

[DISCUSSION DRAFT]

118TH CONGRESS
1ST SESSION

H. R. _____

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To require the Secretary of the Treasury to provide for greater transparency and protections with regard to Bank Secrecy Act reports, 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 Privacy Act
5 of 2023”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

1 (1) Pursuant to the Bank Secrecy Act
2 (“BSA”), the Secretary of the Treasury, acting
3 through the Financial Crimes Enforcement Network
4 (“FinCEN”), collects millions of reports annually on
5 the economic activity of ordinary Americans.

6 (2) Since 2001, FinCEN has applied the BSA
7 to collect over 322,000,000 Currency Transaction
8 Reports and more than 36,000,000 Suspicious Ac-
9 tivity Reports, as well as nearly 5,000,000 Form
10 8300 Reports. In addition, FinCEN expects to
11 amass beneficial ownership information (“BOI”)
12 from 32,000,000 companies in its initial year of col-
13 lection, plus 5,000,000 additional companies impli-
14 cated each year thereafter.

15 (3) The mass of reporting collected by FinCEN
16 suggests that, while certain BSA reports might
17 prove useful to combat illicit finance, the bulk of
18 BSA-related data may possess little to no nexus to
19 legitimate law enforcement or intelligence purposes,
20 even as it encompasses highly sensitive details on the
21 everyday lives of Americans.

22 (4) By law, the Secretary of the Treasury must
23 ensure the security and confidentiality of BSA data.
24 In a Notice of Proposed Rulemaking from December
25 2022, FinCEN acknowledged that “BOI is highly

1 sensitive information. FinCEN therefore views it as
2 critical to mitigate the risk of unauthorized disclo-
3 sure of BOI as much as possible.”.

4 **SEC. 3. REPORTS TO CONGRESS; REVIEW OF PROTOCOLS**
5 **FOR AGENCY ACCESS TO REPORTS.**

6 (a) IN GENERAL.—Chapter 53 of title 31, United
7 States Code, is amended—

8 (1) in subchapter II, by inserting after section
9 5326 the following:

10 **“§ 5327. Reports to Congress; Review of protocols for**
11 **agency access to reports**

12 “(a) REPORTS TO CONGRESS.—Not later than 180
13 days following the date of the enactment of this section,
14 and annually thereafter, the Secretary of the Treasury
15 shall submit to the Committee on Financial Services of
16 the House of Representatives and the Committee on
17 Banking, Housing, and Urban Affairs of the Senate a re-
18 port containing the following:

19 “(1) The number of reports, by type, filed each
20 year with the Financial Crimes Enforcement Net-
21 work (‘FinCEN’) under this subchapter since Janu-
22 ary 1, 2022.

23 “(2) The total number of reports filed under
24 this subchapter retained by FinCEN.

1 “(3) A copy of any written protocols or guid-
2 ance from the Secretary to national security, law en-
3 forcement, or intelligence agencies regarding agency
4 access to, and retention or dissemination of, infor-
5 mation held by FinCEN from reports filed under
6 this subchapter, including—

7 “(A) a description of any updates to the
8 protocols or guidance during the reporting pe-
9 riod;

10 “(B) the number of queries by such agen-
11 cies to access the information during the report-
12 ing period; and

13 “(C) any denials of requests for, or revoca-
14 tions of, access by a national security, law en-
15 forcement, or intelligence agency, or by any em-
16 ployee thereof, with a description of the reasons
17 for the denial or revocation, as the case may be.

18 “(b) REVIEW AND REVISION OF PROTOCOLS.—In
19 consultation with the Director of National Intelligence and
20 the Attorney General, the Secretary of the Treasury shall
21 annually review and revise, as appropriate, any written
22 protocols or guidance described under subsection (a) for
23 the purposes of—

24 “(1) minimizing the collection, retention, and
25 dissemination of information filed under this sub-

1 chapter by national security, law enforcement, and
2 intelligence agencies, except to the extent necessary
3 for authorized national security, law enforcement, or
4 intelligence objectives;

5 “(2) enforcing prohibitions against unauthor-
6 ized disclosure of such information; and

7 “(3) protecting fully the legal rights of all
8 United States persons, including freedoms, civil lib-
9 erties, and privacy rights guaranteed by Federal
10 law.”; and

11 (2) in the table of contents for such chapter, by
12 inserting after the item relating to section 5326 the
13 following:

“5327. Reports to Congress; Review of protocols for agency access to reports”.

14 (b) SUNSET.—On the date that is the end of the 7-
15 year period beginning on the date of enactment of this
16 Act—

17 (1) section 5327 of title 31, United States
18 Code, is repealed; and

19 (2) the table of contents for chapter 53 of title
20 31, United States Code, is amended by striking the
21 item relating to section 5327.