

*Jamil K. Akaka*

HEN12621

S.L.C.

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To require the Secretary to establish privacy breach policies and procedures for Federal agencies.

**IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.**

**S. 3414**

To enhance the security and resiliency of the cyber and communications infrastructure of the United States.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. AKAKA (for himself, Mr. BLUMENTHAL, Mr. COONS, Mr. FRANKEN, Mr. SANDERS, Mr. UDALL of New Mexico, and Mr. WYDEN)

Viz:

1 On page 105, after the end of the matter between  
2 lines 11 and 12, insert the following:

3 **SEC. 205. PRIVACY BREACH REQUIREMENTS.**

4 (a) IN GENERAL.—Subchapter II of chapter 35 of  
5 title 44, United States Code, as amended by section 201  
6 of this Act, is amended by adding at the end the following:

7 **“§ 3559. Privacy breach requirements**

8 “(a) POLICIES AND PROCEDURES.—The Secretary  
9 shall establish and oversee policies and procedures for  
10 agencies to follow in the event of a breach of information

1 security involving the disclosure of personally identifiable  
2 information, including requirements for—

3 “(1) timely notice to the individuals whose per-  
4 sonally identifiable information could be com-  
5 promised as a result of such breach;

6 “(2) timely reporting to a Federal cybersecurity  
7 center (as defined in section 708 of the Cybersecu-  
8 rity Act of 2012), as designated by the Secretary;  
9 and

10 “(3) additional actions as necessary and appro-  
11 priate, including data breach analysis, fraud resolu-  
12 tion services, identity theft insurance, and credit  
13 protection or monitoring services.

14 “(b) REQUIRED AGENCY ACTION.—The head of each  
15 agency shall ensure that actions taken in response to a  
16 breach of information security involving the disclosure of  
17 personally identifiable information under the authority or  
18 control of the agency comply with policies and procedures  
19 established by the Secretary under subsection (a).

20 “(c) REPORT.—Not later than March 1 of each year,  
21 the Secretary shall report to Congress on agency compli-  
22 ance with the policies and procedures established under  
23 subsection (a).”.

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
25 The table of sections for subtitle II for chapter 35 of title

1 44, United States Code, as amended by section 201 of this  
2 Act, is amended by adding at the end the following:

“3559. Privacy breach requirements.”.

3 **SEC. 206. AMENDMENTS TO THE E-GOVERNMENT ACT OF**  
4 **2002.**

5 Section 208(b)(1)(A) of the E-Government Act of  
6 2002 (44 U.S.C. 3501 note; Public Law 107–347) is  
7 amended—

8 (1) in clause (i), by striking “or” at the end;

9 (2) in clause (ii), by striking the period at the  
10 end and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(iii) using information in an identifi-  
13 able form purchased, or subscribed to for  
14 a fee, from a commercial data source.”.

15 **SEC. 207. AUTHORITY OF THE DIRECTOR OF THE OFFICE**  
16 **OF MANAGEMENT AND BUDGET WITH RE-**  
17 **SPECT TO FEDERAL INFORMATION POLICY.**

18 Section 3504(g) of title 44, United States Code, is  
19 amended—

20 (1) paragraph (1), by striking “and” at the  
21 end;

22 (2) in paragraph (2), by striking the period at  
23 the end and inserting “; and”; and

24 (3) by adding at the end the following:

1           “(3) designate a Federal Chief Privacy Officer  
2           within the Office of Management and Budget who is  
3           a noncareer appointee in a Senior Executive Service  
4           position and who is a trained and experienced pri-  
5           vacy professional to carry out the responsibilities of  
6           the Director with regard to privacy.”.

7   **SEC. 208. CIVIL REMEDIES UNDER THE PRIVACY ACT.**

8           Section 552a(g)(4)(A) of title 5, United States Code,  
9   is amended—

10           (1) by striking “actual damages” and inserting  
11           “provable damages, including damages that are not  
12           pecuniary damages,”; and

13           (2) by striking “, but in no case shall a person  
14           entitled to recovery receive less than the sum of  
15           \$1,000” and inserting “or the sum of \$1,000,  
16           whichever is greater.”.

17           On page 188, lines 5 through 7, strike “the Chief  
18   Privacy and Civil Liberties Officer of the Department of  
19   Justice and the Chief Privacy Officer of the Department”  
20   and insert “the Federal Chief Privacy Officer”.

21           On page 191, line 19, strike “actual damages” and  
22   insert “provable damages, including damages that are not  
23   pecuniary damages,”