

117TH CONGRESS  
2D SESSION

# S. 3902

To prohibit agencies from maintaining or sharing information relating to religious affiliation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 22, 2022

Mr. MARSHALL (for himself, Mr. BRAUN, Mr. CRUZ, Mr. DAINES, Mrs. HYDE-SMITH, Mr. INHOFE, Mr. LANKFORD, Mr. SCOTT of Florida, Mr. WICKER, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To prohibit agencies from maintaining or sharing information relating to religious affiliation, 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 “Prohibiting Religious  
5 Exemption and Accommodations Databases Act”.

6 **SEC. 2. SENSE OF THE SENATE.**

7 It is the sense of the Senate that—

8 (1) the freedoms of the First Amendment to the  
9 Constitution of the United States, including the

1 right to free exercise of religion, are among the pre-  
 2 eminent blessings of liberty guaranteed by the Con-  
 3 stitution of the United States, and that religious  
 4 freedom need not be sacrificed in service to our Gov-  
 5 ernment, but must be respected by law; and

6 (2) immediate steps must be taken to prevent  
 7 unwarranted dissemination of information on reli-  
 8 gious exemptions or accommodations sought or pro-  
 9 vided by or to any individual in conformance with  
 10 principles of both section 552a of title 5, United  
 11 States Code (commonly known as the “Privacy Act  
 12 of 1974”), in particular subsection (e)(7) of such  
 13 section, as well as the guidance issued by the Equal  
 14 Employment Opportunity Commission on December  
 15 14, 2021.

16 **SEC. 3. MAINTENANCE OF INFORMATION RELATING TO RE-**  
 17 **LIGIOUS ACCOMMODATIONS.**

18 (a) AMENDMENTS TO THE PRIVACY ACT OF 1974.—  
 19 Section 552a of title 5, United States Code (commonly  
 20 known as the “Privacy Act of 1974”) is amended—

21 (1) in subsection (a)(7)—

22 (A) by striking “means, with” and insert-  
 23 ing “—

24 “(A) means, with”;

1 (B) in subparagraph (A), as so designated,  
2 by adding “and” at the end; and

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

4 “(B) does not include the sharing, disclo-  
5 sure, or dissemination of information con-  
6 cerning a religious accommodation beyond the  
7 minimum necessary for the purpose;”;

8 (2) in subsection (c)(1)—

9 (A) in the matter preceding subparagraph  
10 (A), strike “except for disclosures made under  
11 subsections (b)(1) or (b)(2) of this section;”;

12 (B) in subparagraph (A), by striking  
13 “and” at the end;

14 (C) in subparagraph (B), by adding “and”  
15 at the end; and

16 (D) by adding at the end the following:

17 “(C) a disclosure made under subsection  
18 (b)(1) or (b)(2) only if the disclosure concerns  
19 or describes how any individual exercises rights  
20 guaranteed by the First Amendment, including  
21 as related to a religious accommodation under  
22 any Federal law;”;

23 (3) in subsection (o), by adding at the end the  
24 following:

1 “(3) Notwithstanding any other provision of this Act,  
2 no record relating to the religious affiliation of an indi-  
3 vidual that is contained in a system of records may be  
4 disclosed to a recipient agency or non-Federal agency for  
5 use in a computer matching program.”; and

6 (4) by adding at the end the following:

7 “(x) RELIGIOUS ACCOMMODATION.—For purposes of  
8 subsection (e)(7), an individual voluntarily requesting, or  
9 providing any information relating to, any religious accom-  
10 modation, including to a COVID–19 vaccine requirement,  
11 shall not constitute an express authorization for an agency  
12 to maintain a record of any information related to the reli-  
13 gious beliefs, identity, or affiliation of the individual.”.

14 (b) FOIA EXEMPTION.—Section 552(b) of title 5,  
15 United States Code (commonly known as the “Freedom  
16 of Information Act”) is amended—

17 (1) in paragraph (8), by striking “or” at the  
18 end;

19 (2) in paragraph (9), by striking the period at  
20 the end and inserting “; or”; and

21 (3) by inserting after paragraph (9) the fol-  
22 lowing:

23 “(10) related to the religious affiliation of an  
24 individual that is provided to or collected by an  
25 agency (as defined in section 552a(a) of this title),

1 including for purposes of a religious accommodation  
2 to a COVID–19 vaccine requirement.”.

3 (c) PRIVACY OF INFORMATION.—An agency (as de-  
4 fined in section 552a(a) of title 5, United States Code  
5 (commonly known as the “Privacy Act of 1974”)) that col-  
6 lects or is provided any information relating to the reli-  
7 gious beliefs, identity, or affiliation of an individual for  
8 purposes of a religious accommodation, including to a  
9 COVID–19 vaccine requirement—

10 (1) shall maintain and use the information—

11 (A) in a manner that protects the con-  
12 fidentiality of the information and privacy of  
13 the individual to the maximum extent prac-  
14 ticable; and

15 (B) separate from any other record of an  
16 individual relating to a religious exemption or  
17 accommodation request; and

18 (2) may not disclose the information with any  
19 person outside of the agency, including any other  
20 Federal or non-Federal agency or private organiza-  
21 tion.

22 (d) RULE OF CONSTRUCTION.—Nothing in this Act  
23 or the amendments made by this Act shall be construed  
24 to impede or authorize a delay in the timely processing  
25 of a request made by an individual to an agency (as de-

1 fined in section 552a(a) of title 5, United States Code  
2 (commonly known as the “Privacy Act of 1974’’) for a  
3 religious accommodation.

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