



Senate Fiscal Agency
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Senate Bill 795 (Substitute S-4 as reported by the Committee of the Whole)

Sponsor: Senator Nancy Cassis

Committee: Judiciary

CONTENT

The bill would create the "Social Security Number Privacy Act" to prohibit a person from knowingly doing any of the following with all or more than four sequential digits of an employee's, student's, or other individual's Social Security number:

- Disclosing them to a third party.
- Publicly displaying or including them in any document or information mailed or otherwise sent to an individual, if the numbers were visible on or from the outside of the envelope or packaging.
- Using them as the primary identification number for the individual or his or her account. (This prohibition would not apply until January 1, 2006, if a person implemented a plan or schedule for elimination of this use.)
- Requiring an individual to use or transmit them over the Internet or a computer system or network unless the connection was secure or the transmission was encrypted, and a password or other authentication device was required.
- Including them in any document or information mailed to an individual unless 1) State or Federal law, rule, or regulation authorized, permitted, or required that a Social Security number appear in the document; 2) the document was sent as part of an application or enrollment process; or 3) the document was sent to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security number.

The prohibitions listed above would not apply if: 1) an individual or his or her parent or legal guardian consented to a disclosure to a third party or a use for which the numbers could be mailed, after being fully informed of the reasons for the disclosure or use; 2) a disclosure, display, or other use of the individual's Social Security number were authorized or required by State or Federal statute, rule, or regulation or court order; 3) a disclosure were by a law enforcement agency, as part of a criminal investigation or prosecution; or 4) a disclosure or distribution were by a county register of deeds on a copy of a public record that included an individual's Social Security number.

In addition, the prohibition against disclosure of a Social Security number would not apply to disclosure to a third party by any of the following, if the third party had a written privacy policy making use of that number confidential:

- A person providing health benefits or an employment benefit or payroll plan.
- A person determining an applicant's suitability for employment.
- A person in lawful pursuit or enforcement of a person's legal rights, including the audit, collection, investigation, or transfer of a debt, claim, receivable, or account.
- A person subject to a regulatory statute, such as State or Federal banking laws or the Insurance Code.

A person who knowingly violated the proposed Act would be guilty of a misdemeanor punishable by up to 93 days' imprisonment, a maximum fine of \$1,000, or both. In addition, an individual could bring a civil action against a person who violated the Act and could recover actual damages or \$1,000, whichever was greater, plus reasonable attorney fees.

The bill would take effect on March 31, 2004.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local units of government.

There are no data to indicate how many offenders would be convicted of the proposed misdemeanor offense. Offenders could receive probation, incarceration in a local facility, and/or a fine of up to \$1,000. Local units of government incur the costs of both misdemeanor probation and incarceration in local facilities, which vary by county. Public libraries would benefit from any additional penal fine revenue raised due to the proposed penalty.

Date Completed: 12-9-03

Fiscal Analyst: Bethany Wicksall