

(H. B. 2225)

**(No. 186)**

(Approved September 1, 2006)

**AN ACT**

To prohibit the use of the Social Security Number as regular identification in public and private educational institutions from elementary to post-graduate level; establish the norms for the use of this data in educational institutions, to empower the Council on Higher Education and the General Education Council to impose administrative fines for violations of said norms and to fix a term for compliance thereof.

**STATEMENT OF MOTIVES**

Last year, over 9.3 million consumers within the jurisdiction of the United States were affected by the identity theft phenomenon. One insidious modality of this practice involves the configuration of schemes in which its participants, armed with partial information about a citizen, approach entities with which said citizen deals on a daily basis with the excuse of conducting pieces of legitimate transactions obtain additional information.

One of the pieces of information pieces which is most vulnerable to undue use is the social security number of the citizen. This piece of information is frequently used in ways that were unforeseen when said program was created. The origin and purpose of the Social Security number was to serve as a taxpayer's account number designed to be used for conducting Social Security transactions, for tax transactions and transactions involving work-related benefits and was never designed to be a universal identification number nor a identity card number of a citizen. However, that

number is frequently used for verifying the identity of a person, precisely because it allows for making reference to taxpayer or payroll lists.

The Federal laws authorize certain specific uses for the social security number by local and state agencies and entities. To allow requiring the social security number for the purpose of verifying the identity of a person, does not however mean that there is an obligation or the freedom to use the same as public identification employee, case, or registration number.

Educational institutions that receive federal funds are compelled to comply with the “Family Educational Rights and Privacy Act of 1974 (FERPA)”, known as the Buckley Amendment, 20 U.S.C. §1232g, to maintain their funding. One of the requirements of the above federal legislation is the need for the written consent of the person before the release of any school record or information related to the identification of any person, with few exceptions. The courts have ruled that the Social Security number is covered under the provisions of the federal law referred to above.

It may be argued that, if any educational entity at any level shows the social security numbers of its students, whether in identification cards, enrollment lists or directories, such action would constitute a disclosure of personal identification information in violation of the provisions of FERPA. However, many schools and universities have not interpreted the law in this manner and continue to use the social security number as a daily form of student identification.

Public and private schools and universities that request the social security number are covered under the provisions of the Privacy Act of 1974, another federal legislation to obtain social security numbers when there is a legitimate need. This Act requires that these educational

institutions issue a statement to the students on how their social security numbers are to be used by the institution.

The Social Security Administration, the Federal Trade Commission, and other government and industrial entities recommend that those companies or agencies that use or gather social security numbers refrain from displaying said number so as to be in casual view of the public and to keep the same as confidential data for internal use as reference, taking information security measures at all times; and that they consider providing their clientele with identification numbers different from the Social Security Number if no work-related or tax transactions are involved.

As a consequence, the Legislature of Puerto Rico deems it prudent and necessary to approve this Act, in order to prohibit the use of the Social Security Number as identification number in public and private educational institutions from elementary to post-graduate level, to establish the prohibition of its use and to fix penalties.

***BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:***

Section 1.- No public or private school, whether elementary, middle or high school, nor any university, college or technical school or entity authorized, licensed or accredited as an educational institution, whether by the General Education Council of Puerto Rico or the Council on Higher Education of Puerto Rico, may post or disclose the social security number of any student in a place or object visible to the general public in order to identify such student, to place or publish grade lists, lists of students enrolled in courses or any other list given to teachers; nor include the same in the student directory or similar list, except for confidential internal use; nor making it accessible to any person who has no need or authority for accessing said data.

If a document that contains a social security number has to be made public, outside of the academic confidentiality context, said number shall be edited so that said data be partially or totally illegible, without it being construed as an alteration of the contents of the document.

These protections may be waived, voluntarily, by students of legal age or legally emancipated or by the parents with custody and the *parens patriae* of the minors through a written authorization; however, said waiver may not be imposed as a condition for the enrollment, graduation, grade index or credit for transcripts or rendering services.

This provision shall not apply as to the use of the social security number in cases where it is required or authorized by federal law or regulations, or its use for identity verification purposes, validations, employment, taxes, or financial assistance, provided that the agency or agencies involved maintain its confidentiality.

Section 2.- The violation of the provision of this Act, including the failure to protect the confidentiality of the Social Security number, shall entail an administrative fine of not less than five hundred (500) dollars nor of more than five thousand (5,000) dollars, to be imposed by the regulatory entity of the institution. The Council on Higher Education, in the case of universities, and the General Education Council, in the case of all other educational institutions, are hereby empowered to impose administrative fines for noncompliance with these provisions.

Section 3.- If any provision, word, sentence, or subsection of this Act were contested for any reason before any court, and declared unconstitutional or null, such ruling shall not affect, impair, or invalidate the remaining provisions of this Act.

Section 4.- The agencies, in this case the Council on Higher Education and the General Education Council, as well as public or private educational institutions at all levels, shall have six (6) months after the effectiveness of this Act, to certify to its respective regulatory entity the implementation of these provisions or of a work plan to achieve the same at the beginning of the following academic year.

Section 5.- This Act shall take effect ninety (90) days after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 186 (H.B. 2225) of the 4<sup>th</sup> Session of the 15<sup>th</sup> Legislature of Puerto Rico:

**AN ACT** to prohibit the use of the Social Security Number as regular identification in public and private educational institutions from elementary to post-graduate level; establish the norms for the use of this data in educational institutions, to empower the Council on Higher Education and the General Education Council to impose administrative fines for violations of said norms and to fix a term for compliance thereof,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15<sup>th</sup> of December of 2006.

Francisco J. Domenech  
Director