

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1176
Judiciary

(Delegate Lee, *et al.*)

Crimes - Disclosure of Social Security Numbers - Penalties

This bill prohibits the intentional public disclosure of a person's Social Security number (SSN). The bill includes several specified circumstances under which these numbers may not be required, printed, transmitted, sold, leased, traded, rented, or otherwise disclosed. A person may not refuse to do business with another person because the other person will not consent to provide an SSN, except when required under State or federal law. These provisions do not prevent a unit of State or local government from using an SSN for internal verification and administrative purposes, as long as this use does not result in, or require the release of, the SSN to unauthorized persons.

A violation resulting from negligence subjects the violator to a maximum civil penalty of \$3,000 for each violation. A knowing violation subjects the violator to maximum misdemeanor penalties of imprisonment for one year and/or a fine of \$5,000. An aggrieved person may bring a civil action for a violation for recovery of actual damages or \$5,000, whichever is greater, plus reasonable attorney's fees and court costs.

Fiscal Summary

State Effect: Any potential computer reprogramming costs for a unit of State government could be handled with existing budgeted resources. The civil and/or criminal penalty provisions of this bill are not expected to significantly affect State finances or operations. Authorizing a private cause of action for the illegal disclosure of SSNs is not expected to materially affect the workload of the Judiciary.

Local Effect: Any potential computer reprogramming costs for a unit of local government could be handled with existing budgeted resources. The civil and/or criminal penalty provisions of this bill are not expected to significantly affect local government

finances or operations. Authorizing a private cause of action for the illegal disclosure of SSNs is not expected to materially affect the workload of the circuit courts.

Small Business Effect: Minimal. Because the provisions of this bill are largely covered under current law prohibitions enacted in FY 2006, this bill is not expected to be a measurable additional burden for small businesses.

Analysis

Current Law: Chapter 521 of 2005 prohibits a person under specified circumstances from: (1) publicly posting or displaying an individual's SSN; (2) printing an individual's SSN on a card required to access products or services provided by the person providing the card; (3) requiring an individual to transmit the individual's SSN over the Internet unless there is a secure connection and encryption protection; (4) initiate the transmission of an individual's SSN over the Internet unless there is a secure connection and encryption protection; (5) requiring an individual to use the individual's SSN to access an Internet web site, unless a password, unique personal identification, or other authentication device is also required; or (6) unless required by law, printing an individual's SSN on any material mailed to the individual, including an individual's SSN in material that is electronically transmitted to the individual without a secure connection or encryption protection, or including an individual's SSN in material that is sent by facsimile to the individual. Violation of these provisions is an unfair or deceptive trade practice under the Maryland Consumer Protection Act.

Also, the State, local governments, local school systems, and public institutions of higher education may not print an employee's SSN on any type of identification card. A local school system and a public institution of higher education may not print a student's SSN on any type of identification card. The Motor Vehicle Administration may not use, include, or encode, in any form, an individual's SSN on the individual's driver's license.

Background: Concern regarding identity theft has grown nationally. Unauthorized use of SSNs is the most common way criminals are committing identity theft. An individual's SSN can be used to access an individual's personal and often financial information. As indicated in the *Report on the Attorney General's Identity Theft Forum*, the number of identity theft complaints received by the Federal Trade Commission from Maryland residents increased by more than 400% over the last five years, ranking Maryland eleventh among the 50 states in the number of identity theft victims as a percent of its population.

Several other states have laws (or are considering provisions) penalizing certain disclosures of an SSN, including Illinois, New Jersey, Nevada, and North Carolina.

Chapters 241 and 242 of 2005 established a 21-member legislative task force on identity theft. To date, 14 of 21 members have been appointed. The task force is charged with studying the problems associated with identity theft in Maryland and the privacy laws in other states. The task force is required to consult with federal agencies, agencies in other states, and identity theft experts during its investigation. The task force must also complete a survey of State agencies to determine compliance with State and federal laws regarding collection and use of SSNs. Findings and recommendations for possible remedies to identity theft must be submitted to the General Assembly by December 31, 2006.

State Expenditures: This bill would result in some minor one-time software modifications for some State government agencies. For example, the Department of Human Resources reports that the bill would require changes to automated systems that generate notices for the Child Support Enforcement Program. These one-time costs in fiscal 2007 would total about \$30,400, of which about \$20,100 would be covered by federal funds. It is assumed that in all such instances these new costs could be handled with existing budgeted resources. In addition, the Department of Legislative Services advises that if other legislation is passed requiring computer reprogramming changes, economies of scale could be realized. This would reduce the costs associated with this bill and other legislation affecting State agencies.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Human Resources, Judiciary (Administrative Office of the Courts), Department of State Police, Maryland Department of Transportation, Department of Public Safety and Correctional Services, Department of Legislative Services

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