

Privacy and Data Security Legislation in the 117th Congress

Privacy issues have been extremely active in recent years. In past Congresses, numerous privacy bills have been introduced on a bipartisan basis. In the Senate, Senators Ed Markey (D-MA) and Marsha Blackburn (R-TN) have called for wide-ranging privacy legislation, and Senator Josh Hawley (R-MO) has been a vocal critic of tech companies. Certain members of the House also have strong views on this issue. In recent years, legislation has transitioned from general privacy issues to more specific issues such as data security and interest-based advertising.

The FTC is also active in this area. It recently urged action on behavioral advertising practices. ANA has met frequently with the FTC to urge self-regulation and enforcement of existing laws and regulations rather than the enactment of new laws. We have developed a self-regulatory program for interest-based advertising, the [Digital Advertising Alliance \(DAA\)](#), which promotes transparency, notice and choice for consumers.

ANA also recently joined our industry partners in establishing the [Privacy for America](#) coalition, which supports enactment of comprehensive, broad-based federal consumer privacy legislation based on a new paradigm that makes personal data less vulnerable to breach or misuse.

Senate

<i>Bill Number</i>	<i>Bill Title</i>
S. 24	Protecting Personal Health Data Act
<i>Sponsor</i>	<i>Description</i>
Klobuchar (D-MN)	This bill would require HHS (in consultation with the FTC and other Federal agencies) to issue regulations to strengthen privacy and security protections for consumer health data collected, processed, analyzed, or used by consumer devices, services, apps, and software. These regulations should include standards for obtaining user consent, limiting the transfer of data to third parties per consumer request, a process for withdrawing consent, providing a right of access to personal health data the operator has collected, analyzed, or used, and a right to delete and amend this data.
<i>Cosponsors</i>	<i>History</i>
Murkowski (R-AK) Cortez Masto (D-NV)	1.22.2021: Introduced in Senate 1.22.2021: Referred to the Senate Committee on Health, Education, Labor, and Pensions

<i>Bill Number</i>	<i>Bill Title</i>
S. 113	Balancing the Rights Of Web Surfers Equally and Responsibly Act of 2021 (BROWSER Act of 2021)
<i>Sponsor</i>	<i>Description</i>
Blackburn (R-TN)	This bill requires that both providers of broadband internet access services and edge services (internet services) provide clear and conspicuous notice of privacy policies, at point of sale/subscription and persistently available, and notice of material changes. It requires opt-in

	consent for use, disclosure, or permission to access to sensitive user information (“sensitive information” defined as financial and health info, information pertaining to a child under 13, social security numbers, precise geo-location information, content of communications, and web browsing history and app usage history). Opt-out consent is required for all other use, disclosure, or permission to access of non-sensitive user information. Covered services must not withhold service from users who refuse to waive their privacy rights. Ability to give consent must be provided in a simple, easy-to-use mechanism that is clear and conspicuous and free, and once given, must take effect promptly and until the user revokes the grant. Enforcement is given to the FTC and it preempts state law in this area.
<i>Cosponsors</i>	<i>History</i>
None	1.28.2021: Introduced in Senate 1.28.2021: Referred to the Committee on Commerce, Science, and Transportation

<i>Bill Number</i>	<i>Bill Title</i>
S. 224	Promoting Digital Privacy Technologies Act
<i>Sponsor</i>	<i>Description</i>
Cortez Masto (D-NV)	This bill calls on the Director of the National Science Foundation, working with other Federal agencies, to support research on privacy-enhancing technologies, including de-identification, pseudonymization, and anonymization; algorithms; and data minimization principles.
<i>Cosponsors</i>	<i>History</i>
Fischer (R-NE)	2.4.2021: Introduced in Senate 2.4.2021: Referred to the Senate Committee on Commerce, Science, and Transportation Identical bill: H.R. 847 (Rep. Stevens)

<i>Bill Number</i>	<i>Bill Title</i>
S. 797	Platform Accountability and Consumer Transparency Act (PACT Act)
<i>Sponsor</i>	<i>Description</i>
Schatz (D-HI)	This bill would require service providers to publish an acceptable use policy that details the types of content allowed on the platform, explain how it ensures content complies with the use policy, explain how users can notify the platform of policy-violating content, illegal content, or illegal activity, and issue a report detailing how it enforces the policy.
<i>Cosponsors</i>	<i>History</i>
Thune (R-SD)	3.17.2021: Introduced in Senate 3.17.2021: Referred to the Senate Committee on Commerce, Science, and Transportation

