulatory, adjudicatory, or any other pur-
12 pose that affects the rights, privileges, or benefits of
13 a particular identifiable respondent;

14 (5) “respondent” means an individual or orga-
15 nization who is requested or required to supply in-
16 formation or who is the subject of that information,
17 or provides that information;

18 (6) “statistical activities” means the collection,
19 compilation, processing, or analysis of data for the
20 purpose of describing or making estimates concern-
21 ing the whole or relevant groups or components
22 within the economy, society, or the natural environ-
23 ment and includes the development of methods or
24 resources that support these activities, such as

1 measurement methods, models, statistical classifica-
2 tions, or sampling frames; and

3 (7) “statistical purpose” means the description,
4 estimation, or analysis of the characteristics of
5 groups without regard to the identities of individuals
6 or organizations that comprise such groups, and the
7 development, implementation, or maintenance of
8 methods, technical or administrative procedures or
9 information resources that support such purposes.

10 SEC. 4. STATISTICAL DATA CENTERS.—(a) The Bu-
11 reau of Economic Analysis and the Bureau of the Census
12 within the Department of Commerce, the Bureau of Labor
13 Statistics within the Department of Labor, the National
14 Agricultural Statistics Service within the Department of
15 Agriculture, the National Center for Education Statistics
16 within the Department of Education, the National Center
17 for Health Statistics within the Department of Health and
18 Human Services, the Energy End Use and Integrated Sta-
19 tistics Division of the Energy Information Administration
20 within the Department of Energy, and the Division of
21 Science Resources Studies within the National Science
22 Foundation are hereby designated Statistical Data Cen-
23 ters.

24 (b) In the case of a reorganization that eliminates,
25 or substantially alters the mission or functions of, an

1 agency or unit designated in subsection (a), the Director
2 of the Office of Management and Budget, after consulta-
3 tion with the head of the agency proposing such reorga-
4 nization, may designate an agency or unit that shall serve
5 as the successor statistical data center under the terms
6 of this Act, if the Director determines that—

7 (1) the primary activities of the successor agen-
8 cy or unit are statistical activities specifically au-
9 thorized by law;

10 (2) the successor agency or unit would partici-
11 pate in data sharing activities that significantly im-
12 prove Federal statistical programs or products;

13 (3) the successor agency or unit has dem-
14 onstrated its capability to protect the individual con-
15 fidentiality of any shared data; and

16 (4) any statutes that apply to the proposed sta-
17 tistical data center are not inconsistent with this
18 Act.

19 (c) Any agency seeking a successor designation au-
20 thorized by subsection (b) shall, after consultation with
21 the Director of the Office of Management and Budget,
22 provide public notice with an opportunity to comment on
23 the consequences of such designation and on those deter-
24 minations upon which such designation is proposed to be
25 based.

1 (d) No action taken under subsection (b) shall in-
2 crease the number of statistical data centers authorized
3 by statute.

4 SEC. 5. STATISTICAL DATA CENTER RESPONSIBIL-
5 ITIES.—Statistical data centers shall—

6 (1) identify opportunities to eliminate duplica-
7 tion and otherwise reduce reporting burden and cost
8 imposed on the public by sharing information for ex-
9 clusively statistical purposes;

10 (2) enter into joint statistical projects to im-
11 prove the quality and reduce the cost of statistical
12 programs;

13 (3) safeguard the confidentiality of individually
14 identifiable information acquired for statistical pur-
15 poses by assuring its physical security and by con-
16 trolling access to and uses made of such informa-
17 tion; and

18 (4) respect the rights and privileges of the pub-
19 lic by observing and promoting fair information
20 practices.

21 SEC. 6. CONFIDENTIALITY OF INFORMATION.—(a)
22 Data or information acquired by a statistical data center
23 for exclusively statistical purposes shall be used only for
24 statistical purposes. Such data or information shall not be

1 disclosed in identifiable form for any other purpose with-
2 out the informed consent of the respondent.

3 (b) If a statistical data center is authorized by any
4 other statute to collect data or information for nonstatis-
5 tical purposes, the head of the Statistical Data Center
6 shall clearly distinguish such data or information by rule,
7 which rule shall provide for fully informing the respond-
8 ents requested or required to supply such data or informa-
9 tion of such nonstatistical uses before collecting such data
10 or information.

