



**VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL**  
COMMONWEALTH OF VIRGINIA

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**MEMORANDUM**

TO: Members, Personal Identifying Information Subcommittee  
and JCOTS SSN Subcommittee

FROM: Maria J.K. Everett

DATE: August 22, 2007

SUBJECT: Other States' laws on access to Social Security Numbers (SSNs).

At the last joint meeting on July 12, 2007 of the Personal Identifying Information (PII) Subcommittee and JCOTS SSN Subcommittee, hereinafter referred to as the Subcommittees, staff was requested to compile information concerning whether other states restrict access to SSNs contained in public records and if so, the nature of any such restrictions on access. Appendix A to this memorandum, prepared by the National Conference on State Legislatures, provides a summary of enacted state laws concerning access to SSNs generally, and includes restrictions on the private sector.

**In General**

Preliminary research reveals that many states have enacted laws that restrict access to SSNs in public records and in the private sector. The language and specifics of these laws differ in language and specific inclusions and exclusions. Some states' law applies only to the private sector and imposes restrictions on

the collection and dissemination of SSNs in connection with commercial transactions. In examining the various means through which the acts restrict access to SSNs, however, there appear to be some common themes.

Many states, including Virginia, restrict the display of SSNs on government-issued identification cards and restrict the mailing of documents in which SSNs are visible either on the envelope or through a window on such envelope. Other states, in a commercial setting, prohibit requiring individuals to transmit SSNs over the Internet unless the connection is secure or the SSN is encrypted. According to research conducted by Gail Hillebrand, Financial Services Campaign Manager, Consumers Union, "...California enacted legislation in 2001 that generally prohibited businesses from engaging in certain activities with SSNs, such as posting or publicly displaying SSNs, mailing documents that display SSNs before the document is opened, printing SSNs on cards necessary for accessing products or services, or requiring people to transmit a SSN over the Internet..." According to Ms. Hillebrand's research, "[T]wenty one states have passed laws similar to California's--Arizona, Arkansas, Colorado, Connecticut, Georgia, Hawaii, Illinois, Maryland, Michigan, Minnesota, Missouri, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Texas, Utah, and Virginia." It is important to note, however, that by its express terms, California law "does not apply to documents that are recorded or required to be open to the public" pursuant to law.<sup>1</sup>

### **Public Records Specifically**

Research in this area was limited for the most part to those states that have had a separate FOIA ombudsman program in place since 2000-- namely New York, Connecticut, Minnesota, Hawaii, and Indiana. In addition, North Carolina and Florida were included based on unique provisions in their statutes restricting the collection and dissemination of SSNs in public records. Statutory trends among

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<sup>1</sup> See § 1798.85 of the California Civil Code (2007).

these states reveal differing approaches, although four general approaches emerge.

- Statutory presumptions that SSNs collected or maintained by a state agency, statewide system, or political subdivision are private data, except to the extent that access to SSN is specifically authorized by law. See § 13.355 of the Government Data Practices Act of Minnesota and § 119.071 of the Florida Public Records Act.
- Statutory prohibitions on agencies of the state or its political subdivisions, or any agent or employee of a government agency from doing any of the following: (i) collect a SSN unless authorized by law to do so or unless collection of a SSN is imperative for the performance of that agency's duties and such need is clearly documented; (ii) fail to segregate a SSN from the remainder of the public record; or (iii) intentionally communicate or otherwise make available to the general public a person's SSN or other identifying information. See § 132.1.10 of the North Carolina Public Records Act, § 4-1-8 of the Indiana Code, and § 119.071 of the Florida Public Records Act.
- A statutory exemption restricting release if it would constitute
  - (i) "An unwarranted invasion of personal privacy." See § 89 of the Freedom of Information Law of New York and §96 of the Personal Privacy Protection Law of New York; or
  - (ii) "An invasion of personal privacy." See § 1-210 of the Freedom of Information Act of Connecticut.
- A statutory exemption restricting release of entire SSNs, with some exceptions; although release of last four digits only is permissible. See § 487J of the Social Security Number Protection Act of Hawaii and § 4-1-10-1 of the Indiana Code. NOTE: Hawaii law provides for civil penalties for

violation by businesses and liability in equal amount to the sum of actual damages sustained by the injured party. Indiana law provides for criminal penalties in the event of violation by state agencies and for fraudulently obtaining a SSN from a state agency.

