

118TH CONGRESS  
1ST SESSION

# S. 1029

To prohibit data brokers from selling, reselling, trading, licensing, or otherwise providing for consideration lists of military servicemembers to a covered nation.

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## IN THE SENATE OF THE UNITED STATES

MARCH 29, 2023

Mr. CASSIDY (for himself, Ms. WARREN, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To prohibit data brokers from selling, reselling, trading, licensing, or otherwise providing for consideration lists of military servicemembers to a covered nation.

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 Protecting Military  
5 Servicemembers' Data Act of 2023.

1 **SEC. 2. UNFAIR AND DECEPTIVE ACTS AND PRACTICES RE-**  
2 **LATING TO MILITARY SERVICEMEMBER**  
3 **LISTS.**

4 (a) **IN GENERAL.**—It shall be unlawful for a data  
5 broker to sell, resell, license, trade, or otherwise provide  
6 or make available for consideration a military servicemem-  
7 ber list to any covered nation.

8 (b) **EFFECTIVE DATE.**—The prohibition under sub-  
9 section (a) shall take effect on the earlier of—

10 (1) the date the Commission issues the final  
11 rule under section 3(a)(3); or

12 (2) 1 year after the date of enactment of this  
13 Act.

14 **SEC. 3. ENFORCEMENT.**

15 (a) **ENFORCEMENT BY THE FEDERAL TRADE COM-**  
16 **MISSION.**—

17 (1) **UNFAIR OR DECEPTIVE ACTS OR PRAC-**  
18 **TICES.**—A violation of section 2 shall be treated as  
19 a violation of a rule defining an unfair or a deceptive  
20 act or practice under section 18(a)(1)(B) of the Fed-  
21 eral Trade Commission Act (15 U.S.C.  
22 57a(a)(1)(B)).

23 (2) **POWERS OF COMMISSION.**—

24 (A) **IN GENERAL.**—Except as provided in  
25 subparagraphs (D) and (E), the Commission  
26 shall enforce section 2 in the same manner, by

1 the same means, and with the same jurisdic-  
2 tion, powers, and duties as though all applicable  
3 terms and provisions of the Federal Trade  
4 Commission Act (15 U.S.C. 41 et seq.) were in-  
5 corporated into and made a part of this Act.

6 (B) PRIVILEGES AND IMMUNITIES.—Any  
7 person who violates section 2 shall be subject to  
8 the penalties and entitled to the privileges and  
9 immunities provided in the Federal Trade Com-  
10 mission Act (15 U.S.C. 41 et seq.).

11 (C) AUTHORITY PRESERVED.—Nothing in  
12 this Act shall be construed to limit the author-  
13 ity of the Federal Trade Commission under any  
14 other provision of law.

15 (D) NONPROFIT ORGANIZATIONS.—Not-  
16 withstanding section 4 of the Federal Trade  
17 Commission Act (15 U.S.C. 44) or any jurisdic-  
18 tional limitation of the Commission, the Com-  
19 mission shall also enforce this Act, in the same  
20 manner provided in subparagraphs (A) and (B),  
21 with respect to organizations not organized to  
22 carry on business for their own profit or that  
23 of their members.

24 (E) INDEPENDENT LITIGATION AUTHOR-  
25 ITY.—In any case in which the Commission has

1           reason to believe that a data broker is violating  
2           or has violated section 2, the Commission may  
3           bring a civil action in an appropriate district  
4           court of the United States—

5                   (i) to enjoin further violation of such  
6                   section by such person;

7                   (ii) to compel compliance with such  
8                   section; and

9                   (iii) to obtain damages, restitution, or  
10                  other compensation on behalf of aggrieved  
11                  consumers.

12           (3) RULEMAKING.—Pursuant to section 553 of  
13           title 5, United States Code, the Commission shall  
14           promulgate regulations to carry out the provisions of  
15           this Act. The Commission shall issue a final rule by  
16           not later than 1 year after the date of enactment of  
17           this Act.

18           (b) ENFORCEMENT BY STATES.—

19                   (1) IN GENERAL.—In any case in which the at-  
20                   torney general of a State has reason to believe that  
21                   an interest of the residents of the State has been or  
22                   is threatened or adversely affected by the engage-  
23                   ment of any data broker subject to section 2 in a  
24                   practice that violates such section, the attorney gen-  
25                   eral of the State may, as *parens patriae*, bring a

1 civil action on behalf of the residents of the State in  
2 an appropriate district court of the United States—

3 (A) to enjoin further violation of such sec-  
4 tion by such person;

5 (B) to compel compliance with such sec-  
6 tion; and

7 (C) to obtain damages, restitution, or other  
8 compensation on behalf of such residents.