11 (c) Data or information may be disclosed by an agen-
12 cy to one or more statistical data centers: *Provided That*—

13 (1) the disclosure and use are not inconsistent
14 with any provisions of law or Executive order that
15 explicitly limit the statistical purposes for which
16 such data or information may be used;

17 (2) the disclosure is not prohibited by law or
18 Executive order in the interest of national security;

19 (3) the data or information are to be used ex-
20 clusively for statistical purposes by the statistical
21 data center or centers; and

22 (4) the disclosure is made under the terms of
23 a written agreement between a statistical data cen-
24 ter or centers and the agency supplying information
25 as authorized by this subsection, specifying—

1 (A) the data or information to be disclosed,

2 (B) the purposes for which the data or in-
3 formation are to be used, and

4 (C) appropriate security procedures to
5 safeguard the confidentiality of the data or in-
6 formation.

7 (c) Data or information supplied to a statistical data
8 center under an agreement authorized by subsection
9 (b)(4) shall not be disclosed in identifiable form by that
10 center for any purpose, except that data or information
11 collected directly by any party to such agreement may be
12 disclosed to any other party to that agreement for exclu-
13 sively statistical purposes specified in that agreement.

14 (d) Whenever a written agreement authorized by sub-
15 section (b)(4) concerns data that respondents were re-
16 quired by law to report and the agreement contains terms
17 that could not reasonably have been anticipated by re-
18 spondents who provided the data that will be disclosed,
19 or upon the initiative of any party to such an agreement,
20 or whenever ordered by the Director of the Office of Man-
21 agement and Budget, the terms of such agreement shall
22 be described in a public notice issued by the agency that
23 intends to disclose the data, which notice shall allow a
24 minimum of sixty days for public comment before such
25 agreement shall take effect: *Provided further* That the Di-

1 rector shall be fully apprised of any issues raised by the
2 public and may suspend the effect of such an agreement
3 to permit modifications responsive to public comments.

4 (e) The disclosure of data or information by an agen-
5 cy under subsection (b) shall in no way alter the respon-
6 sibility of that agency under other statutes, including the
7 Freedom of Information Act and the Privacy Act, for the
8 disclosure or withholding of the same or similar informa-
9 tion retained by that agency.

10 (f) If information obtained by an agency is released
11 to another agency pursuant to this section, all provisions
12 of law (including penalties) that relate to the unlawful dis-
13 closure of information apply to the officers, employees, or
14 agents of the agency to which information is released to
15 the same extent and in the same manner as the provisions
16 apply to the officers and employees of the agency which
17 originally obtained the information. The officers, employ-
18 ees, and agents of the agency to which the information
19 is released, in addition, shall be subject to the same provi-
20 sions of law, including penalties, relating to the unlawful
21 disclosure of information that would apply to officers and
22 employees of that agency if the information had been col-
23 lected directly by that agency.

24 SEC. 7. COORDINATION AND OVERSIGHT.—(a) The
25 Director of the Office of Management and Budget shall

1 coordinate and oversee the confidentiality and disclosure
2 policies established by this Act.

3 (b) The head of each statistical data center shall re-
4 port to the Office of Management and Budget each dislo-
5 sure agreement under this Act and the results of any re-
6 view of information security undertaken at the request of
7 the Office of Management and Budget or any similar re-
8 view undertaken on the initiative of the statistical data
9 center or an agency supplying data or information to a
10 statistical data center.

11 (c) The Office of Management and Budget shall in-
12 clude a summary of all such reports and any actions taken
13 by that Office to advance the purposes of this Act in its
14 annual report to the Congress on statistical programs.

15 (d) The Director of the Office of Management and
16 Budget shall review and approve any rules proposed under
17 section 8 of this Act for consistency with this Act and the
18 Paperwork Reduction Act.

19 SEC. 8. IMPLEMENTING REGULATIONS.—(a) The Di-
20 rector of the Office of Management and Budget, or the
21 head of a statistical data center or of an agency providing
22 information to a center, may promulgate such rules as
23 may be necessary to implement this Act: *Provided*, That:

1 (b) the Director shall promulgate rules and/or provide
2 such other guidance as may be needed to ensure consistent
3 interpretation of this Act by the affected agencies; and

4 (c) rules governing disclosures of information author-
5 ized by this Act shall be promulgated by the agency that
6 originally collected the information, subject to the review
7 and approval required in section 7.

8 SEC. 9. CONFORMING AMENDMENTS.—

9 (a) DEPARTMENT OF COMMERCE.—(1) Section 176a
10 of title 15, United States Code, is amended by inserting
11 the phrase “Except as provided in the Statistical Con-
12 fidentiality Act,” at the beginning of the last sentence of
13 the section.

14 (2) Chapter 10 of title 13, United States Code, and
15 its table of contents are amended by adding the following
16 new section 402 after section 401:

“402. Exchange of census information with Statistical Data Centers.

