

(H. B. 2221)
(Reconsidered)

(No. 243)

(Approved November 10, 2006)

AN ACT

To set forth the public policy on the use of the Social Security Number as identity verification and the protection of its confidentiality; to provide the limits and requirements for the use of this data by Commonwealth and municipal public entities; to prohibit the use of said number in identification cards or in documents of general circulation, or as case, complaint, or client number; to establish sanctions for noncompliance; fix a term for its implementation; and to repeal Act No. 28 of January 10, 1998, as amended.

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 agencies or entities that gather information under the guise of conducting a legitimate transactions obtain additional information about the consumer.

One of the pieces of information 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 citizen's identity card. 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.

At federal level, various laws require or authorize the use of the Social Security Number for identification purposes in different government agencies. The Privacy Act regulates the use of the Social Security Number for identification purposes. To these effects, said Act establishes that whenever a federal, state, or local agency requires a person his/her social security number for any governmental purpose, said agency shall inform the person of the statute or legal authority from which said power originates, whether said disclosure is mandatory or voluntary, the purposes for which the number shall be used, and the consequences for refusing to disclose the same. 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. Due to the undue practice engaged in by some private enterprises of requiring the number as identification source, the Social Security Administration has stated that these enterprises may so request it, however, it is optional for the person to disclose it.

The Social Security Administration, the Federal Trade Commission and other government and industrial entities recommend that those companies or agencies that use or obtain a Social Security Number refrain from displaying said number so as to be in casual view of the public and maintain the same as confidential data for internal use as reference, taking information security measures at all times; and that they consider providing their clients with

identification, case or employee numbers different from the Social Security Number if no fiscal or tax transactions are involved.

Today, the use of the Social Security Number as a means of identification is common. Therefore, it is important to establish mechanisms to guarantee its proper use. Act No. 28 of January 10, 1998, as amended, allows the agencies of the Commonwealth of Puerto Rico, including those that operate as private enterprises, and the municipalities to use the Social Security Number as a regular means of identification. The same specifically provides:

“The Social Security number shall be used as a universal number for every government purpose. Agencies of the Government of Puerto Rico, including those instrumentalities that operate as private businesses or enterprises and the municipalities, shall adopt the necessary administrative mechanisms for the implementation of said system in order to expedite the documentation and identification process, safeguarding the confidential nature of the information that the Commonwealth is prevented from revealing, and ensuring that there shall be no interruption of the services offered to persons who for any reason, do not have a Social Security number, or object to the use thereof. The agency shall inform that the number is requested by virtue of this Act and shall indicate the purpose for its use. This measure shall make it easier for both the citizens and for the agencies, public instrumentalities and the municipalities, to expedite the handling of documents and the identification of each citizen in their respective cases

whenever they request services at the different government agencies.”

The excessive use of the Social Security Number as a universal means of identification not only exposes the citizen to identity theft, but also devalues the use thereof for its legitimate purposes. In order to address this reality, it is necessary to legislate in order to prevent that the uses to be given to the Social Security Number in cases under the jurisdiction of Puerto Rico, violate the security of this information.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- To set forth the public policy on the use of the Social Security Number as means of identification verification and on the protection of its confidentiality; to set forth the limits and requirements for the use of this information.

Section 2.- The Federal Social Security Number shall be used by the agencies, dependencies, and instrumentalities of the Commonwealth of Puerto Rico, the Executive, Legislative and Judicial Branches, its Municipalities, and public corporations, and by the contractors of said government entities within the parameters and for the purposes provided and authorized by Federal Legislation.

