

Statement of

The Honorable Patrick Leahy

United States Senator
United States Senate
September 22, 2011

Today, the Committee continues its work on important proposals to enhance cybersecurity and combat cybercrime contained in my Personal Data Privacy and Security Act. Last week, we made good progress and adopted several amendments to address Republican concerns. The Committee needs to complete its work and favorably report this bill today.

During just the past week -- the short time since the Committee last met to consider these proposals -- at least eight new data breaches involving more than 29,000 records have been reported in the United States, according to the PrivacyRights Clearinghouse. In one of the reported data breaches, computer hackers stole and posted the names and email addresses of hundreds of U.S. intelligence officials, including officials within the NSA, White House, Pentagon, CIA, FBI, ODNI and State Department. A new Norton Cybercrime Report also found that more than two thirds of adults who communicate and transact business online have been a victim of cybercrime. This report also found that every second, 14 adults become a victim of cybercrime -- that adds up to more than one million cybercrime victims every day.

As we continue to witness more and more data breaches and other cyberthreats, American consumers are losing confidence in the institutions that they once trusted to handle their personal information and business transactions. According to a recent survey conducted by the identity management firm SailPoint, a majority of Americans are worried about the unauthorized exposure of their personal information. While Congress waits to act on this legislation, these concerns and the growing threat to privacy in cyberspace are not going away. I have consulted closely with the Obama administration, the Ranking Member, industry representatives, and privacy and consumer advocates so that we can begin to address this growing problem. The bill we are considering is the result of long and thoughtful discussions with the Departments of Justice, Homeland Security and Commerce, and the Federal Trade Commission. The bill puts forth some meaningful solutions to the vexing problem of data breaches and cybercrime.

This is the fourth time that the Committee has considered this legislation. In the past, this bill has always garnered strong bipartisan support and I hope that will be the case again this year. As these most recent cyberthreats demonstrate, protecting cybersecurity is of critical importance to all of us, regardless of party or ideology. I hope that all Members of the Committee will support this measure and favorably report this important bill today.

At the meeting last week we had concluded the process of amendments being offered. What we have left is to vote on those amendments and on the bill.

I oppose the Grassley amendment to add a mandatory minimum sentence to the bill. I think

mandatory minimum sentences are both unnecessary and unfair. This Committee made that mistake with drug offenses in the past. Federal prisons and state prisons are bursting in large part thanks to such ill-considered policies. I do not want to see Federal prisons costing American taxpayers billions more than necessary, or recreating the constitutional violations that now plague many states.

With respect to the amendment to tell state Attorneys General what they can and cannot do, I agree with Senator Blumenthal and will oppose that amendment. I will leave the matter of how state Attorneys General choose to augment their resources in order to enforce their laws to them, and not seek to impose restrictions on them from Washington.

The other amendments have to do with the data privacy protections in the bill that have been included the three times we have reported it before and in my view are sorely needed. I disagree with Senator Grassley's effort to strike those provisions but will support Senator Franken's second degree amendment to add a data minimization requirement to the bill, which I cosponsored.

I thank Senator Franken, the chair of the Privacy Subcommittee, and Senators Whitehouse, Coons and Blumenthal for their contributions to our debate last week.

After providing Senator Grassley with the opportunity to make an opening statement, and I hope he will summarize his amendments in it, we can proceed to vote on the pending amendments and the bill.

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