17 “(a) STATISTICAL DATA CENTERS.—The Bureau of
18 the Census is authorized to provide data collected under
19 this title to statistical data centers (centers) named in the
20 Statistical Confidentiality Act, or their successors des-
21 ignated under the terms of that Act.”.

22 (b) DEPARTMENT OF ENERGY.—(1) Section 205 of
23 the Department of Energy Organization Act (42 U.S.C.
24 7135) is amended by adding after subsection (l) the fol-
25 lowing new subsection:

1 “(m)(1) The Administrator shall designate an organi-
2 zational unit to conduct statistical activities pertaining to
3 energy end use consumption information. Using proce-
4 dures authorized by the Statistical Confidentiality Act, the
5 Administrator shall ensure the security, integrity, and con-
6 fidentiality of the information that has been submitted (1)
7 in identifiable form and (2) supplied exclusively for statis-
8 tical purposes either directly to the Administration or by
9 other government agencies. To carry out this section, the
10 Administrator shall establish procedures for the disclosure
11 of these data to statistical data centers for statistical pur-
12 poses only consistent with the Paperwork Reduction Act
13 and the Statistical Confidentiality Act.

14 “(2)(A) A person may not publish, cause to be pub-
15 lished, or otherwise communicate, statistical information
16 designated in section (m)(1) in a manner that identifies
17 any respondent.

18 “(B) A person may not use statistical information
19 designated in section (m)(1) for a non-statistical purpose.

20 “(C) The identity of a respondent who supplies, or
21 is the subject of, information collected for statistical pur-
22 poses—

23 “(i) may not be disclosed through any process,
24 including disclosure through legal process, unless the
25 respondent consents in writing:

1 “(ii) may not be disclosed to the public, unless
2 information has been transformed into a statistical
3 or aggregate form that does not allow the identifica-
4 tion of the person who supplied the information or
5 who is the subject of that information; and

6 “(iii) may not, without the written consent of
7 the respondent, be admitted as evidence or used for
8 any purpose in an action, suit, or other judicial or
9 administrative proceeding.

10 “(D) Any person, who violates subsections (2) (A),
11 (B), or (C), upon conviction, shall be fined under title 18,
12 United States Code, imprisoned not more than one year,
13 or both.

14 “(E) For purposes of this subsection:

15 “(i) “Person” has the meaning given the term
16 in section 1 of title 1 of the United States Code but
17 also includes a local, state, or Federal entity or offi-
18 cer or employee of a local, state, or Federal entity.

19 “(ii) “Statistical activities”, “identifiable form”,
20 “statistical purpose”, “nonstatistical purpose”, and
21 “respondent” have meaning given terms in section 3
22 of the Statistical Confidentiality Act.

23 “(3) Statistical information designated in sec-
24 tion (m)(1) is exempt from disclosure under sections
25 205(f) and 407 of the Department of Energy Orga-

1 nization Act, and sections 12, 20, and 59 of the
2 Federal Energy Administration Act of 1974, or any
3 other law which requires disclosure of that informa-
4 tion.

5 (2) Section 205(f) of the Department of Organization
6 Energy Act (42 U.S.C. 7135) is amended by inserting “,
7 excluding information designated solely for statistical pur-
8 poses under subsection (m)(1),” after “analysis”.

9 (3) Section 407 of the Department of Energy Organi-
10 zation Act (42 U.S.C. 7177a) is amended by inserting “,
11 excluding information designated solely for statistical pur-
12 poses under section (m)(1),” after “information”.

13 (4) The Federal Energy Administration Act of 1974
14 is amended—

15 (A) in section 12(15 U.S.C. 771), by adding
16 after subsection (f) the following new subsection:

17 “(g) This section does not apply to information des-
18 ignated solely for statistical purposes under section
19 205(m)(1) of the Department of Energy Organization
20 Act.”

21 (B) in section 20(a)(3) (15 U.S.C. 779), by in-
22 serting “, excluding information designated solely for
23 statistical purposes under section (m)(1) of the De-
24 partment of Energy Organization Act (42 U.S.C.
25 7135)” after “information”; and

1 (C) in section 59 (15 U.S.C. 790h), by insert-
2 ing “, excluding information designated solely for
3 statistical purposes under section (m)(1) of the De-
4 partment of Energy Organization Act (42 U.S.C.
5 7135)” after “information”.

6 (c) DEPARTMENT OF HEALTH AND HUMAN SERV-
7 ICES.—Section 306 of the Public Health Service Act (12
8 U.S.C. 242k) is amended by adding at the end the follow-
9 ing new subsection:

10 “(o) SHARING OF IDENTIFYING INFORMATION FOR
11 STATISTICAL PURPOSES.—

12 “(1) IN GENERAL.—The Director may, subject
13 to the provisions of paragraph (2), designate as an
14 agent of the Center, within the meaning of section
15 3(b) of the Statistical Confidentiality Act, an indi-
16 vidual—

17 “(A) who is not otherwise an employee, of-
18 ficial, or agent of the Center; and

19 (B) who enters into a written agreement
20 with the Director specifying terms and condi-
21 tions for sharing of statistical information.