### **In conclusion**

Preliminary research appears to show that most of the legislative activity relative to the release of SSN is found in laws governing the actions of the private sector. This may be due in large part because historically it is breaches in the private sector that have put individuals at heightened risk of identity theft. As noted above, however, several states have enacted laws to govern the release of SSNs found in public records and such laws appear to focus on limiting the collection of SSNs by governmental entities in the first instance, followed by a restriction on the release of an entire SSN as a matter of law or, as in New York and Connecticut, where release of the SSN would constitute an invasion of personal privacy.

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# APPENDIX A



NATIONAL CONFERENCE *of* STATE LEGISLATURES

*The Forum for America's Ideas*

## **Examples of Enacted State Legislation Restricting the Use of Social Security Numbers in Public Records**

*May 2007*

### **Arizona**

(2004)

Ariz. Rev. Stat. § 44-1373

Generally prohibits any person or entity from (1) intentionally communicating or otherwise making an individual's SSN available to the general public; (2) printing an individual's SSN on any card required to receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an individual's SSN on any material to be mailed to the individual, unless the inclusion of the SSN is required by law.

### **Arkansas**

(2005)

Ark. Code Ann. § 4-86-107

Generally prohibits any person or entity from (1) publicly posting or displaying an individual's SSN in any manner; (2) printing an individual's SSN on any card required to receive products or services; (3) printing an individual's SSN on a postcard or in any other manner by which the SSN is visible from the outside; and (4) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure.

### **Arkansas**

(2005)

Ark. Code Ann. § 6-18-208

Generally prohibits schools and school districts from using, displaying, releasing, or printing a student's SSN or any part thereof on any report, ID card or badge, or any document that will be made available to the public, a student, or a student's parent or guardian without the express written consent of the parent, if the student is a minor, or the student if the student is 18 years of age or older.

### **California**

(2001)

Cal. Civ. Code § 1798.85

Generally prohibits any person or entity from (1) publicly posting or displaying an individual's SSN in any manner; (2) printing an individual's SSN on any card required to receive products or

services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an individual's SSN on any material to be mailed to the individual, unless the inclusion of the SSN is required by law.

**California**

(2004)

Cal. Fam. Code § 2024.5

Authorizes a petitioner or respondent to redact SSNs from pleadings, attachments, documents, or other material filed with the court pursuant to a petition for dissolution of marriage, annulment, or legal separation, except as specified. Requires that filing forms contain a notice of the right to redact SSNs.

**Colorado**

(2003)

Colo. Rev. Stat. § 23-5-127

Requires each institution of higher education to assign a unique identifying number to each student enrolled at the institution starting. Prohibits the use of a student's SSN as the unique identifying number. Requires institutions of higher learning to take reasonable and prudent steps to ensure the privacy of students' SSNs.

**Colorado**

CRS sec. 1-2-204 - Voters need not provide a full SSN

**Connecticut**

(2003)

Conn. Gen. Stat. § 42-470 Generally prohibits any person or entity, except government entities, from (1) publicly posting or displaying an individual's SSN in any manner; (2) printing an individual's SSN on any card required to receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; and (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used.

**Connecticut**

(2004)

Conn. Gen. Stat. § 8-64b Prohibits entities purchasing all or part of a housing project from a housing authority from disclosing to the public tenant SSNs or bank account numbers contained in lease agreements.

**Delaware**

(2004)

Del. Code Ann., tit. 7 § 503 Insures that SSNs provided by hunting, fishing, and trapping license holders would not be released to the public.

**Florida**

(2005)

Fla. Stat. ch. 97.05851

Exempts a voter's SSN, driver's license number, state identification number, and signature from the public disclosure laws.

**Georgia**

(2004)

Ga. Code Ann. § 50-18-72

Provides that public disclosure shall not be required for records that would reveal the home address or telephone number, SSN, or insurance or medical information of certain state employees.

**Hawaii**

(2005)

Haw. Rev. Stat. § 12-32

Prohibits the use of a registered voter's SSN as identifying information on candidate nomination papers.

**Illinois**

(2004)

815 Ill. Comp. Stat. 505/2QQ3

Generally prohibits any person or entity from (1) publicly posting or displaying an individual's SSN in any manner; (2) printing an individual's SSN on any card required to receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an individual's SSN on any material to be mailed to the individual, unless the inclusion of the SSN is required by law.

