

Calendar No. 356

114TH CONGRESS
2^D SESSION**H. R. 1428**

IN THE SENATE OF THE UNITED STATES

OCTOBER 21, 2015

Received; read twice and referred to the Committee on the Judiciary

FEBRUARY 1, 2016

Reported by Mr. GRASSLEY, with an amendment

[Omit the part struck through and insert the part printed in italic]

AN ACT

To extend Privacy Act remedies to citizens of certified states,
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 “Judicial Redress Act
5 of 2015”.

6 **SEC. 2. EXTENSION OF PRIVACY ACT REMEDIES TO CITI-**
7 **ZENS OF DESIGNATED COUNTRIES.**

8 (a) CIVIL ACTION; CIVIL REMEDIES.—With respect
9 to covered records, a covered person may bring a civil ac-

1 tion against an agency and obtain civil remedies, in the
2 same manner, to the same extent, and subject to the same
3 limitations, including exemptions and exceptions, as an in-
4 dividual may bring and obtain with respect to records
5 under—

6 (1) section 552a(g)(1)(D) of title 5, United
7 States Code, but only with respect to disclosures in-
8 tentiously or willfully made in violation of section
9 552a(b) of such title; and

10 (2) subparagraphs (A) and (B) of section
11 552a(g)(1) of title 5, United States Code, but such
12 an action may only be brought against a designated
13 Federal agency or component.

14 (b) EXCLUSIVE REMEDIES.—The remedies set forth
15 in subsection (a) are the exclusive remedies available to
16 a covered person under this section.

17 (c) APPLICATION OF THE PRIVACY ACT WITH RE-
18 SPECT TO A COVERED PERSON.—For purposes of a civil
19 action described in subsection (a), a covered person shall
20 have the same rights, and be subject to the same limita-
21 tions, including exemptions and exceptions, as an indi-
22 vidual has and is subject to under section 552a of title
23 5, United States Code, when pursuing the civil remedies
24 described in paragraphs (1) and (2) of subsection (a).

25 (d) DESIGNATION OF COVERED COUNTRY.—

1 (1) IN GENERAL.—The Attorney General may,
2 with the concurrence of the Secretary of State, the
3 Secretary of the Treasury, and the Secretary of
4 Homeland Security, designate a foreign country or
5 regional economic integration organization, or mem-
6 ber country of such organization, as a “covered
7 country” for purposes of this section if—

8 (A) the country or regional economic inte-
9 gration organization, or member country of
10 such organization, has entered into an agree-
11 ment with the United States that provides for
12 appropriate privacy protections for information
13 shared for the purpose of preventing, inves-
14 tigating, detecting, or prosecuting criminal of-
15 fenses; or

16 (B) the Attorney General has determined
17 that the country or regional economic integra-
18 tion organization, or member country of such
19 organization, has effectively shared information
20 with the United States for the purpose of pre-
21 venting, investigating, detecting, or prosecuting
22 criminal offenses and has appropriate privacy
23 protections for such shared information.

24 (2) REMOVAL OF DESIGNATION.—The Attorney
25 General may, with the concurrence of the Secretary

1 of State, the Secretary of the Treasury, and the Sec-
 2 retary of Homeland Security, revoke the designation
 3 of a foreign country or regional economic integration
 4 organization, or member country of such organiza-
 5 tion, as a “covered country” if the Attorney General
 6 determines that such designated “covered coun-
 7 try”—

8 (A) is not complying with the agreement
 9 described under paragraph (1)(A);

10 (B) no longer meets the requirements for
 11 designation under paragraph (1)(B); or

12 (C) impedes the transfer of information
 13 (for purposes of reporting or preventing unlaw-
 14 ful activity) to the United States by a private
 15 entity or person.

16 *(d) DESIGNATION OF COVERED COUNTRY.—*

17 *(1) IN GENERAL.—The Attorney General may,*
 18 *with the concurrence of the Secretary of State, the*
 19 *Secretary of the Treasury, and the Secretary of*
 20 *Homeland Security, designate a foreign country or*
 21 *regional economic integration organization, or mem-*
 22 *ber country of such organization, as a “covered coun-*
 23 *try” for purposes of this section if—*

24 *(A)(i) the country or regional economic in-*
 25 *tegration organization, or member country of*

1 *such organization, has entered into an agreement*
2 *with the United States that provides for appro-*
3 *priate privacy protections for information*
4 *shared for the purpose of preventing, inves-*
5 *tigating, detecting, or prosecuting criminal of-*
6 *fenses; or*

7 *(ii) the Attorney General has determined*
8 *that the country or regional economic integra-*
9 *tion organization, or member country of such or-*
10 *ganization, has effectively shared information*
11 *with the United States for the purpose of pre-*
12 *venting, investigating, detecting, or prosecuting*
13 *criminal offenses and has appropriate privacy*
14 *protections for such shared information;*

