EPIC: PRIVACY LEGISLATION REPORT CARD (Updated – April 2020)

Bill	Eshoo/Lofgren (A)	Cantwell (A-)	Wyden (A-)	Markey (A-)	Cortez-Masto (B+)	Rubio (B)	Moran (B)	Wicker (B-)	Klobuchar-Kennedy (B-)	DelBene (C)	Blackburn (F)
Strong definition of personal data	✓	✓	✓	✓		✓	✓	✓		✓	✓
Establishes a Data Protection Agency	✓										
Individual rights (right to access, control, delete)	✓	✓	✓	✓	✓	✓	✓	✓			
Strong data controller obligations	✓	✓		✓	✓						
Algorithmic transparency requirements	✓	✓	✓								
Data minimization requirements	✓	✓		✓	✓						
Prohibits "take-it-or-leave-it" or "pay-for-privacy" terms		✓		✓	✓			✓			✓
Private right of action for consumers	✓	✓	✓	✓							
Limits gov't access to personal data											
Does not preempt stronger state laws	✓	✓	✓	✓	✓				✓		

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EPIC – *Grading on a Curve* (April 2020)

epic.org/GradingOnACurve

EPIC: GRADING ON A CURVE SUMMARY

The United States is now considering several bills to protect privacy. These bills are intended to address growing public concern about the absence of adequate legal protection in the United States for personal data. EPIC's report **Grading on a Curve** reviews recent developments, identifies key characteristics of privacy laws, and assesses pending legislative proposals. The EPIC Report finds that several of the bills lack the basic elements of a comprehensive privacy law, such as a federal baseline for privacy protection, an opportunity for individuals to enforce their rights, and an independent data protection agency. However, Representatives Anna Eshoo and Zoe Lofgren's **Online Privacy Act,** H.R. 4978, is comprehensive, creates strong user rights, and establishes a U.S. Data Protection Agency. EPIC ranks the **Online Privacy Act** as the #1 bill in Congress.

The **Data Protection Act**, S. 3300, filed by Senator Kirsten Gillibrand, solves one critical privacy problem very well by creating an independent Data Protection Agency in the United States to safeguard the personal data of Americans.

EPIC's report reveals that the Senate Commerce and House Energy & Commerce Committees have yet to schedule public hearings on many privacy bills referred to their committees. Congress will need to hold hearings, invite experts, and seek comments from the public before acting on these proposals.

GRADING CRITERIA SUMMARY

Summary of Grading Criteria (for detailed breakdown see report)

1. Federal Baseline – States given room to innovate (15)

2. Definition of "personal data" (5)

3. Establishes Data Protection Agency (15)

4. Enforcement (15)

5. Algorithmic transparency (5)

6. Prohibits "take it or leave it" terms (3)

7. Promotes Data Minimization and Privacy Innovation (7)

8. Individual Rights (right to access, control, delete) (15)

9. Data Controller Obligations (15)

10. Limit government access to personal data (5)

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