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(Original Signature of Member)

117TH CONGRESS
2D SESSION

H. R. _____

To amend the Consumer Financial Protection Act of 2010 to require the Director of the Bureau of Consumer Financial Protection to ensure that financial data relating to the provision of abortion or other reproductive health services are not accessed, disclosed, or otherwise disseminated without the express written consent of the individual, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To amend the Consumer Financial Protection Act of 2010 to require the Director of the Bureau of Consumer Financial Protection to ensure that financial data relating to the provision of abortion or other reproductive health services are not accessed, disclosed, or otherwise disseminated without the express written consent of the individual, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Data Privacy
3 and Reproductive Justice Act”.

4 **SEC. 2. FINANCIAL DATA AND SERVICES RELATED TO RE-**
5 **PRODUCTIVE RIGHTS.**

6 (a) PROHIBITION ON PROVISION OF CERTAIN INFOR-
7 MATION RELATING TO ABORTION OR REPRODUCTIVE
8 HEALTH SERVICES.—Subtitle B of the Consumer Finan-
9 cial Protection Act of 2010 (12 U.S.C. 5511 et seq.) is
10 amended by inserting after section 1026 the following new
11 section:

12 **“SEC. 1026A. PROHIBITION ON PROVISION OF CERTAIN IN-**
13 **FORMATION RELATING TO ABORTION OR RE-**
14 **PRODUCTIVE HEALTH SERVICES.**

15 “(a) PROHIBITION ON PROVISION OF CERTAIN IN-
16 FORMATION RELATING TO ABORTION OR REPRODUCTIVE
17 HEALTH SERVICES.—

18 “(1) IN GENERAL.—Notwithstanding any other
19 provision of Federal or State law, the Director of the
20 Bureau shall ensure that any information on pay-
21 ments or other financial data relating to, or in con-
22 nection with, the provision of abortion or other re-
23 productive health services for individuals who access
24 such health services are not accessed, disclosed, or
25 otherwise disseminated to any person, including any
26 State, State agency, city, county, municipality, or

1 other political subdivision of a State without the ex-
2 press written consent of the individual accessing
3 such health services at time of such access, disclo-
4 sure, or dissemination.

5 “(2) EXEMPTION.—A person may not be liable
6 for violating this subsection if—

7 “(A) the information described in para-
8 graph (1) is provided along with data relating
9 to other transactions; and

10 “(B) such person did not knowingly in-
11 clude such information in the data.

12 “(3) CONSENT NOT REQUIRED.—A covered per-
13 son that offers or provides consumer financial prod-
14 ucts or services may not require a consumer to pro-
15 vide the consent described in paragraph (1) as a
16 condition of providing such consumer financial prod-
17 ucts or services.

18 “(b) PREEMPTION.—

19 “(1) IN GENERAL.—Any law, regulation, provi-
20 sion, order, or other action of a State or political
21 subdivision thereof shall be preempted (and may not
22 be enforced) to the extent that the law, regulation,
23 provision, order, or other action is inconsistent with
24 this section or regulations issued thereunder or oth-
25 erwise restricts or eliminates the rights of individ-

1 uals to control access, disclosure, or other dissemina-
2 tion of the information described in subsection (a).

3 “(2) GREATER PROTECTION UNDER STATE
4 LAW.—For purposes of this subsection, a law, regu-
5 lation, provision, order, or other action of a State or
6 political subdivision thereof is not inconsistent with
7 this section or regulations issued thereunder if such
8 law, regulation, provision, order, or other action pro-
9 vides greater privacy protection than the privacy
10 protection provided by this section.

11 “(3) DETERMINATION.—A determination of
12 whether a law, regulation, provision, or other action
13 is inconsistent with this section or regulations issued
14 thereunder , or otherwise restricts or eliminates the
15 rights of individuals to control access, disclosure, or
16 other dissemination of the information described in
17 subsection (a) may be made by the Director of the
18 Bureau of Consumer Financial Protection on the Di-
19 rector’s own motion or in response to a non-frivolous
20 petition initiated by any interested person.