<i>Bill Number</i>	<i>Bill Title</i>
S. 919	Data Care Act of 2021
<i>Sponsor</i>	<i>Description</i>
Schatz (D-HI)	This bill requires online service providers (and third parties) fulfill the duties of care, loyalty, and confidentiality regarding individual data. Enforcement is shared by the FTC and state attorneys general and can include civil penalties.
<i>Cosponsors</i>	<i>History</i>
17 (16 D, 1 I)	3.23.2021: Bill introduced 3.23.2021: Referred to the Committee on Commerce, Science, and Transportation

House of Representatives

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 337	Foreign Agent Disclaimer Enhancement Act of 2021 (FADE Act of 2021)
<i>Sponsor</i>	<i>Description</i>
Spanberger (D-VA/7)	This bill would require disclaimers on social media when information in the interest of a foreign entity is posted on such services.
<i>Cosponsors</i>	<i>History</i>
7 (4 D, 3 R; lead R sponsor is Katko, R-NY/24)	1.15.2021: Introduced in House 1.22.2021: Referred to the House Committee on the Judiciary 3.5.2021: Referred to the Subcommittee on the Constitution, Civil Rights, and Civil Liberties (House Judiciary)

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 474	Protecting Consumer Information Act of 2021
<i>Sponsor</i>	<i>Description</i>
Lieu (D-CA/33)	This bill would require the FTC to conduct a review of its Gramm-Leach-Bliley regulations to determine whether they require covered consumer reporting agencies and covered service providers to maintain sufficient safeguards to protect customer records and information against cyber attacks and related threats. It would also allow state AG's and the FTC to share enforcement of violations of these regulations.
<i>Cosponsors</i>	<i>History</i>
None	1.25.2021: Introduced in House 1.25.2021: Referred to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 847	Promoting Digital Privacy Technologies Act
<i>Sponsor</i>	<i>Description</i>
Stevens (D-MI/11)	This bill calls on the Director of the National Science Foundation, working with other Federal agencies, to support research on privacy-enhancing technologies, including de-identification, pseudonymization, and anonymization; algorithms; and data minimization principles.
<i>Cosponsors</i>	<i>History</i>
Gonzalez (R-OH/16)	2.4.2021: Introduced in House 2.4.2021: Referred to the House Committee Science, Space, and Technology 2.4.2021: Referred to the Subcommittee on Research and Technology (House Science) Identical Bill: S. 224 (Sen. Cortez Masto)

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 1090	Online Consumer Protection Act of 2021
<i>Sponsor</i>	<i>Description</i>
Banks (R-IN/3)	This bill prohibits app stores or developers of software from allowing the download of foreign software unless there is a warning displayed to the consumer noting its foreign ownership and requiring an affirmative step from the consumer acknowledging the warning. Criminal penalties can be assessed up to \$50,000 and up to two years in prison.
<i>Cosponsors</i>	<i>History</i>
None	2.18.2021: Introduced in House 2.18.2021: Referred to the Committee on Energy and Commerce

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 1100	Online Accessibility Act
<i>Sponsor</i>	<i>Description</i>
Budd (R-NC/13)	This bill requires consumer facing websites and mobile applications to meet the Web Content Accessibility Guidelines 2.0 Level A and Level AA.
<i>Cosponsors</i>	<i>History</i>
Correa (D-CA/46) Hudson (R-NC/8)	2.18.2021: Introduced in House 2.18.2021: Referred to the Committee on Energy and Commerce

<i>Bill Number</i>	<i>Bill Title</i>
H.R. 1816	Information Transparency & Personal Data Control Act
<i>Sponsor</i>	<i>Description</i>

DeIBene (D-WA/1)	This bill would require the FTC to issue regulations requiring those involved in the collection, transmission, storage, processing, sale, or sharing of sensitive information to obtain affirmative, express, and opt-in consent to do so. It requires privacy policies to be written in plain language, use visualizations, and clearly identify who is doing the collecting, for what purposes, and what third parties with which it will be shared. Any uses of non-sensitive information requires opt-out consent. It requires covered entities to undergo a privacy audit from a qualified and independent third party. Enforcement is shared by the FTC and state attorneys general and it provides funding for the FTC to hire 500 new employees focused on privacy. Finally, it preempts state laws except where those laws cover data breaches or biometric data.
<i>Cosponsors</i>	
None	3.11.2021: Introduced in House 3.11.2021: Referred to the House Committee on Energy and Commerce