

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

HOUSE BILL 2110

4
5 By: Representative D. Creekmore
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For An Act To Be Entitled

9 AN ACT TO PROVIDE INCREASED PROTECTION AGAINST
10 THE UNAUTHORIZED DISCLOSURE OF A SOCIAL SECURITY
11 NUMBER; AND FOR OTHER PURPOSES.
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Subtitle

13 TO PROVIDE INCREASED PROTECTION AGAINST
14 THE UNAUTHORIZED DISCLOSURE OF A SOCIAL
15 SECURITY NUMBER.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 4-86-107 is amended to read as follows:

22 4-86-107. ~~Prohibiting the misappropriation~~ Protection of social
23 security numbers from unauthorized disclosure – Penalties.

24 (a) As used in this section:

25 (1) "Person" means:

26 (A) An individual;

27 (B) A corporation;

28 (C) A partnership;

29 (D) An organization; ~~or~~

30 (E) Any other entity;

31 (F) A state agency, board, commission, or other
32 instrumentality of the state;

33 (G) A county, municipality, or other political subdivision
34 of the state; and

35 (H) A public or private educational institution, school
36 district, college, university, or other institution of learning or higher



1 education; and

2 (2) "Publicly post" or "publicly display" means to intentionally
3 communicate or otherwise make available to the general public.

4 (b) Except as provided in subsection (c) of this section, a person ~~may~~
5 shall not do any of the following:

6 (1) Publicly post or publicly display in any manner an
7 individual's social security number or any five (5) or more consecutive
8 numbers taken from the individual's social security number;

9 (2)(A) In order to access products or services provided by a
10 person:

11 (i) Print an individual's social security number on
12 any card required for the individual to access the products or services
13 ~~provided by the person or entity, including without limitation a driver's~~
14 license, a fishing license, a health or drug insurance card or other benefit
15 card, or a student identification card; or

16 (ii) Require the disclosure of an individual's
17 social security number.

18 (B) If no legal basis exists for requiring an individual
19 to provide the individual's social security number, the individual may refuse
20 to provide the individual's social security number;

21 (3) Print an individual's social security number:

22 (A) On a postcard or other mailer not requiring an
23 envelope; ~~or~~

24 (B) In a manner in which the social security number is
25 visible on an envelope or without the envelope's being opened; or

26 (C) On any check, draft, or warrant used to compensate or
27 reimburse an employee or a volunteer; ~~or~~

28 (4) Require an individual to transmit his or her social security
29 number over the Internet unless the:

30 (A) Connection is secure; or

31 (B) Social security number is encrypted; ~~;~~

32 (5)(A) Except as provided in subdivision (b)(5)(B) of this
33 section, sell, lease, lend, trade, rent, or otherwise intentionally disclose
34 an individual's social security number to a third party without written
35 consent to the disclosure from the individual.

36 (B) Written consent under subdivision (b)(5)(A) is not

1 required if the third party is acting as the agent or contractor of a person
 2 performing an action permitted by this section;

3 (6) Refuse to allow an individual to create or use an
 4 independent number for identification purposes;

5 (7) Discard or dispose of a record or device containing an
 6 individual's social security number unless before discarding or disposing of
 7 the record or device the person:

8 (A) Shreds the record or device;

9 (B) Renders the individual's social security number
 10 contained in the record or device unreadable or irretrievable; or

11 (C) Takes reasonable actions in conformance with industry
 12 standards to ensure that an unauthorized person will not have access to the
 13 individual's social security number;

14 (8) Fraudulently obtain, record, or access an individual's
 15 social security number; or

16 (9) Request an individual's social security number without
 17 disclosing:

18 (A) The intended use of the social security number;

19 (B) Whether providing the social security number is
 20 voluntary or mandatory and if mandatory, the state or federal law that
 21 requires the social security number to be provided;

22 (C) That a service or privilege will not be withheld if
 23 providing the social security number is not mandatory and the social security
 24 number is not provided; and

25 (D) That the individual may use or create and use a number
 26 other than the individual's social security number unless the exclusive use
 27 of a social security number is required by state or federal law.

28 (c) This section does not prevent the collection, use, or release of a
 29 social security number:

30 (1) As required ~~by, or explicitly~~ authorized by, or reasonably
 31 necessary for compliance with federal or state law; ~~or~~

32 (2) ~~Pursuant to~~ Under state or federal court rules, including
 33 without limitation a lawfully issued subpoena;

34 (3) If authorized by an individual, as reasonably necessary for
 35 administrative purposes, internal verification, a criminal background check,
 36 the opening of an account, or the provision of a payment, a product, a

1 service, or a license so long as the use does not require the release of the
2 social security number to persons not designated by an entity to perform
3 associated functions allowed or authorized by law; or

4 (4) By a college, university, or other institution of higher
5 education to:

6 (A) Confirm grades, test scores, and other records of
7 applicants;

8 (B) Update the records of current or former students; or

9 (C) Collect a debt owed to the college, university, or
10 other institution of higher education.

11 (d) This section does not apply to an entity providing an electronic
12 communications service to the public that is used by another person to
13 violate this section unless the entity:

14 (1) Conspires with another person to violate this section; or

15 (2) Intentionally aids and abets another person in the violation
16 of this section.

17 (e) This section shall not be asserted as a means to avoid compliance
18 with an otherwise valid request for records pursuant to under the Freedom of
19 Information Act of 1967, § 25-19-101 et seq.

20 (f) The Attorney General may:

21 (1) Bring suit against any person for violating ~~the provisions~~
22 ~~of~~ this section;

23 (2) Collect civil penalties of up to two hundred fifty dollars
24 (\$250) per violation along with attorney's fees and costs incurred in the
25 investigation and prosecution of the matter; and

26 (3) Seek appropriate injunctive relief.

27 (g) In addition to the civil penalties, fees, costs, and injunctive
28 relief available under subsection (f) of this section, a violation of this
29 section is a Class A misdemeanor.

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