Section 3.- The entities referred to in Section 2 of this Act shall obtain the Social Security Number of persons making official transactions and use the same for the purposes of expediting the identity verification process; verifying the information available internally, or in other agencies or entities including without it being construed as a limitation, tax or personnel administration transactions and investigations, eligibility for benefits, compliance with Child Support laws, audit reports and criminal investigations; and to standardize the internal procedures of information

exchange. This process shall be followed by adopting the necessary administrative mechanisms in order to expedite the documentation and identification process, and to safeguard the confidentiality of the information the State is barred from revealing, and to guarantee the interruption or refusal to render the services or benefits offered to persons who for any reason do not have a Social Security Number, or who object the use thereof, except that its obligatory use is imposed or authorized by federal law or regulation.

Section 4.- The Federal Social Security Number shall not be used as a regular identification card number nor be considered proof of citizenship, residence, or of eligibility for services.

Section 5.- Every entity, of those referred to above in Section 2 of this Act, that requires the Social Security Number of a citizen, shall inform him/her the legal authority under which said request is made and indicate to him/her the use intended therefor, as well as whether its disclosure is mandatory or voluntary.

Section 6.- It is hereby prohibited for the agencies of the Government of the Commonwealth of Puerto Rico, the Executive, Legislative, and Judicial Branches, including those instrumentalities that operate as a private enterprise or business, municipalities, and private juridical entities acting as administrators or state or municipal public service providers and that use the Social Security Number of any citizen, including their employees, as a means of identity or record verification, to circulate, display or reveal said number in a document of general circulation or in any article that is accessible or visible to any person, within or outside the entity, which does not need to know this data.

- (A) The Social Security Number of an employee, regardless of the nature of his/her position or appointment, nor that of any contractor shall be shown or displayed in his/her identification card. Furthermore, no Social Security Number shall be displayed in personnel directories or any similar list available to persons whose function does not require knowing this data.
- (B) The Social Security Number of any user, subscriber, client, beneficiary, or applicant shall not be used as case, claim, client or identification number in any public document or document of general circulation. The citizen may voluntarily offer this data as a mechanism to expedite the obtaining of his/her file, in the case that no other reference is available; however, the same shall not be shown in the documents.

Whenever it is required to make public a document that contains a Social Security Number, the same shall be unreadable, without it being understood as an alteration to the contents of the document.

These protections may be waived voluntarily by the affected person; however, said waiver shall not be imposed as a condition for employment or service rendering. These provisions shall not apply to the use of the Social Security Number in those cases and for those purposes in which it is required or authorized by law or federal regulations, or whenever a special law expressly authorizes it, nor shall be used for internal identity verification purposes, subject to keeping its confidentiality.

Section 7.- The entities affected by the provisions of Section 6 of this Act whose compliance requires changes in their procedures, regulations, information systems, or special budgetary distributions shall have one (1) year after the effective date of the Act to certify to the Department of State

their compliance with said provisions, or in its defect, to certify the progress of the work plan which is to be fulfilled within the next fiscal year.

Section 8.- The entities referred to in Section 2 of this Act shall incorporate, in their regulations and disciplinary measures, sanctions for noncompliance with the provisions of this Act to be applied without prejudice to any possible process that may arise pursuant to any other provisions of law relative to government ethics, omission or negligence in carrying out their duties, disclosure of personal data or violation of civil rights; or to possible actions for damages against officials or employees either personally or officially, or against the entity.

Section 9.- Act No. 28 of January 10, 1998, as amended is hereby repealed.

Section 10.- 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 11.- This Act shall take effect immediately after its approval, subject to the provisions of Section 7 as to the term to develop plans for implementation.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 243 (H.B. 2221) (Reconsidered) of the 4th Session of the 15th Legislature of Puerto Rico:

AN ACT to set forth the public policy on the use of the Social Security Number as identity verification and the protection of its confidentiality; to provide the limits and requirements for the use of this data by Commonwealth and municipal public entities; to prohibit the use of said number in identification cards or in documents of general circulation, or as case, complaint, or client number; to establish sanctions for noncompliance; fix a term for its implementation; and to repeal Act No. 28 of January 10, 1998, as amended,

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

In San Juan, Puerto Rico, today 28th of September of 2007.

Francisco J. Domenech
Director