

INTRODUCTION AND OVERVIEW

This document is a hypothetical legislative Senate bill. The purpose for creating this bill is to suggest possible principles and ideas for establishing a constitutional amendment to more thoroughly codify the rights needed to ensure individual privacy and liberty exists to the extent intended by the original constitution and its authors. The need for this is urgent as technology and other forces erode privacy and liberty. This document is meant to stimulate discussion and encourage national policy dialogue.

Calendar No. #

CONGRESS

SESSION

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**To further codify the constitutional rights required to ensure the degree of
privacy and liberty of U.S. citizens intended by the original constitution.**

IN THE HOUSE OF REPRESENTATIVES

[date]

[elected representative] (for Mr. R. Lewis of North Carolina) introduced the
following bill.

A BILL

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TO FURTHER CODIFY THE CONSTITUTIONAL RIGHTS REQUIRED TO
ENSURE THE DEGREE OF PRIVACY AND LIBERTY OF U.S. CITIZENS
INTENDED BY THE ORIGINAL CONSTITUTION.

1 *Be it enacted by the Senate and House of Representatives of the United*
 2 *States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.* – *This act may be cited as the “Expanded Freedom*
 5 *Protection Act” (EFPA).*

6 (b) *TABLE OF CONTENTS.* –

Sec. 1. Short title, table of contents.

Sec. 2. General definitions.

Sec. 3. Supersession.

Sec. 4. Overview.

Sec. 5. Effective date.

TITLE I – CONSTITUTIONAL INDIVIDUAL PRIVACY RIGHTS

Sec. 101. Individual privacy rights.

Sec. 102. Exceptions.

Sec. 103. Specific rules.

Sec. 104. Storage and use of biometrics, data, and materials.

TITLE II – RESPONSIBILITIES

Sec. 201. National Institute of Standards and Technology.

Sec. 202. States.

Sec. 203. Federal Bureau of Investigation.

TITLE III – ENFORCEMENT AND FISCAL PROVISIONS

Sec. 301. Enforcement.

Sec. 302. Hostile Acts.

7 **SEC. 2. GENERAL DEFINITIONS.**

8 (1.) The term “information” shall be used interchangeably with, and have
 9 the same meaning, as the terms; datum, data, metadata, information, knowledge,
 10 and wisdom, and other related terms, and apply only to information stored on, or
 11 encoded on or within electronic, magnetic, optronic, photronic, bioengineered,
 12 chemical, molecular, or sub-atomic media.

13 (2.) The term “sentient being” shall mean any entity possessing self
 14 awareness, memory, ability to communicate, and intellect sufficient to interact
 15 using abstract concepts including those of social and cultural behavior.

16 **SEC. 3. SUPERSESSION.**

1 All laws in conflict with this legislation are hereby declared null and void.

2 ***SEC. 4. OVERVIEW.***

3 The Constitution of the United States of America establishes the
4 preeminence, rights and protections of the individual as fundamental to American
5 society. This explicitly includes the right of individual liberty. Liberty requires
6 freedom from physical or mental control or coercion to the maximum extent
7 possible while still maintaining the public peace and rule of law. Societal change,
8 particularly change caused by the use of new technology, can have the effect of
9 reducing liberty by infringing or eroding individual privacy rights, thereby using
10 information to control or coerce specific actions. The purpose of this bill is to
11 evolve public policy on information that when processed with information
12 technology can erode individual privacy, and thus erode constitutional rights.

13 ***SEC. 5. EFFECTIVE DATE.***

14 (1.) The provisions in this bill shall become effective twelve months from
15 approval.

16 **TITLE I – CONSTITUTIONAL INDIVIDUAL**
17 **PRIVACY RIGHTS**

18 ***SEC. 101. INDIVIDUAL PRIVACY RIGHTS***

19 (1.) Individual Sentient Beings that are exclusively American citizens
20 have three types of privacy rights that shall exist from conception or naturalization
21 until death:

22 (a.) Privacy of mind. The biological, chemical, and electromagnetic
23 constituents that comprise thought within or emanating from the body of a
24 sentient being shall be inviolate. Use of any technology or means to access,
25 interpret, control, or modify the thought of another without prior, informed, un-
26 coerced, explicit consent are unlawful and forbidden except for those exceptions
27 defined in this legislation.

28 (b.) Privacy of substance. The biological, chemical, physical, and
29 electromagnetic constituents and biometrics that comprise the body of a sentient

1 being shall be inviolate. These constituents, on or within a body, shall not be taken
2 from a body, either in whole, part, sample, or image, or metadata representation,
3 by involuntarily means, unknowingly, by coercion, by physical or mental duress,
4 or as conditional to receiving a benefit or service, except for those exceptions
5 defined in this legislation. Neither shall an individual be required to allow the
6 insertion or application of materials, devices, drugs, chemicals, radiation, or
7 energy. nor shall such be done by involuntarily means, or unknowingly, or by
8 coercion which includes physical or mental duress or any benefit, service, or
9 employment contingent upon providing such, except for those exceptions defined
10 in this legislation.

