



2005 ASSEMBLY BILL 322

April 15, 2005 – Introduced by Representatives SCHNEIDER and LEHMAN. 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 (13),
2 19.36 (14), 19.37 (4) (b) and (c) and 103.135 of the statutes; **relating to:** posting
3 of certain personal information in government records on the Internet and
4 access to certain public records containing the social security account numbers
5 of individuals and providing penalties.

Analysis by the Legislative Reference Bureau

This bill provides that no state or local government officer or agency that maintains an Internet site may post on that site any public record containing the name of an individual together with any of the following information: a) the individual's birth date; b) the number of a driver's license issued to the individual by the Department of Transportation; c) the telephone number at the individual's place of employment; and d) the unpublished home telephone number of the individual. The prohibition does not apply to publication or electronic posting of a telephone number at an individual's place of employment by a governmental unit that is the employer of the individual. In addition, the prohibition does not apply to the posting of information that is required to be provided as a part of the sex offender registry program.

Currently, state and local government officers and agencies may post information in public records on the Internet unless access to that information is required to be withheld by law.

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

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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, 2007, 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, 2007, 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 by any person other than an officer or employee of the governmental unit, unless the person who requests access to the record is specifically authorized by federal or state law or by the subject individual 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, unless otherwise restricted by law, if:

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 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 bill also provides that no state or local governmental unit may provide access to any record to which access is restricted under the bill that contains the social security number of an individual, together with information revealing the identity of that individual, to any officer or employee of the unit other than the custodian of the record or an employee working under the immediate supervision of the custodian unless the officer's or employee's official responsibilities require the officer or employee to have access to the number or the officer or employee is authorized by the subject individual to have access to the number.

In addition, the bill prohibits an employer from providing access to any record that contains the social security number of an employee of the employer, together with information revealing the identity of that employee, to any person unless access to the record is permitted under the bill, the number is redacted; the person is

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authorized by federal or state law or by the employee who is the subject of the record to have access to the number; or the person is an officer, employee, or agent of the employer and his or her official responsibilities require him or her to have access to the number.

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

1 **SECTION 1.** 19.36 (13) of the statutes is created to read:

2 **19.36 (13) ACCESS TO CERTAIN RECORDS ON INTERNET SITES.** (a) Except as provided
3 in par. (b), no authority that maintains an Internet site may post on that site any
4 record containing the name of an individual, together with any of the following
5 information pertaining to that individual:

6 1. The individual's birth date.

7 2. The number of an operator's license issued to the individual under ch. 343.

8 3. Except as provided in par. (b), the telephone number at the individual's place
9 of employment.

10 4. The unpublished home telephone number of the individual.

11 (b) This subsection does not apply to any of the following:

12 1. The publication or electronic posting of the telephone number at an
13 individual's place of employment by an authority that is the employer of the
14 individual.

15 2. The posting of any information that is required to be provided under s. 301.45
16 (2).

17 **SECTION 2.** 19.36 (14) of the statutes is created to read:

18 **19.36 (14) SOCIAL SECURITY ACCOUNT NUMBERS.** (a) In this subsection,
19 "employee" includes an individual holding a local public office or a state public office.

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1 (b) Except as provided in par. (c), if a new record containing a social security
2 account number of an individual, together with information revealing the identity
3 of that individual, is kept by an authority on or after January 1, 2007, or if a record
4 in the custody of an authority is modified to insert the social security account number
5 of an individual on or after January 1, 2007, and the record contains information
6 revealing the identity of that individual, the authority shall delete the social security
7 account number before permitting access to the record to any person other than an
8 officer or employee of the authority, unless the requester is specifically authorized
9 by federal or state law or by the record subject to have access to the number.

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

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

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

23 (d) No authority may provide access under s. 19.35 (1) to any record to which
24 access is restricted under par. (b) that contains the social security account number
25 of an individual, together with information revealing the identity of that individual,

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1 to any officer or employee of the authority other than the legal custodian or an
2 employee working under the immediate supervision of the custodian unless the
3 number is redacted, the officer's or employee's official responsibilities require the
4 officer or employee to have access to the number, or the officer or employee is
5 authorized by the record subject to have access to the number.

6 **SECTION 3.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

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

8 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
9 obtaining access to the social security account number of another individual under
10 s. 19.36 (13) (a), the person may be required to forfeit not more than \$1,000 for each
11 social security account number obtained by the person by means of such
12 misrepresentation.

13 (c) If an insurer or other person obtains a social security account number under
14 s. 19.36 (13) (b) and uses that number for purposes other than an investigation as
15 provided in that paragraph, the person may be required to forfeit not more than
16 \$1,000 for each social security account number used by the person for such
17 unauthorized purposes.

18 **SECTION 5.** 59.20 (3) (d) of the statutes is amended to read:

19 59.20 (3) (d) Any register of deeds who in good faith makes an erroneous
20 determination as to the accessibility of a portion of a record, to members of the public
21 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under
22 s. 19.37 (4) (a).

23 **SECTION 6.** 103.135 of the statutes is created to read:

24 **103.135 Records containing social security numbers of employees. (1)**

25 **DEFINITION.** In this section, "officer" means an officer of a governmental body, an

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1 officer or director of a corporation, a member or manager of a limited liability
2 company, a partner of a partnership or a joint venture, or an owner of a sole
3 proprietorship.

4 (2) ACCESS PROHIBITED; EXCEPTIONS. Unless access is authorized under s. 19.36
5 (14), no employer may provide access to any record that contains the social security
6 account number of an employee of that employer, together with information
7 revealing the identity of that employee, to any person unless any of the following
8 applies:

9 (a) The number is redacted.

10 (b) The person is authorized by federal or state law or by the employee who is
11 the subject of the record to have access to the number.

12 (c) The person is an officer, employee, or agent of the employer and the official
13 responsibilities of the officer, employee, or agent require him or her to have access
14 to the number.

15 (END)