15 *(B) the country or regional economic inte-*
16 *gration organization, or member country of such*
17 *organization, permits the transfer of personal*
18 *data for commercial purposes between the terri-*
19 *tory of that country or regional economic organi-*
20 *zation and the territory of the United States,*
21 *through an agreement with the United States or*
22 *otherwise; and*

23 *(C) the Attorney General has certified that*
24 *the policies regarding the transfer of personal*
25 *data for commercial purposes and related actions*

1 *of the country or regional economic integration*
2 *organization, or member country of such organi-*
3 *zation, do not materially impede the national se-*
4 *curity interests of the United States.*

5 (2) *REMOVAL OF DESIGNATION.*—*The Attorney*
6 *General may, with the concurrence of the Secretary of*
7 *State, the Secretary of the Treasury, and the Sec-*
8 *retary of Homeland Security, revoke the designation*
9 *of a foreign country or regional economic integration*
10 *organization, or member country of such organiza-*
11 *tion, as a “covered country” if the Attorney General*
12 *determines that such designated “covered country”—*

13 *(A) is not complying with the agreement de-*
14 *scribed under paragraph (1)(A)(i);*

15 *(B) no longer meets the requirements for*
16 *designation under paragraph (1)(A)(ii);*

17 *(C) fails to meet the requirements under*
18 *paragraph (1)(B);*

19 *(D) no longer meets the requirements for*
20 *certification under paragraph (1)(C); or*

21 *(E) impedes the transfer of information (for*
22 *purposes of reporting or preventing unlawful ac-*
23 *tivity) to the United States by a private entity*
24 *or person.*

1 (e) DESIGNATION OF DESIGNATED FEDERAL AGEN-
2 CY OR COMPONENT.—

3 (1) IN GENERAL.—The Attorney General shall
4 determine whether an agency or component thereof
5 is a “designated Federal agency or component” for
6 purposes of this section. The Attorney General shall
7 not designate any agency or component thereof other
8 than the Department of Justice or a component of
9 the Department of Justice without the concurrence
10 of the head of the relevant agency, or of the agency
11 to which the component belongs.

12 (2) REQUIREMENTS FOR DESIGNATION.—The
13 Attorney General may determine that an agency or
14 component of an agency is a “designated Federal
15 agency or component” for purposes of this section,
16 if—

17 (A) the Attorney General determines that
18 information exchanged by such agency with a
19 covered country is within the scope of an agree-
20 ment referred to in subsection (d)(1)(A); or

21 (B) with respect to a country or regional
22 economic integration organization, or member
23 country of such organization, that has been des-
24 ignated as a “covered country” under sub-
25 section (d)(1)(B), the Attorney General deter-

1 mines that designating such agency or compo-
2 nent thereof is in the law enforcement interests
3 of the United States.

4 (f) FEDERAL REGISTER REQUIREMENT; NON-
5 REVIEWABLE DETERMINATION.—The Attorney General
6 shall publish each determination made under subsections
7 (d) and (e). Such determination shall not be subject to
8 judicial or administrative review.

9 (g) JURISDICTION.—The United States District
10 Court for the District of Columbia shall have exclusive ju-
11 risdiction over any claim arising under this section.

12 (h) DEFINITIONS.—In this Act:

13 (1) AGENCY.—The term “agency” has the
14 meaning given that term in section 552(f) of title 5,
15 United States Code.

16 (2) COVERED COUNTRY.—The term “covered
17 country” means a country or regional economic inte-
18 gration organization, or member country of such or-
19 ganization, designated in accordance with subsection
20 (d).

21 (3) COVERED PERSON.—The term “covered
22 person” means a natural person (other than an indi-
23 vidual) who is a citizen of a covered country.

24 (4) COVERED RECORD.—The term “covered
25 record” has the same meaning for a covered person

1 as a record has for an individual under section 552a
2 of title 5, United States Code, once the covered
3 record is transferred—

4 (A) by a public authority of, or private en-
5 tity within, a country or regional economic or-
6 ganization, or member country of such organi-
7 zation, which at the time the record is trans-
8 ferred is a covered country; and

9 (B) to a designated Federal agency or
10 component for purposes of preventing, inves-
11 tigating, detecting, or prosecuting criminal of-
12 fenses.

13 (5) DESIGNATED FEDERAL AGENCY OR COMPO-
14 NENT.—The term “designated Federal agency or
15 component” means a Federal agency or component
16 of an agency designated in accordance with sub-
17 section (e).

18 (6) INDIVIDUAL.—The term “individual” has
19 the meaning given that term in section 552a(a)(2)
20 of title 5, United States Code.

21 (i) PRESERVATION OF PRIVILEGES.—Nothing in this
22 section shall be construed to waive any applicable privilege
23 or require the disclosure of classified information. Upon
24 an agency’s request, the district court shall review in cam-

1 era and ex parte any submission by the agency in connec-
2 tion with this subsection.

3 (j) **EFFECTIVE DATE.**—This Act shall take effect 90
4 days after the date of the enactment of this Act.

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