

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
May 3, 2007

Statement of Senator Patrick Leahy
Chairman, Committee on the Judiciary
The Leahy-Specter Personal Data Privacy and Security Act of 2007, S.495
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I would like to begin today moving straight to debate on S.495, the Leahy-Specter Personal Data Privacy and Security Act. This comprehensive bipartisan privacy bill is aimed at better protecting Americans' privacy from the growing threats of data breaches and identity theft. I hope after years of work and weeks of delay we can consider it and report it out this morning.

When then-Chairman Specter and I first introduced this bill in 2005, we had high hopes of bringing urgently needed data privacy reforms to the American people. Although the Judiciary Committee favorably reported a substantially similar bill in November 2005, our bill languished on the Senate calendar for more than a year and the Senate adjourned without passing comprehensive data privacy legislation.

While the Congress waited to act on passing data privacy legislation, the problems with data breaches remained a persistent threat to Americans' privacy. According to the Privacy Rights Clearing House, more than 100 million records containing sensitive personal information have been involved in data security breaches since 2005. Earlier this year, mega retailer TJX disclosed that it suffered a major computer breach involving credit and debit card purchases by millions of American consumers. We have since learned that this data breach is the largest in U.S. history - effecting at least 45.7 million credit and debit cards.

In February, there was a major data breach involving a state computer server in Vermont that jeopardized the financial data of at least 69,000 Vermonters. And, the United States Department of Agriculture (USDA) admitted recently that it posted the Social Security numbers of 63,000 people who received grants from the USDA on an agency website. These data security breaches are compelling examples of why we need to pass the Personal Data Privacy and Security Act.

Our bill requires that data brokers let consumers know what sensitive personal information they have about them, and to allow individuals to correct inaccurate information. Our bill also requires that companies that have databases with sensitive personal information on Americans, establish and implement data privacy and security programs.

In addition, our bill requires notice when sensitive personal information has been compromised. I know this is an interest of Senator Feinstein's. She has been a leader on the issue of notice, just as California has been a leader on this issue, generally.

This bill also provides for tough criminal penalties for anyone who would intentionally and willfully conceal the fact that a data breach has occurred when the breach causes economic damage to consumers.

Finally, our bill addresses the important issue of the government's use of personal data by requiring that federal agencies notify affected individuals when government data breaches occur, and placing privacy and security front and center when federal agencies evaluate whether data brokers can be trusted with government contracts that involve sensitive information about the American people. This month, the GAO released a new report on lessons learned about the government data breaches at the VA and elsewhere, which found that when these data breaches occur, prompt notice to the individuals affected is critical so that individuals can protect themselves from the dangers of identity theft and other misuse of their personal information.

Of course, Senator Specter and I have no monopoly on good ideas to solve the serious problems of identity theft and lax data security. But, we have tried to put forth some meaningful solutions to this problem in our bill and hope to merit the Committee's support.

This is not a perfect bill. It is not the bill that either of us would have written alone. We have engaged in much consultation, including with those in the privacy, consumer protection and business communities. I thank all of them for sharing their views with us. I also want to thank our cosponsors Senators Feingold and Schumer, who have worked along with us to help forge a consensus.

I will place into the record support letters from Microsoft, Vontu, the Center for Democracy and Technology, Consumers Union, the Cyber Security Industry Alliance and Consumer Federation of America. When we can bring consumer interests and business interests together to the extent that we have, we hope we are close to a bill this Committee can support, a bill that can pass, and a bill that can make a difference.

This is a bill that deals with the underlying problem of lax security and lack of accountability to help prevent data breaches from occurring in the first place and also addresses the need to provide Americans with better notice of breaches that may affect their personal information. Passing this comprehensive privacy legislation is a legislative priority. I hope the Committee will join with us to support this privacy legislation and work with us to see it enacted.

We first listed this bill for Committee consideration at a business meeting on April 19th. That meeting had to be postponed following the tragedy at Virginia Tech and the rescheduling of the oversight hearing with the Attorney General for that date. We then listed it for consideration at our April 25th meeting, but a Senator asked that it be carried over until today. I hope that we can complete action without further delay. I am concerned that almost 50 amendments have been filed to the bill that the Ranking Member and I have worked out--including almost 40 on behalf of one Senator. I hope we are not facing another filibuster by amendment situation and urge cooperation by all Members on this important matter.

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Statement of Senator Patrick Leahy
Chairman, Senate Judiciary Committee,
On Judicial Nominations,
Executive Business Meeting
May 3, 2007

The Committee continues to make significant progress today with three more nominations for lifetime appointments to the federal bench on our agenda, including a nomination to a federal Circuit Court.

The judicial nominations we consider today are Debra Ann Livingston to the United States Court of Appeals for the Second Circuit, Richard Joseph Sullivan to the District Court for the Southern District of New York, and Joseph S. Van Bokkelen to the District Court for the Northern District of Indiana. All of these nominees had hearings and have the support of both home state Senators. I thank Senators Clinton, Lugar, and Bayh for their consideration and approval of these nominees. I especially thank Senator Schumer for his support and for chairing last month's hearing on these nominations.

We have proceeded promptly and efficiently to confirm judicial nominees. This session of Congress, the Senate has already confirmed 16 judicial nominations. The Judiciary Committee has reported out two others and considers three more today. With Judge Thomas Hardiman's confirmation to the Court of Appeals for the Third Circuit last month, we have confirmed two judges to the nation's important Circuit Courts in just a few months since the Republicans agreed to a resolution allowing the Senate to organize, and we consider a third Circuit Court nominee today. The Republican-controlled Senate confirmed none of President Clinton's nominees to Circuit Court vacancies, and only 17 nominees in total, during the entire 1996 session.

With the 16 judicial nominations confirmed already this year, there have now been 116 judicial confirmations while I have served as Judiciary Chairman. It is a little known and wholly unappreciated fact that during the more than six years of the Bush Presidency, more circuit judges, more district judges, and more total judges have been confirmed while I served as Judiciary Chairman than during the tenures of either of the two Republican Chairmen working with Republican Senate majorities. When the Senate confirms the judicial nominees pending on the floor and the three nominees before this Committee today, those disparities will only increase.

With the three nominations we report today, the Committee will have reported 21 nominations for lifetime judicial appointments in our first few months this year. We have worked hard on the Committee to consider and report nominations so that we can fill vacancies and improve the administration of justice in our nation's federal courts.

The Administrative Office of the U.S. Courts lists 48 judicial vacancies, yet the President has sent us only 26 nominations for these vacancies. Twenty-two of these vacancies - almost half - have no nominee. Of the 16 vacancies deemed by the Administrative Office to be judicial

emergencies, the President has yet to send us nominees for six of them. That means more than a third of the judicial emergency vacancies are without a nominee.

The record is clear, the Judiciary Committee has been working hard to make progress on consensus nominations the President has sent to us.

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