**Indiana**

(2005)

Ind. Code § 4-1-10-1 et seq.

Generally prohibits a state agency from disclosing an individual's SSN, unless otherwise required by law.

**Indiana**

(2005)

Ind. Code § 9-24-6-2; § 9-24-9-2;

§ 9-24-11-5; § 9-24-16-3

Removes the requirement that SSNs be displayed on commercial driver's licenses. Requires that applications for driver's licenses, permits, and identification cards allow applicants to indicate whether the SSN or another distinguishing number shall be used on the license, permit, or identification card, and prohibits the use of the SSN if the applicant does not indicate a preference.

**Louisiana**

(Enacted 2004)

La. Rev. Stat. Ann. 9:5141; 35:17

Requires that only the last four digits of a SSN appear on mortgage records and notarial acts.

**Louisiana**

(Enacted 2005)

2005 La Act 169 <http://www.legis.state.la.us/billdata/streamdocument.asp?did=318556>

<http://www.legis.state.la.us/lss/lss.asp?doc=99638>

However, when the employee's social security number or financial institution direct deposit information is required to be disclosed pursuant to any other provision of law, including such purposes as child support enforcement, health insurance, and retirement reporting, the social security number or financial institution direct deposit information of the employee shall be disclosed pursuant to such provision of law.

## **Louisiana**

Prohibits the registrar and Department of State from disclosing the social security number of a registered voter or circulating the social security numbers of registered voters on commercial lists, except when voter registration data is transmitted to the office of motor vehicles of the Department of Public Safety and Corrections, for the purposes of verifying the accuracy and authenticity of the social security number provided by the voter.

## **Maryland**

(2005)

Md. Code Ann., Com. Law § 14-3301 et seq.4

Generally prohibits any person or entity, except government entities, from (1) publicly displaying or posting an individual's SSN; (2) printing an individual's SSN on any card required to receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) initiating the transmission of an individual's SSN unless the connection is secure; (5) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; (6) printing an individual's SSN on any material to be mailed to the individual, unless the inclusion of the SSN is required by law; (7) electronically transmitting an individual's SSN unless the connection is secure or the SSN is encrypted; and (8) faxing an individual's SSN to that individual.

## **Michigan**

(Enacted 2004)

Mich. Comp. Laws § 445.81 et seq. ([Act 454 of 2004](#))

Generally prohibits any person or entity from (1) publicly posting or displaying more than four sequential digits of an individual's SSN; (2) using more than four sequential digits of an individual's SSN as the primary account number for an individual; (3) visibly printing more than four sequential digits of an individual's SSN on any identification badge or card, membership card, or permit or license; (4) requiring an individual to transmit more than four sequential digits of his or her SSN over the Internet unless the number is encrypted or the connection is secure; (5) requiring the use of more than four sequential digits of an individual's SSN to access an Internet Web site unless a password or other security device is used; and (6) printing more than four sequential digits of an individual's SSN on any material to be mailed to the individual.

## **Minnesota**

(2005)

Minn. Stat. § 325E.595

Generally prohibits any person or entity, except government entities, from (1) publicly posting or displaying an individual's SSN in any manner; (2) printing an individual's SSN on any card required to receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an individual's SSN on any material to be mailed to the individual, unless the inclusion of the SSN is required by law.



**Missouri**

(2003)

Mo. Rev. Stat. § [407.1355](#)

Generally prohibits any person or entity, except government entities, from (1) publicly displaying or posting an individual's SSN, including any activity that would make the SSN available to an individual's coworkers, (2) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure, (3) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used, and (4) requiring an individual to use his or her SSN as an employee number.

**Nevada**

(2005)

Nev. Rev. Stat. Chapter 239; Chapter 239B; Chapter 603

Requires a governmental entity, except in certain circumstances, to ensure that SSNs in its books and records are maintained in a confidential manner. Prohibits the inclusion of SSNs in certain documents that are recorded, filed, or otherwise submitted to a governmental agency. Requires governmental agencies or certain persons who do business in the state to notify individuals if personal information is reasonably believed to have been acquired by an unauthorized person.

**New Jersey**

(2005)

N.J. Stat. Ann. § 47:1-16

Prohibits any person, including any public or private entity, from printing or displaying in any manner an individual's SSN on any document intended for public recording with any county recording authority. Provides that, in the case of certain documents, the county recording authority is authorized to delete, strike, obliterate or otherwise expunge an SSN that appears on the document without invalidating it.

