



2007 ASSEMBLY BILL 102

February 22, 2007 - Introduced by Representatives SCHNEIDER, GUNDERSON, MUSSER, VRUWINK, BERCEAU, SINICKI, PARISI, TURNER, HILGENBERG, BLACK, A. WILLIAMS, MOLEPSKE and BIES, cosponsored by Senator ROESSLER. Referred to Committee on Consumer Protection and Personal Privacy.

1 **AN ACT** *to renumber* 19.37 (4); *to amend* 59.20 (3) (d); and *to create* 19.36 (14),
2 19.36 (15), 19.37 (4) (b) and (c), 103.135, 134.44, 138.25 and 230.16 (12) of the
3 statutes; **relating to:** prohibiting use of social security numbers on state civil
4 service examinations, prohibiting requests by merchants for customers' social
5 security numbers, posting certain personal information in government records
6 on the Internet, prohibiting access to certain public records and employer
7 records containing the social security numbers of individuals, prohibiting a
8 register of deeds from recording certain instruments that contain more than a
9 partial social security number, prohibiting the number of credit inquiries as a
10 factor in credit reports, granting rule-making authority, and providing
11 penalties.

Analysis by the Legislative Reference Bureau

Use of social security numbers on state civil service exams

The bill prohibits an applicant's social security number from being used for the purpose of identifying the applicant on any examination for a position in the state civil service system.

ASSEMBLY BILL 102***Requests by merchants for customers' social security numbers***

Current law generally does not prohibit a seller from requesting that a customer disclose his or her social security number. This bill prohibits a seller of goods at retail from making such a request unless the seller is required to do so in issuing fish and game approvals as an agent of the Department of Natural Resources (DNR). Under current law, DNR is required to obtain the social security number from an applicant for a fish and game approval so that the state may determine whether the applicant is delinquent in the payment of certain state taxes or in the payment of child support or other court-ordered family support or birth expenses. If an applicant is delinquent or fails to provide his or her social security number, the agent must deny the application for the approval.

Posting of personal information in government records on the Internet

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: 1) the individual's birth date; 2) the number of a driver's license issued to the individual by the Department of Transportation; 3) the telephone number at the individual's place of employment; and 4) 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.

Access to certain public records containing social security numbers

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, 2009, 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, 2009, 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:

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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 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 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.

Access to employer records containing social security numbers; credit reporting agencies

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 the number is redacted; the person is 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.

Credit reports

The bill also prohibits credit reporting agencies from using the number of creditor inquiries as a factor in any credit scoring methodology used in preparing credit reports.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 19.36 (14) of the statutes is created to read:

2 **19.36 (14) 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 (15) of the statutes is created to read:

18 **19.36 (15) SOCIAL SECURITY NUMBERS.** (a) In this subsection, "employee"
19 includes an individual holding a local public office or a state public office.

20 (b) Except as provided in par. (c), if a new record containing a social security
21 number of an individual, together with information revealing the identity of that

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1 individual, is kept by an authority on or after January 1, 2009, or if a record in the
2 custody of an authority is modified to insert the social security number of an
3 individual on or after January 1, 2009, and the record contains information revealing
4 the identity of that individual, the authority shall delete the social security number
5 before permitting access to the record to any person other than an officer or employee
6 of the authority, unless the requester is specifically authorized by federal or state law
7 or by the record subject to have access to the number.

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

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

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

21 (d) No authority may provide access under s. 19.35 (1) to any record to which
22 access is restricted under par. (b) that contains the social security number of an
23 individual, together with information revealing the identity of that individual, to any
24 officer or employee of the authority other than the legal custodian or an employee
25 working under the immediate supervision of the custodian unless the number is

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1 redacted, the officer’s or employee’s official responsibilities require the officer or
2 employee to have access to the number, or the officer or employee is authorized by
3 the record subject to have access to the number.

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

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

6 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of
7 obtaining access to the social security number of another individual under s. 19.36
8 (15) (c), the person may be required to forfeit not more than \$1,000 for each social
9 security number obtained by the person by means of such misrepresentation.

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

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

15 59.20 (3) (d) Any register of deeds who in good faith makes an erroneous
16 determination as to the accessibility of a portion of a record, to members of the public
17 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under
18 s. 19.37 (4) (a).

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

20 **103.135 Records containing social security numbers of employees. (1)**

21 DEFINITION. In this section, “officer” means an officer of a governmental body, an
22 officer or director of a corporation, a member or manager of a limited liability
23 company, a partner of a partnership or a joint venture, or an owner of a sole
24 proprietorship.

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1 **(2) ACCESS PROHIBITED; EXCEPTIONS.** No employer may provide access to any
2 record that contains the social security number of an employee of that employer,
3 together with information revealing the identity of that employee, to any person
4 unless any of the following applies:

5 (a) The number is redacted.

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

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

11 **SECTION 7.** 134.44 of the statutes is created to read:

12 **134.44 Requests by retailers for social security numbers. (1)** No seller
13 of goods at retail may request that a customer disclose the customer's social security
14 number.

15 **(2)** Subsection (1) does not apply to an agent of the department of natural
16 resources appointed under s. 29.024 (6) (a) 3. who requests a customer's social
17 security number if the customer is applying to the agent for an approval, as defined
18 in s. 29.001 (12), and the customer's social security number is required under s.
19 29.024 (2g) or (2r).

20 **(3)** Any seller who violates sub. (1) shall be fined not more than \$100.

21 **SECTION 8.** 138.25 of the statutes is created to read:

22 **138.25 Credit scores. (1) DEFINITIONS.** In this section:

23 (a) "Credit report" means means any written, oral, or other communication of
24 any information by a credit reporting agency bearing on an individual's
25 creditworthiness, credit standing, or credit capacity, which is used or is expected to

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1 be used, or collected in whole or in part, for a purpose specified in 15 USC 1681b or
2 for the purpose of serving as a factor in establishing the individual’s eligibility for any
3 of the following:

- 4 1. Credit to be used primarily for personal, family, or household purposes.
- 5 2. Employment, promotion, reassignment, or retention as an employee.
- 6 3. Rental of a residential dwelling unit.

7 (b) “Credit reporting agency” means any person who, for fees, dues, or other
8 compensation, or on a cooperative nonprofit basis, regularly engages in whole or in
9 part in the business of assembling or evaluating credit or other information on
10 individuals for the purpose of preparing credit reports that the credit reporting
11 agency furnishes to 3rd parties, but does not include any governmental agency whose
12 records are maintained primarily for traffic safety, law enforcement, or licensing
13 purposes.

14 (2) PROHIBITION. No credit reporting agency may use the number of creditor
15 inquiries as a factor in any credit scoring methodology used by the credit reporting
16 agency in preparing credit reports.

17 (3) ENFORCEMENT. The division of banking shall enforce this section.

18 **SECTION 9.** 230.16 (12) of the statutes is created to read:

19 230.16 (12) An applicant’s social security number may not be used for the
20 purpose of identifying the applicant on any examination under this subchapter or
21 under rules of the administrator.

22 **SECTION 10. Initial applicability.**

23 (1) CREDIT SCORES. The treatment of section 138.25 of the statutes first applies
24 to credit reports furnished to 3rd parties on the effective date of this subsection.

25 (END)