

IDENTITY THEFT: SOCIAL SECURITY NUMBER PRIVACY ACT

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House Bill 6171

Sponsor: Rep. Tom Casperson

Committee: Criminal Justice

Complete to 9-14-04

A SUMMARY OF HOUSE BILL 6171 AS INTRODUCED 9-9-04

The bill is part of a multi-bill package addressing the issue of identity theft and is similar to Senate Bill 795. It would create the Social Security Number Privacy Act to prohibit certain uses of social security numbers (SSN), establish penalties for violations, and provide remedies. The bill would apply to a person, association, company, elementary or secondary public or nonpublic school, vocational school, college or university, trade school, state or local governmental agency or department, or other legal entity.

Under the bill, the specified entities could not knowingly do any of the following with all or more than four sequential digits of the SSN of an employee, student, or other individual:

- Publicly display the SSN. "Publicly display" would mean, except as otherwise provided in the bill, to exhibit, hold up, post, or make visible or set out for open view to members of the public or in a public manner.
- Use the SSN as the primary account number for an individual. However, the bill would provide several exceptions.
- Visibly print the SSN on any ID badge or card, membership card, or permit or license. A person or entity that has implemented or does implement a plan or schedule establishing a specific date for compliance with this provision would not be subject to this provision until January 1, 2006 or the completion date specified in the plan or schedule, whichever was earlier.
- Require an individual to transmit the SSN over the Internet or a computer system or network unless the connection was secure or the transmission encrypted.
- Require an individual to use or transmit the SSN to gain access to an Internet website or computer system or network unless a password or other unique personal ID number or authentication device was first required to gain access to the website.
- Include the SSN in or on a document or information mailed or sent to an individual if the digits were visible on or, without manipulation, from outside the envelope or packaging.
- Except as allowed in the bill, include the SSN in any document of information mailed to an individual.

A violation would be a misdemeanor punishable by imprisonment for not more than 93 days, a fine of up to \$1,000, or both. Further, a civil action could be brought to recover actual damages or \$1,000, whichever was greater, plus attorney fees.

The above prohibited acts would not apply to a use of all or more than four sequential digits of a SSN that was authorized or required by state or federal statute, rule, or regulation, by court order or rule, or pursuant to legal discovery or process or use by a law enforcement agency, court, or prosecutor as part of a criminal investigation or prosecution.

A specified entity that obtained one or more SSN in the ordinary course of business would have to create a privacy policy that, at the least, ensured confidentiality of the SSNs; prohibited unlawful disclosure; limited accessibility to information or documents containing SSNs; described proper disposal of documents containing SSNs; and established penalties for violations of the privacy policy. The privacy policy would have to be published in an employee handbook, procedures manual, or similar document.

In addition, all or more than four sequential digits of a SSN contained in a public record would be exempt from disclosure under the Freedom of Information Act.

The bill would take effect March 1, 2005.

FISCAL IMPACT:

House Bill 6171 would have no fiscal impact on the state, and an indeterminate fiscal impact on local units of government. Costs of misdemeanor sanctions would fall to local units of government, and would vary according to the county involved. Penal fine revenue is constitutionally dedicated to local libraries.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.