

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5485  
OFFERED BY MR. HILL OF ARKANSAS**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Privacy Act  
3 of 2023”.

**4 SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Pursuant to the Bank Secrecy Act  
7 (“BSA”), the Secretary of the Treasury, acting  
8 through the Financial Crimes Enforcement Network  
9 (“FinCEN”), collects millions of reports annually on  
10 the economic activity of ordinary Americans.

11 (2) Since 2001, FinCEN has applied the BSA  
12 to collect over 322,000,000 Currency Transaction  
13 Reports and more than 36,000,000 Suspicious Ac-  
14 tivity Reports, as well as nearly 5,000,000 Form  
15 8300 Reports. In addition, FinCEN expects to  
16 amass beneficial ownership information (“BOI”)  
17 from 32,000,000 companies in its initial year of col-

1       lection, plus 5,000,000 additional companies impli-  
2       cated each year thereafter.

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

10          (4) By law, the Secretary of the Treasury must  
11       ensure the security and confidentiality of BSA data.  
12       In a Notice of Proposed Rulemaking from December  
13       2022, FinCEN acknowledged that “BOI is highly  
14       sensitive information. FinCEN therefore views it as  
15       critical to mitigate the risk of unauthorized disclo-  
16       sure of BOI as much as possible.”.

17 **SEC. 3. REPORTS TO CONGRESS; REVIEW OF PROTOCOLS**  
18 **FOR AGENCY ACCESS TO REPORTS.**

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

21           (1) in subchapter II, by inserting after section  
22       5326 the following:

1 **“§ 5327. Reports to Congress; Review of protocols for**  
2 **agency access to reports**

3 “(a) REPORTS TO CONGRESS.—Not later than 180  
4 days following the date of the enactment of this section,  
5 and annually thereafter, the Secretary of the Treasury  
6 shall submit to the Committee on Financial Services of  
7 the House of Representatives and the Committee on  
8 Banking, Housing, and Urban Affairs of the Senate a re-  
9 port containing the following:

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

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

16 “(3) A description of any written protocols or  
17 guidance from the Secretary to national security,  
18 law enforcement, or intelligence agencies regarding  
19 agency access to, and retention or dissemination of,  
20 information held by FinCEN from reports filed  
21 under this subchapter, including—

22 “(A) a description of any updates to the  
23 protocols or guidance during the reporting pe-  
24 riod;

1           “(B) the number of queries by such agen-  
2           cies to access the information during the report-  
3           ing period; and

4           “(C) any denials of requests for, or revoca-  
5           tions of, access by a national security, law en-  
6           forcement, or intelligence agency, or by any em-  
7           ployee thereof, with a description of the reasons  
8           for the denial or revocation, as the case may be.

9           “(b) REVIEW AND REVISION OF PROTOCOLS.—In  
10          consultation with the Director of National Intelligence and  
11          the Attorney General, the Secretary of the Treasury shall  
12          annually review and, as appropriate, revise any written  
13          protocols or guidance described under subsection (a) for  
14          the purposes of—

15                 “(1) better tailoring the collection, retention,  
16                 and dissemination of information filed under this  
17                 subchapter to authorized national security, law en-  
18                 forcement, or intelligence objectives;

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

21                 “(3) protecting fully the legal rights of all  
22                 United States persons, including freedoms, civil lib-  
23                 erties, and privacy rights guaranteed by Federal law.

24           “(c) CONGRESSIONAL REQUESTS; NOTICE OF  
25          CHANGES.—

1           “(1) REQUESTS FOR INFORMATION.—Upon re-  
2           quest of the chair or ranking member of the Com-  
3           mittee on Financial Services of the House of Rep-  
4           resentatives or the Committee on Banking, Housing,  
5           and Urban Affairs of the Senate, the Secretary shall  
6           provide a copy of any written protocols or guidance  
7           described in subsection (a)(3).

8           “(2) NOTICE OF CHANGES.—Not later than 30  
9           days after revising any written protocols or guidance  
10          described in subsection (a)(3), the Secretary shall  
11          provide a copy of such revised written protocols or  
12          guidance to the Committee on Financial Services of  
13          the House of Representatives and the Committee on  
14          Banking, Housing, and Urban Affairs of the Sen-  
15          ate.”; and

16          (2) in the table of contents for such chapter, by  
17          inserting after the item relating to section 5326 the  
18          following:

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

19          (b) SUNSET.—On the date that is the end of the 7-  
20          year period beginning on the date of enactment of this  
21          Act—

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

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

