



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2113

Introduced 2/14/2008, by Sen. Christine Radogno

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 805/8.32 new

Creates the Identity Protection Act. Prohibits a State or local government agency from using an individual's social security number in certain ways, subject to various exceptions. Requires each State or local government agency to develop and implement an identity protection plan. Provides that any employee of a State or local government agency who intentionally violates the provisions of the Act is guilty of a Class B misdemeanor. Preempts the concurrent exercise of home rule powers. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

LRB095 18762 HLH 44882 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Identity Protection Act.

6 Section 5. Definitions. In this Act:

7 "Local government agency" means that term as it is defined
8 in Section 1-8 of the Illinois State Auditing Act.

9 "Person" means any individual in the employ of a State
10 agency or local government agency.

11 "Publicly post" or "publicly display" means to
12 intentionally communicate or otherwise intentionally make
13 available to the general public.

14 "State agency" means that term as it is defined in Section
15 1-7 of the Illinois State Auditing Act.

16 Section 10. Prohibited activities.

17 (a) Except as otherwise provided in this Act, beginning
18 July 1, 2009, no person or State or local government agency may
19 do any of the following:

20 (1) Publicly post or publicly display in any manner an
21 individual's social security number.

22 (2) Print an individual's social security number on any

1 card required for the individual to access products or
2 services provided by the person or entity; however, a
3 person or entity that provides an insurance card must print
4 on the card an identification number unique to the holder
5 of the card in the format prescribed by Section 15 of the
6 Uniform Prescription Drug Information Card Act.

7 (3) Require an individual to transmit his or her social
8 security number over the Internet, unless the connection is
9 secure or the social security number is encrypted.

10 (4) Require an individual to use his or her social
11 security number to access an Internet web site, unless a
12 password or unique personal identification number or other
13 authentication device is also required to access the
14 Internet web site.

15 (5) Print an individual's social security number on any
16 materials that are mailed to the individual, through the
17 U.S. Postal Service, any private mail service, electronic
18 mail, or any similar method of delivery, unless State or
19 federal law requires the social security number to be on
20 the document to be mailed. Notwithstanding any provision in
21 this Section to the contrary, social security numbers may
22 be included in applications and forms sent by mail,
23 including, but not limited to, any material mailed in
24 connection with the administration of the Unemployment
25 Insurance Act, any material mailed in connection with any
26 tax administered by the Department of Revenue, and

1 documents sent as part of an application or enrollment
2 process or to establish, amend, or terminate an account,
3 contract, or policy or to confirm the accuracy of the
4 social security number. A social security number that may
5 permissibly be mailed under this Section may not be
6 printed, in whole or in part, on a postcard or other mailer
7 that does not require an envelope or be visible on an
8 envelope or visible without the envelope having been
9 opened.

10 (6) Collect a social security number from an
11 individual, unless required to do so under State or federal
12 law, rules, or regulations, unless the collection of the
13 social security number is otherwise necessary for the
14 performance of that agency's duties and responsibilities.
15 Social security numbers collected by a State or local
16 government agency must be relevant to the purpose for which
17 the number was collected and must not be collected unless
18 and until the need for social security numbers for that
19 purpose has been clearly documented.

20 (7) When requesting a social security number from an
21 individual or when filing a document with the clerk of the
22 circuit court or with the recorder of deeds that has been
23 generated by a person or agency and on which the person or
24 agency has requested a social security number, fail to
25 segregate the social security number on a separate page
26 from the rest of the record, provide a discrete location

1 for a social security number when required on a
2 standardized form, or otherwise place the number in a
3 manner that makes it easily redacted if required to be
4 released as part of a public records request.

5 (8) When collecting a social security number from an
6 individual, fail to provide to the individual, at the time
7 of or prior to the actual collection of the social security
8 number by that agency, upon request by the individual, a
9 statement of the purpose or purposes for which the agency
10 is collecting and using the social security number.

11 (9) Use the social security number for any purpose
12 other than the purpose stated in the statement provided
13 under item (8).

14 (10) Intentionally communicate or otherwise make
15 available to the general public a person's social security
16 number or other identifying information.

17 (b) The prohibitions in subsection (a) do not apply in the
18 following circumstances:

19 (1) The disclosure of social security numbers or other
20 identifying information disclosed to agents, employees, or
21 contractors of a governmental entity or disclosed by a
22 governmental entity to another governmental entity or its
23 agents, employees, or contractors if disclosure is
24 necessary in order for the entity to perform its duties and
25 responsibilities and if the governmental entity and its
26 agents, employees, and contractors maintain the

1 confidential and exempt status of the social security
2 numbers or other identifying information.

3 (2) The disclosure of social security numbers or other
4 identifying information disclosed pursuant to a court
5 order, warrant, or subpoena.

6 (3) The collection, use, or disclosure of social
7 security numbers or other identifying information in order
8 to ensure the safety of: State and local government
9 employees; persons committed to correctional facilities,
10 local jails, and other law-enforcement facilities or
11 retention centers; wards of the State; and all persons
12 working in or visiting a State or local government agency
13 facility.