11 (c.) Privacy of activity. The actions of an individual done and contained
12 within the boundaries of a property with clear, unencumbered title belonging to
13 the individual, and not visible, audible, or detectable to the unaided human senses
14 from unobstructed vantage outside the property shall not be observed, monitored,
15 or recorded in any form or manner.

16 ***SEC. 102. EXCEPTIONS.***

17 (1.) Exceptions to the privacy rights defined in this legislation are:

18 (a.) Emergency medical assistance, and routine medical care procedures
19 with the explicit, willing, informed consent of the individual or health care agent.

20 (b.) Law enforcement active investigations but only where clear probable
21 cause exists and operational dashboard or body cameras are used, or when
22 authorized by valid court order issued by an appointed judge and in an open court
23 (closed session and classified proceedings do not qualify for exception).

24 (c.) Conviction of a felony and while still serving or performing the terms
25 of a sentence.

26 (d.) Exploration of remote, inhospitable environments such as polar areas,
27 deep sea, space, or alternative physical realities.

28 (e.) Research that is governed by the protocols and inspections of an
29 independent third party organization.

30 (f.) Foreign citizens or dual nationality citizens.

1 (g.) Outside of sovereign United States territory.

2 (h.) When performing in an official capacity as a government employee or
3 official, or as a business owner or employee, “privacy of activity” rights shall not
4 apply.

5 ***SEC. 103. SPECIFIC RULES.***

6 (1.) Any commercial entity that uses means that can observe or collect
7 privacy data (visual, olfactory, biometric, substance) from public roads, sidewalks,
8 access ways, and common use areas, shall place noticeable, unobscured signage
9 stating the fact, and opt-out procedures.

10 (2.) Any commercial entity that uses means that can observe or collect
11 privacy data (visual, olfactory, biometric, substance) within an owned or leased
12 facility shall place noticeable, unobscured signage stating the fact, stating that
13 entry into the facility is an opt-in choice, and provide contact information.

14 ***SEC. 104. STORAGE AND USE OF BIOMETRICS, DATA, AND MATERIALS.***

15 (1.) Any entity storing privacy data (visual, olfactory, biometric,
16 substance), where the identity of 500 or more individuals has been established
17 must notify the identified individuals annually of the purpose for storing and using
18 the data, and of correction and opt-out procedures. Stored data must be kept
19 encrypted while at-rest or in-motion.

20 **TITLE II – RESPONSIBILITIES**

21 ***SEC. 201. NATIONAL INSTITUTE FOR STANDARDS AND TECHNOLOGY.***

22 (1.) The National Institute for Standards and Technology (NIST), shall
23 publish specifications for public area and private area privacy notification signage,
24 and for privacy data encryption standards.

25 ***SEC. 202. STATES.***

26 (1.) States shall establish permit procedures controlling the installation,
27 deployment, inspections, fines, and use by commercial entities of means capable
28 of collecting privacy data (visual, olfactory, biometric, substance) from public
29 roads, sidewalks, access ways, and common use areas.

1 (2.) States shall establish tax rates for commercial entities using means
2 capable of collecting privacy data (visual, olfactory, biometric, substance) from
3 public roads, sidewalks, access ways, and common use areas.

4 ***SEC. 203. FEDERAL BUREAU OF INVESTIGATION.***

5 (1.) The government Federal Bureau of Investigation (FBI), shall
6 implement a privacy rights enforcement function

7 **TITLE III – ENFORCEMENT AND FISCAL**
8 **PROVISIONS**

9 ***SEC. 301. ENFORCEMENT.***

10 (1.) The FBI shall enforce privacy rights compliance, inspect at-will for
11 compliance, and in the course of inspection may examine any item.

12 (2.) Any organization found in violation of privacy rights on three or more
13 different occasions shall have the offending means infrastructure confiscated and
14 sold by government supervised auction; have all privacy material destroyed; and
15 be assessed a penalty fine equal to all revenue, retroactive until current day,
16 derived from the privacy rights violation(s).

17 ***SEC. 302. HOSTILE ACTS.***

18 (1.) Any privacy rights violation within United States borders initiated or
19 conducted from outside United States borders shall be considered a hostile act for
20 which diplomatic, trade, economic, legal, or military means may be employed in
21 response against the responsible individual, organization, business, or nation. If an
22 individual is responsible; and is a United States citizen; and initiated or performed
23 the violation outside United States borders, then has also performed an act of
24 treason.

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