21 “(c) ENFORCEMENT BY INDIVIDUALS.—

22 “(1) IN GENERAL.—Any individual alleging a
23 violation of this section or a regulation issued there-
24 under may bring a civil action in any court of com-
25 petent jurisdiction.

1 “(2) RELIEF.—In a civil action brought under
2 subparagraph (A) in which the plaintiff prevails, the
3 court may award—

4 “(A) an amount not less than \$100 and
5 not greater than \$1,000 per violation per day,
6 or actual damages, whichever is greater;

7 “(B) punitive damages;

8 “(C) reasonable attorney’s fees and litiga-
9 tion costs; and

10 “(D) any other relief, including equitable
11 or declaratory relief, that the court determines
12 appropriate.

13 “(3) INJURY IN FACT.—A violation of this sec-
14 tion or a regulation issued thereunder with respect
15 to personal abortion or other reproductive health
16 services information constitutes a concrete and par-
17 ticularized injury in fact to the individual to whom
18 such information relates.

19 “(4) INVALIDITY OF PRE-DISPUTE ARBITRA-
20 TION AGREEMENTS AND PRE-DISPUTE JOINT ACTION
21 WAIVERS.—

22 “(A) IN GENERAL.—Notwithstanding any
23 other provision of law, no pre-dispute arbitra-
24 tion agreement or pre-dispute joint-action waiv-

1 er shall be valid or enforceable with respect to
2 a dispute arising under this section.

3 “(B) APPLICABILITY.—Any determination
4 as to whether or how this subparagraph applies
5 to any dispute shall be made by a court, rather
6 than an arbitrator, without regard to whether
7 such agreement purports to delegate such deter-
8 mination to an arbitrator.

9 “(C) DEFINITIONS.—For purposes of this
10 subparagraph:

11 “(i) PRE-DISPUTE ARBITRATION
12 AGREEMENT.—The term ‘pre-dispute arbi-
13 tration agreement’ means any agreement
14 to arbitrate a dispute that has not arisen
15 at the time of the making of the agree-
16 ment.

17 “(ii) PRE-DISPUTE JOINT-ACTION
18 WAIVER.—The term ‘pre-dispute joint-ac-
19 tion waiver’ means an agreement that
20 would prohibit a party from participating
21 in a joint, class, or collective action in a ju-
22 dicial, arbitral, administrative, or other
23 forum, concerning a dispute that has not
24 yet arisen at the time of the making of the
25 agreement.

1 “(d) EXPRESS WRITTEN CONSENT DEFINED.—

2 “(1) IN GENERAL.—The term ‘express written
3 consent’ means, with respect to the accessing, disclo-
4 sure, or dissemination of financial data described
5 under subsection (a), means informed, opt-in (with
6 a right to opt-out at any time), voluntary, specific,
7 and unambiguous written consent (which may in-
8 clude written consent provided by electronic means)
9 to such accessing, disclosure, or dissemination.

10 “(2) EXCLUSION.—The term ‘express written
11 consent’ does not include any of the following:

12 “(A) Consent secured without first pro-
13 viding to the individual a clear and conspicuous
14 disclosure, apart from any privacy policy, terms
15 of service, terms of use, general release, user
16 agreement, or other similar document, of all in-
17 formation material to the provision of consent.

18 “(B) Hovering over, muting, pausing, or
19 closing a given piece of content.

20 “(C) Agreement obtained through the use
21 of a user interface designed or manipulated
22 with the substantial effect of subverting or im-
23 pairing user autonomy, decision making, or
24 choice.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 of the Dodd-Frank Wall Street Reform and Consumer
3 Protection Act (15 U.S.C. 5301 et seq.) is amended by
4 inserting after the item relating to section 1026 the fol-
5 lowing new item:

 “1026A. Prohibition on provision of certain information relating to abortion or
 reproductive health services.”.

6 (c) EFFECTIVE DATE.—This Act and the amend-
7 ments made by this Act shall take effect on the date that
8 is 6 months after the date of the enactment of this Act.