9 (2) RIGHTS OF FEDERAL TRADE COMMIS-  
10 SION.—

11 (A) NOTICE TO FEDERAL TRADE COMMIS-  
12 SION.—

13 (i) IN GENERAL.—Except as provided  
14 in clause (iii), the attorney general of a  
15 State shall notify the Commission in writ-  
16 ing that the attorney general intends to  
17 bring a civil action under paragraph (1)  
18 not later than 10 days before initiating the  
19 civil action.

20 (ii) CONTENTS.—The notification re-  
21 quired by clause (i) with respect to a civil  
22 action shall include a copy of the complaint  
23 to be filed to initiate the civil action.

24 (iii) EXCEPTION.—If it is not feasible  
25 for the attorney general of a State to pro-

1           vide the notification required by clause (i)  
2           before initiating a civil action under para-  
3           graph (1), the attorney general shall notify  
4           the Commission immediately upon insti-  
5           tuting the civil action.

6           (B) INTERVENTION BY FEDERAL TRADE  
7           COMMISSION.—The Commission may—

8                   (i) intervene in any civil action  
9                   brought by the attorney general of a State  
10                  under paragraph (1); and

11                  (ii) upon intervening—

12                           (I) be heard on all matters aris-  
13                           ing in the civil action; and

14                           (II) file petitions for appeal of a  
15                           decision in the civil action.

16           (3) INVESTIGATORY POWERS.—Nothing in this  
17           subsection may be construed to prevent the attorney  
18           general of a State from exercising the powers con-  
19           ferred on the attorney general by the laws of the  
20           State to conduct investigations, to administer oaths  
21           or affirmations, or to compel the attendance of wit-  
22           nesses or the production of documentary or other  
23           evidence.

24           (4) PREEMPTIVE ACTION BY FEDERAL TRADE  
25           COMMISSION.—If the Commission institutes a civil

1 action or an administrative action with respect to a  
2 violation of section 2, the attorney general of a State  
3 may not, during the pendency of such action, bring  
4 a civil action under paragraph (1) against any de-  
5 fendant named in the complaint of the Commission  
6 for the violation with respect to which the Commis-  
7 sion instituted such action.

8 (5) VENUE; SERVICE OF PROCESS.—

9 (A) VENUE.—Any action brought under  
10 paragraph (1) may be brought in—

11 (i) the district court of the United  
12 States that meets applicable requirements  
13 relating to venue under section 1391 of  
14 title 28, United States Code; or

15 (ii) another court of competent juris-  
16 diction.

17 (B) SERVICE OF PROCESS.—In an action  
18 brought under paragraph (1), process may be  
19 served in any district in which the defendant—

20 (i) is an inhabitant; or

21 (ii) may be found.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) COMMISSION.—The term “Commission”  
25 means the Federal Trade Commission.

1           (2) CONSUMER.—The term “consumer” means  
2 an individual residing in a State.

3           (3) COVERED NATION.—The term “covered na-  
4 tion” has the meaning given that term in section  
5 4872(d)(2) of title 10, United States Code.

6           (4) DATA BROKER.—The term “data broker”  
7 means a business that knowingly collects and sells to  
8 third parties the personal information of a consumer  
9 with whom the business does not have a direct rela-  
10 tionship.

11           (5) MILITARY SERVICEMEMBER LIST.—The  
12 term “military servicemember list” means a list that  
13 includes personal information (other than public  
14 record information) about one or more individuals or  
15 households which is created for the express or im-  
16 plied purpose of compiling information about individ-  
17 uals who are current or former servicemembers (as  
18 that term is defined in section 3911(1) of title 50,  
19 United States Code).

20           (6) PERSONAL INFORMATION.—The term “per-  
21 sonal information” means information that is linked  
22 or reasonably linkable to any identified or identifi-  
23 able person or device.

24           (7) PUBLIC RECORD INFORMATION.—The term  
25 “public record information” means information that



1 is lawfully made available from Federal, State, or  
2 local government records provided that the data  
3 broker processes and transfers such information in  
4 accordance with any restrictions or terms of use  
5 placed on the information by the relevant govern-  
6 ment entity.

7 (8) STATE.—The term “State” means any  
8 State of the United States, the District of Columbia,  
9 the Commonwealth of Puerto Rico, Guam, American  
10 Samoa, the Commonwealth of the Northern Mariana  
11 Islands, and the United States Virgin Islands.

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