



2003 ASSEMBLY BILL 884

February 23, 2004 - Introduced by Representatives MOLEPSKE, M. WILLIAMS, LADWIG, MILLER, PLOUFF, CULLEN, GRONEMUS, MUSSER, FREESE, LOTHIAN, HINES, OLSEN, BLACK, KESTELL, PETROWSKI, KRAWCZYK, J. LEHMAN, NASS, STONE, KERKMAN, JESKEWITZ, LOEFFELHOLZ, MCCORMICK, VAN ROY, GUNDERSON and BALOW, cosponsored by Senators LASSA, ROESSLER, KANAVAS and A. LASEE. Referred to Committee on Government Operations and Spending Limitations.

1 **AN ACT** *to renumber* 19.37 (4); *to amend* 59.20 (3) (d); and *to create* 19.36 (10)
2 and 19.37 (4) (b) and (c) of the statutes; **relating to:** access to certain public
3 records containing social security account numbers of individuals and
4 providing penalties.

Analysis by the Legislative Reference Bureau

Currently, the custodian of the records of any state or local governmental unit must provide access to any public record in his or her custody unless otherwise authorized or required by law or unless the custodian demonstrates that the public interest in withholding access to the record outweighs the strong public interest in providing access to that record. Federal law prohibits state and local governmental units from disclosing social security numbers under certain conditions.

This bill provides that, if a new record containing the social security number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2005, or if a record in the custody of a state or local governmental unit is modified to insert the social security number of an individual on or after January 1, 2005, and the record contains information revealing the identity of that individual, the custodian of the record must delete the social security number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security number.

The bill, however, permits the requester of a record to have access to the social security number of an individual if:

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1. The record pertains to that individual alone, to the marital or parental rights or responsibilities of that individual and his or her spouse or former spouse, to the property of that individual held jointly or in common with one or more other individuals, or to a civil lawsuit in which the individual is a specifically named party, and the individual provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

The bill also provides that, if any person misrepresents his or her identity for the purpose of obtaining access to the social security number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security number used by the person for unauthorized purposes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 19.36 (10) of the statutes is created to read:

2 **19.36 (10) SOCIAL SECURITY ACCOUNT NUMBERS.** (a) Except as provided in par.
3 (b), if a new record containing a social security account number of an individual,
4 together with information revealing the identity of that individual, is kept by an
5 authority on or after January 1, 2005, or if a record in the custody of an authority is
6 modified to insert the social security account number of an individual on or after
7 January 1, 2005, and the record contains information revealing the identity of that
8 individual, the authority shall delete the social security account number before
9 permitting access to the record, unless the requester is specifically authorized by
10 federal or state law to have access to the social security account number.

11 (b) Unless otherwise provided by federal or state law, including common law
12 principles, a requester may have access to a record containing the social security
13 account number of an individual if any of the following applies:

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1 1. The record pertains to that individual alone, to the marital or parental rights
2 or responsibilities of that individual and his or her spouse or former spouse, to
3 property of that individual held jointly or in common tenancy with one or more other
4 individuals, or to a civil legal action or proceeding in which the individual is a
5 specifically named party, and the individual provides appropriate identification to
6 the custodian.

7 2. The requester is an authorized representative of an insurer or an
8 organization that performs investigations for insurers and the social security
9 account number is relevant to an investigation of suspected, anticipated, or actual
10 insurance fraud.

11 **SECTION 2.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

12 **SECTION 3.** 19.37 (4) (b) and (c) of the statutes are created to read:

13 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
14 obtaining access to the social security account number of another individual under
15 s. 19.36 (10) (a), the person may be required to forfeit not more than \$1,000 for each
16 social security account number obtained by the person by means of such
17 misrepresentation.

18 (c) If an insurer or other person obtains a social security account number under
19 s. 19.36 (10) (b) and uses that number for purposes other than an investigation as
20 provided in that paragraph, the person may be required to forfeit not more than
21 \$1,000 for each social security account number used by the person for such
22 unauthorized purposes.

23 **SECTION 4.** 59.20 (3) (d) of the statutes is amended to read:

24 59.20 (3) (d) Any register of deeds who in good faith makes an erroneous
25 determination as to the accessibility of a portion of a record, to members of the public

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SECTION 4

1 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under
2 s. 19.37 (4) (a).

3 (END)