

OLC 74-0249

20 February 1974

MEMORANDUM FOR: Office of Joint Computer Support

SUBJECT : H. R. 12206, "To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies."

1. Hearings have begun on the subject bill and there are indications that it will be favorably reported out of committee.
2. It is requested that you review the bill to determine if the Agency is affected. Note that section (b) does exempt those records classified under an Executive Order; however, section (c) requires an annual report to Congress on an agency-by-agency basis on the number of records exempted by Executive Order.
3. Based on your comments, we will consider if Agency action is necessary.



Assistant Legislative Counsel

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Attachment: H. R. 12206

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93RD CONGRESS
2^D SESSION

H. R. 12206

IN THE HOUSE OF REPRESENTATIVES

JANUARY 22, 1974

Mr. KOCH introduced the following bill; which was referred to the Committee on Government Operations

A BILL

To amend title 5, United States Code, to provide that persons be apprised of records concerning them which are maintained by Government agencies.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) title 5, United States Code, is amended by adding
4 immediately after section 552 thereof the following new
5 section:

6 “§ 552a. Individual records

7 “(a) Each agency that maintains records, including
8 computer records, concerning any person which may be
9 retrieved by reference to, or are indexed under such per-

1 symbol, and which contain any information obtained from
2 any source other than such person shall, with respect to
3 such records—

4 “(1) refrain from disclosing the record or any in-
5 formation contained therein to any other agency or to
6 any person not employed by the agency maintaining
7 such record, except—

8 “(A) with notification of the person concerned
9 or, in the event such person, if an individual, can-
10 not be located or communicated with after reason-
11 able effort, with notification of members of the
12 individual's immediate family or guardian, or, only
13 in the event that such individual, members of the
14 individual's immediate family, and guardian cannot
15 be located or communicated with after reasonable
16 effort, upon good cause for such disclosure, or

17 “(B) that if disclosure of such record is re-
18 quired under section 552 of this chapter or by any
19 other provision of law, the person concerned shall
20 be notified by mail at his last known address of any
21 such required disclosure;

22 “(2) refrain from disclosing the record or any infor-
23 mation contained therein to individuals within that
24 formation contained therein to individuals within that
25 agency other than those individuals who need to ex-

1 amine such record or information for the execution of
2 their jobs;

3 “(3) maintain an accurate record of the names and
4 addresses of all persons to whom any information con-
5 tained in such records is divulged and the purposes for
6 which such divulgence was made;

7 “(4) permit any person to inspect his own record
8 and have copies thereof made at his expense, which in
9 no event shall be greater than the cost to the agency of
10 making such copies;

11 “(5) permit any person to supplement the in-
12 formation contained in his record by the addition of any
13 document or writing of reasonable length containing in-
14 formation such person deems pertinent to his record; and

15 “(6) remove erroneous information of any kind, and
16 notify all agencies and persons to whom the erroneous
17 material has been previously transferred of its removal.

18 “(b) This section shall not apply to records that are—

19 “(1) specifically required by Executive order to
20 be kept secret in the interest of the national defense and
21 foreign policy;

22 “(2) investigatory files compiled for law enforce-
23 ment purposes, except to the extent that such records

24 have been maintained for a longer period than reason-
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1 ably necessary to commence prosecution or other action
2 or to the extent available by law to a party other than
3 an agency.

4 “(c) The President shall report to Congress before
5 January 30 of each year on an agency-by-agency basis the
6 number of records and the number of investigatory files
7 which were exempted from the application of this section
8 by reason of clauses (1) and (2) of subsection (d) during
9 the immediately preceding calendar year.

10 “(d) This section shall not be held or considered to
11 permit the disclosure of the identity of any person who has
12 furnished information contained in any record subject to
13 this section.

14 “(e) Each agency that maintains records subject to the
15 provisions of this section shall publish rules establishing rea-
16 sonable times, places, fees to the extent authorized, and pro-
17 cedures to be followed with respect to making records
18 promptly available to an individual and otherwise to imple-
19 ment the provisions of section 552a of title 5 of the United
20 States Code.

21 “(f) Any employee of the United States who under the
22 color of agency authority knowingly and willfully violates a
23 provision of this section, or permits such a violation, shall be

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1 “(g) Nothing in this section shall be construed to per-
2 mit transfer or similar distribution of any information deemed
3 confidential by other statutes.”.

4 (b) The table of sections of chapter 5 of title 5, United
5 States Code, is amended by inserting:

 “552a. Individual records.”

6 immediately below:

 “552. Public information; agency rules; opinions, orders, records, and
 proceedings.”.

7 SEC. 2. The amendments made by this Act shall be-
8 come effective on the ninetieth day following the date of
9 enactment of this Act.

93rd CONGRESS
2nd Session

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By Mr. KOCH

JANUARY 22, 1974

Referred to the Committee on Government Operations