**New Mexico**

(2003)

N.M. Stat. Ann. § 57-12B-1 et seq.

Prohibits a business from requiring a consumer's SSN as a condition for the consumer to lease or purchase products, goods or services from the business. A company acquiring or using SSNs of consumers shall adopt internal policies that (1) limit access to the SSNs to those employees authorized to have access to that information to perform their duties; and (2) hold employees responsible if the SSNs are released to unauthorized persons.

**North Carolina**

(enacted 2005)

[NC Gen. Stat. 132-1.10](#)

Limits the collection and use of SSNs by state and local governments:

**North Dakota**

(2003)

N.D. Cent. Code § 39-06-14

Prohibits the use of SSNs on driver's licenses.

**Oklahoma**

(2004)

Okla. Stat. tit. 40, § 173.1

Generally prohibits employing entity from (1) publicly displaying or posting an employee's SSN; (2) printing the SSN of an employee on any card required for the employee to access information, products, or services; (3) requiring an employee to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring an employee to use an SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an employee's SSN on any materials mailed to the employee, unless the SSN is required by law to be in the materials.

### **Rhode Island**

(2004)

R.I. Gen. Laws § 6-13-19

Prohibits any person, firm, corporation, or other business entity that offers discount cards for purchases made at any business maintained by the offeror from requiring that a person who applies for a discount card furnish his or her SSN or driver's license as a condition precedent to the application for the consumer discount card.

### **South Carolina**

(2004)

S.C. Code Ann. § 7-5-170

SSNs provided in voter registration applications must not be open to public inspection.

### **South Carolina**

S.C. Code Ann. § [30-4-160](#)

Does not allow the Department of Motor Vehicles to sell, provide, or otherwise furnish to a private party Social Security numbers in its records, copies of photographs, or signatures, whether digitized or not, taken for the purpose of a driver's license or personal identification card.

### **South Dakota**

(2005)

S.D. Codified Laws § 32-12-17.10; § 32-12-17.13

Prohibits the display of SSNs on driver's licenses or non-driver's identification cards and the use of electronic barcodes containing SSN data.

### **Texas**

(2005)

Tex. Bus. & Com. Code Ann. 35.48

Requires that businesses disposing of business records containing a customer's personal identifying information must modify, by shredding, erasing, or other means, the personal identifying information to make it unreadable or undecipherable.

### **Texas**

(2003)

Tex. Bus. & Com. Code Ann. 35.58

Generally prohibits any person or entity, except government entities, from (1) intentionally communicating an individual's SSN to the general public; (2) printing an individual's SSN on any card required to access or receive products or services; (3) requiring an individual to transmit his or her SSN over the Internet unless the number is encrypted or the connection is secure; (4) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (5) printing an individual's SSN on any materials mailed to the individual, unless the SSN is required by law to be in the materials.

**Texas**

(2003)

Tex. Elec. Code Ann. § 13.004

Provides that a SSN, Texas driver's license number, or number of a personal identification card furnished on a voter registration application is confidential and does not constitute public information. Requires the registrar to ensure that such personal data are excluded from disclosure.

**Utah**

(2004)

Utah Code Ann. § 31A-21-110

Prohibits insurers from publicly posting an individual's SSN in any manner or printing an individual's SSN on any card required for the individual to access products or services provided or covered by the insurer.

**Virginia**

(2005)

Va. Code Ann. § 59.1-443.2

Generally prohibits any person or entity from (1) intentionally communicating an individual's SSN to the general public; (2) printing an individual's SSN on any card required to access or receive products or services; (3) requiring the use of a SSN to access an Internet Web site unless a password or other security device is used; and (4) mailing a package with the SSN visible from the outside.

**Virginia**

Va. Code sec. 2.2-3808

ID cards or licenses may not display an entire SSN

**Wisconsin**

(2003)

Wis. Stat. § 36.32

Prohibits private institutions of higher education from assigning to any student an identification number that is identical to or incorporates the student's SSN.

**West Virginia**

(2003)

W. Va. Code § 17E-1-11

Removes the requirement that a SSN appear on commercial driver's license.

**Source:** U.S. Government Accountability Office, [Social Security Numbers: Federal and State Laws Restrict Use of SSNs, yet Gaps Remain](#) (Appendix III: Examples of Enacted SSN Legislation Restricting Use), September 2005 and NCSL research.