14 (4) The disclosure of social security numbers by a
15 State agency to any entity for the collection of delinquent
16 child support or of any State debt.

17 (5) The collection, use, or disclosure of social
18 security numbers or other identifying information to
19 investigate or prevent fraud, to conduct background
20 checks, to conduct social or scientific research, to
21 collect a debt, to obtain a credit report from or furnish
22 data to a consumer reporting agency under the federal Fair
23 Credit Reporting Act, to undertake any permissible purpose
24 that is enumerated under the federal Gramm Leach Bliley
25 Act, or to locate a missing person, a lost relative, or a
26 person who is due a benefit, such as a pension benefit or

1 an unclaimed-property benefit.

2 (c) If any State agency or local government agency has
3 adopted standards for the collection, use, or disclosure of
4 social security numbers or other identifying information that
5 are stricter than the standards under this Act with respect to
6 the protection of that identifying information, then, in the
7 event of any conflict with the provisions of this Act, the
8 stricter standards adopted by the State agency or local
9 government agency shall control.

10 Section 15. Public inspection and copying of information
11 and documents. Notwithstanding any other provision of this Act
12 to the contrary, a person or State or local government agency
13 must comply with the provisions of any other State law with
14 respect to allowing the public inspection and copying of
15 information or documents containing all or any portion of an
16 individual's social security number or other identifying
17 information.

18 Section 20. Applicability.

19 (a) This Act does not apply to the collection, use, or
20 release of a social security number or other identifying
21 information, as required by State or federal law, rule, or
22 regulation, or the use of a social security number or other
23 identifying information for internal verification or
24 administrative purposes.

1 (b) This Act does not apply to documents that are recorded
2 or required to be open to the public under any State or federal
3 law, rule, or regulation, applicable case law, Supreme Court
4 Rule, or the Constitution of the State of Illinois.

5 Section 25. Compliance with federal law. If a federal law
6 takes effect requiring any federal agency to establish a
7 national unique patient health identifier program, any State or
8 local government agency that complies with the federal law
9 shall be deemed to be in compliance with this Act.

10 Section 30. Embedded social security numbers. Beginning
11 December 31, 2009, no person or State or local government
12 agency may encode or embed a social security number in or on a
13 card or document, including, but not limited to, using a bar
14 code, chip, magnetic strip, RFID technology, or other
15 technology, in place of removing the social security number as
16 required by this Act.

17 Section 35. Identity-protection policy. Each State agency
18 and local government agency must establish an
19 identity-protection policy and must implement that policy on or
20 before December 31, 2009. The policy must do all of the
21 following:

22 (1) Require all employees of the State or local
23 government agency to be trained to protect the

1 confidentiality of social security numbers and to
2 understand the requirements of this Section.

3 (2) Prohibit the unlawful disclosure of social
4 security numbers.

5 (3) Limit the number of employees who have access to
6 information or documents that contain social security
7 numbers.

8 (4) Describe how to properly dispose of information and
9 documents that contain social security numbers.

10 (5) Establish penalties for violation of the privacy
11 policy.

12 (6) Prevent the intentional communication of or
13 ability of the general public to access an individual's
14 social security number.

15 Each State agency must file a written copy of its privacy
16 policy with the Clerk of the House of Representatives and the
17 Secretary of the Senate. Each local government agency must file
18 a written copy of its privacy policy with the governing board
19 of the unit of local government. Each State or local government
20 agency must also provide a written copy of the policy to each
21 of its employees, and must also make its privacy policy
22 available to any member of the public, upon request. If a State
23 or local government agency amends its privacy policy, then that
24 agency must file a written copy of the amended policy with the
25 appropriate entity and must also provide each of its employees
26 with a new written copy of the amended policy.

1 Section 40. Judicial branch and clerks of courts. The
2 judicial branch and clerks of the circuit court are not subject
3 to the provisions of this Act, except that the Supreme Court
4 shall, under its rulemaking authority or by administrative
5 order, adopt requirements applicable to the judicial branch,
6 including clerks of the circuit court, regulating the
7 disclosure of social security numbers consistent with the
8 intent of this Act and the unique circumstances relevant in the
9 judicial process.

10 Section 45. Violation. Any person who intentionally
11 violates this Act is guilty of a Class B misdemeanor.

12 Section 50. Home rule. A home rule unit may not regulate
13 the use of social security numbers in a manner that is
14 inconsistent with this Act. This Act is a limitation under
15 subsection (i) of Section 6 of Article VII of the Illinois
16 Constitution on the concurrent exercise by home rule units of
17 powers and functions exercised by the State.

18 Section 55. This Act does not supersede any more
19 restrictive law, rule, or regulation regarding the collection,
20 use, or release of social security numbers.

21 Section 90. The State Mandates Act is amended by adding

1 Section 8.32 as follows:

2 (30 ILCS 805/8.32 new)

3 Sec. 8.32. Exempt mandate. Notwithstanding Sections 6 and 8
4 of this Act, no reimbursement by the State is required for the
5 implementation of any mandate created by this amendatory Act of
6 the 95th General Assembly.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.