

PRESS RELEASE

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EPIC Report Endorses Senator Markey's Privacy Bill of Rights

But "Grading on a Curve" Finds Most Bills Lack Basic Elements for Privacy Law

WASHINGTON, DC – The Electronic Privacy Information Center – or “EPIC” - an independent research organization, released today an analysis of the privacy bills currently pending in Congress. According to EPIC, Senator Ed Markey’s **Privacy Bill of Rights** ranks #1.

EPIC President Marc Rotenberg said, “There are shortcomings with all of the bills, but Senator Markey’s is clearly the best.”

The 32-page report from EPIC -- **Grading on a Curve: Privacy Legislation in the 116th Congress** -- reviews recent developments, identifies key characteristics of privacy laws, provides a glossary of key terms, and assesses pending legislative proposals. The EPIC Report finds that many of the bills in Congress lack the basic elements of a privacy law, such as an opportunity for individuals to enforce their rights and a federal baseline that leaves strong state safeguards in place.

The EPIC Report also strongly recommends creation of a federal data protection agency, noting that almost every democratic country in the world has an agency to help protect personal data. The EPIC Report contends that “the failure to establish a data protection agency in the United States has contributed to the growing incidents of data breach and identity theft.”

The EPIC Report also sets out a detailed methodology to help lawmakers, journalists, and the public evaluate the various privacy bills now pending in Congress.

EPIC Policy Director Caitriona Fitzgerald explained, “We looked closely at privacy laws enacted in the United States and Europe, and also international standards for data protection. We developed a 100 point scale and graded the bills accordingly. Senator Markey’s bill received a score of 48. Most of the other bills were much lower. One bill actually received a negative score.”

Ms. Fitzgerald continued, “That’s why we titled the EPIC report ‘Grading on a Curve.’ Even if the Markey bill were enacted, it is not clear the United States would have privacy protections sufficient for the digital economy. That is an important consideration for global trade, as well as for consumer protection.”

Ms. Fitzgerald also said, “As we prepared the report, we also become aware that Congress has yet to hold hearings on these legislative proposals. There appears to be a bottleneck at the Senate Commerce Committee and little activity in House Commerce. Before Congress enacts a bill, it will need to hold hearings and hear from experts.”

ABOUT EPIC

The Electronic Privacy Information Center (EPIC) is a nonpartisan, public interest research center in Washington, DC. EPIC was established in 1994 to focus public attention on emerging privacy and civil liberties issues and to protect privacy, freedom of expression, and democratic values in the information age. EPIC pursues a wide range of program activities including policy research, public education, conferences, litigation, publications, and advocacy. EPIC routinely files amicus briefs in federal courts, pursues open government cases, defends consumer privacy, organizes conferences for NGOs, and speaks before Congress and judicial organizations about emerging privacy and civil liberties issues. EPIC works closely with a distinguished advisory board, with expertise in law, technology and public policy.

LINKS

EPIC website
[Epic.org](https://epic.org)

EPIC Report – ***Grading on a Curve: Privacy Legislation in the 116th Congress***
<https://epic.org/GradingOnACurve.pdf>

QUICK SUMMARY – EPIC, *Grading On a Curve: Privacy Legislation in the 116th Congress (2019)*

Growing Support for Privacy Legislation

- Increase in data breach and identity theft.
- Technology outpacing the law
- Trade with Europe and the GDPR
- Public support for privacy legislation
- The failure of the Federal Trade Commission
- California Consumer Privacy Act

Elements of a Privacy Law

- Strong definition of personal data
- Establishes an Independent Data Protection Agency
- Individual rights (right to access, control, delete)
- Strong data controller obligations
- Algorithmic Transparency Requirements
- Data Minimization and Privacy Innovation Requirements
- Prohibits take-it-or-leave-it or pay-for-privacy terms
- Private Right of Action
- Limits government access to personal data
- Does not preempt stronger state laws

Bills Scores

Markey – *Privacy Bill of Rights Act*, S. 1214: A- (48/100)

Cortez Masto – *DATA Privacy Act*, S. 584: B+ (37/100)

Rubio - *American Data Dissemination Act*, S. 142: B (27/100)

Klobuchar / Kennedy - *Social Media Protection and Consumer Rights Act*, S. 189: B- (19/100)

Delbene - *Information Transparency & Personal Data Control Act*, H. R. 2013: C (10/100)

Blackburn - *Balancing the Rights Of Web Surfers Equally and Responsibly Act*, S. 1116: F (-4/100)