



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0547

Introduced 2/4/2009, by Rep. Sandra M. Pihos

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 805/8.33 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 policy. 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. Imposes conditions on any rulemaking authority. Amends the State Mandates Act to require implementation without reimbursement by the State. Effective immediately.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

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, 2010, 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) Use the social security number for any purpose
21 other than the purpose for which it was collected.

22 (8) Intentionally communicate or otherwise make
23 available to the general public a person's social security
24 number.

25 (b) The prohibitions in subsection (a) do not apply in the
26 following circumstances:

1 (1) The disclosure of social security numbers to
2 agents, employees, or contractors of a governmental entity
3 or disclosed by a governmental entity to another
4 governmental entity or its agents, employees, or
5 contractors if disclosure is necessary in order for the
6 entity to perform its duties and responsibilities and if
7 the governmental entity and its agents, employees, and
8 contractors maintain the confidential and exempt status of
9 the social security numbers.

10 (2) The disclosure of social security numbers pursuant
11 to a court order, warrant, or subpoena.

12 (3) The collection, use, or disclosure of social
13 security numbers in order to ensure the safety of: State
14 and local government employees; persons committed to
15 correctional facilities, local jails, and other
16 law-enforcement facilities or retention centers; wards of
17 the State; and all persons working in or visiting a State
18 or local government agency facility.

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

22 (5) The collection, use, or disclosure of social
23 security numbers to investigate or prevent fraud, to
24 conduct background checks, to conduct social or scientific
25 research, to collect a debt, to obtain a credit report from
26 or furnish data to a consumer reporting agency under the

1 federal Fair Credit Reporting Act, to undertake any
2 permissible purpose that is enumerated under the federal
3 Gramm Leach Bliley Act, or to locate a missing person, a
4 lost relative, or a person who is due a benefit, such as a
5 pension benefit or an unclaimed-property benefit.

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

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

20 Section 20. Applicability.

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

1 verification or administrative purposes.

2 (b) This Act does not apply to documents that are recorded
3 with a county recorder or required to be open to the public
4 under any State or federal law, rule, or regulation, applicable
5 case law, Supreme Court Rule, or the Constitution of the State
6 of Illinois. Notwithstanding this Section, county recorders
7 must comply with the provisions of Section 35 of this Act.

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

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

20 Section 35. Identity-protection policy; local government.
21 Each local government agency must establish an
22 identity-protection policy and must implement that policy on or
23 before December 31, 2009. The policy must do all of the

1 following:

2 (1) Identify all employees of the local government
3 agency who may have access to social security numbers in
4 the course of performing their duties.

5 (2) Require all employees of the local government
6 agency identified as having access to social security
7 numbers in the course of performing their duties to be
8 trained to protect the confidentiality of social security
9 numbers and to understand the requirements of this Section.

10 (3) Prohibit the unlawful disclosure of social
11 security numbers.

12 (4) Limit the number of employees who have access to
13 information or documents that contain social security
14 numbers.

15 (5) Describe how to properly dispose of information and
16 documents that contain social security numbers.

17 (6) Establish penalties for violation of the privacy
18 policy.

19 (7) Prevent the intentional communication of or
20 ability of the general public to access an individual's
21 social security number.

22 (8) Require that social security numbers requested
23 from an individual be segregated on a separate page from
24 the rest of the record, provide a discrete location for a
25 social security number when required on a standardized
26 form, or otherwise place the number in a manner that makes

1 it easily redacted if required to be released as part of a
2 public records request.

3 (9) Require that, when collecting a social security
4 number from an individual, at the time of or prior to the
5 actual collection of the social security number or upon
6 request by the individual, a statement of the purpose or
7 purposes for which the agency is collecting and using the
8 social security number be provided.

9 Each local government agency must file a written copy of
10 its privacy policy with the governing board of the unit of
11 local government. Each local government agency must also
12 provide a written copy of the policy to each of its employees,
13 and must also make its privacy policy available to any member
14 of the public, upon request. If a local government agency
15 amends its privacy policy, then that agency must file a written
16 copy of the amended policy with the appropriate entity and must
17 also provide each of its employees with a new written copy of
18 the amended policy.

19 Section 37. Identity-protection policy; State. Each State
20 agency must recommend to the Social Security Number Task Force
21 an identity-protection policy on or before September 30, 2009.
22 The policy must do all of the following:

23 (1) Identify all employees of the State agency who may
24 have access to social security numbers in the performance
25 of their duties.

1 (2) Require all employees of the State agency
2 identified as having access to social security numbers in
3 the performance of their duties to be trained to protect
4 the confidentiality of social security numbers and to
5 understand the requirements of this Section.

6 (3) Prohibit the unlawful disclosure of social
7 security numbers.

8 (4) Limit the number of employees who have access to
9 information or documents that contain social security
10 numbers.

11 (5) Describe how to properly dispose of information and
12 documents that contain social security numbers.

13 (6) Establish penalties for violation of the privacy
14 policy.

15 (7) Prevent the intentional communication of or
16 ability of the general public to access an individual's
17 social security number.

18 (8) Require that social security numbers requested
19 from an individual be segregated on a separate page from
20 the rest of the record, provide a discrete location for a
21 social security number when required on a standardized
22 form, or otherwise place the number in a manner that makes
23 it easily redacted if required to be released as part of a
24 public records request.

25 (9) Require that, when collecting a social security
26 number from an individual, at the time of or prior to the

1 actual collection of the social security number or upon
2 request by the individual, a statement of the purpose or
3 purposes for which the agency is collecting and using the
4 social security number be provided.

5 The Task Force will study the recommendations from the
6 State agencies and will make its recommendation to the General
7 Assembly of the changes needed to implement the policies by
8 December 31, 2009.

9 Section 40. Judicial branch and clerks of courts. The
10 judicial branch and clerks of the circuit court are not subject
11 to the provisions of this Act, except that the Supreme Court
12 shall, under its rulemaking authority or by administrative
13 order, adopt requirements applicable to the judicial branch,
14 including clerks of the circuit court, regulating the
15 disclosure of social security numbers consistent with the
16 intent of this Act and the unique circumstances relevant in the
17 judicial process.

18 Section 45. Violation. Any person who intentionally
19 violates the prohibitions in Section 10 of this Act is guilty
20 of a Class B misdemeanor.

21 Section 50. Home rule. A home rule unit of local
22 government, any non-home rule municipality, or any non-home
23 rule county may regulate the use of social security numbers,

1 but that regulation must be no less restrictive than this Act.
2 This Act is a limitation under subsection (i) of Section 6 of
3 Article VII of the Illinois Constitution on the concurrent
4 exercise by home rule units of powers and functions exercised
5 by the State.

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

9 Section 60. Rulemaking conditions. Rulemaking authority to
10 implement this Act, if any, is conditioned on the rules being
11 adopted in accordance with all provisions of the Illinois
12 Administrative Procedure Act and all rules and procedures of
13 the Joint Committee on Administrative Rules; any purported rule
14 not so adopted, for whatever reason, is unauthorized.

15 Section 90. The State Mandates Act is amended by adding
16 Section 8.33 as follows:

17 (30 ILCS 805/8.33 new)

18 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
19 of this Act, no reimbursement by the State is required for the
20 implementation of any mandate created by the Identity
21 Protection Act.

22 Section 99. Effective date. This Act takes effect upon

1 becoming law.