22 “(2) EFFECT OF DESIGNATION.—An individual
23 designated as an agent of the Center pursuant to
24 paragraph (1) shall be subject to all restrictions on
25 the use and disclosure of statistical information ob-

1 tained by the individual under the agreement speci-
2 fied in paragraph (1)(B), and to all civil and crimi-
3 nal penalties applicable to violations of such restric-
4 tions, including penalties under 18 U.S.C. 1905,
5 that would apply to the individual if an employee of
6 the Center.”

7 (d) DEPARTMENT OF LABOR.—Chapter 1 of title 29,
8 United States Code, is amended by inserting the following
9 new section after section 2b:

10 “SEC. 2c. Designation of Bureau of Labor Statistics
11 Agents. The Commissioner of Labor Statistics shall be au-
12 thorized to designate agents, as defined in section 3(b) of
13 the Statistical Confidentiality Act.”

14 (e) NATIONAL SCIENCE FOUNDATION. Section 1873
15 of title 42, United States Code, is amended by striking
16 the paragraph following the catchline of subsection (i) and
17 substituting the following paragraph: “Information sup-
18 plied to the Foundation or its contractor in survey forms,
19 questionnaires or similar instruments for purposes of sub-
20 section (a)(5) or (a)(6) of section 1862 of this title by
21 an individual, by an industrial or commercial organization,
22 or by an educational or academic institution when the in-
23 stitution has received a pledge of confidentiality from the
24 Foundation, may not be disclosed to the public unless the
25 information has been transformed into statistical or ab-

1 struct formats that do not allow the identification of the
2 supplier. Such information shall be used in identifiable
3 form only for statistical purposes as defined in the Statis-
4 tical Confidentiality Act. The names of individuals and or-
5 ganizations supplying such information may not be dis-
6 closed to the public.”

7 and by renumbering subsection (j) as subsection (k) and
8 inserting the following new subsection after subsection (i):

9 “(j) OBLIGATIONS OF OTHER RESEARCHERS.—In
10 support of functions authorized by subsection (a)(5) or
11 (a)(6) of section 1862 of this title, the Foundation may
12 designate, at its discretion, authorized persons, including
13 employees of Federal, state or local agencies (including
14 local educational agencies) and employees of private orga-
15 nizations, who may have access, for exclusively statistical
16 purposes as defined in the Statistical Confidentiality Act,
17 to identifiable information collected pursuant to subsection
18 (a)(5) or (a)(6) of section 1862 of this title. No such per-
19 son may—

20 (1) publish information collected pursuant to
21 subsection (a)(5) or (a)(6) of section 1862 of this
22 title in such a manner that either an individual, an
23 industrial or commercial organization, or an edu-
24 cational or academic institution that has received a

1 pledge of confidentiality from the Foundation can be
2 specifically identified;

3 (2) permit anyone other than individuals au-
4 thorized by the Foundation to examine in identifi-
5 able form data relating to an individual, to an indus-
6 trial or commercial organization, or to an edu-
7 cational or academic institution that has received a
8 pledge of confidentiality from the Foundation; or

9 (3) knowingly and willfully request or obtain
10 any confidential information described in subsection
11 (i) from the Foundation under false pretenses.

12 Any person who violates these restrictions shall be guilty
13 of a misdemeanor and fined not more than \$10,000.”

14 (f) DISCLOSURE PENALTIES.—Section 1905 of title
15 18, United States Code, is amended by inserting “, or
16 agent of a Statistical Data Center as defined in the Statis-
17 tical Confidentiality Act,” after “thereof”, and substitut-
18 ing the words “shall be fined under this title” for the
19 words “shall be fined not more than \$1,000”.

20 SEC. 10. EFFECT ON OTHER LAWS.—(a) This Act,
21 including the amendments made herein, does not diminish
22 the authority under 44 U.S.C. 3510 of the Director of the
23 Office of Management and Budget to direct, and of an
24 agency to make, disclosures that are not inconsistent with
25 any applicable law.

1 (b) Data of information acquired for exclusively sta-
2 tistical purposes as provided in section 6 is exempt from
3 mandatory disclosure under 5 U.S.C. 552, pursuant to 5
4 U.S.C. 552(b)(3).

5 SEC. 11. EFFECTIVE DATE.—The provisions of this
6 Act shall take effect upon enactment.

○