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I N   S E N A T E

June 6, 2012

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Introduced by Sens. FUSCHILLO, NOZZOLIO -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law and the correction law, in relation to the processing of personal identifying information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 399-dd of the general business law, as added by  
2 chapter 676 of the laws of 2006, paragraph (f) of subdivision 2 and  
3 subdivision 6 as added and subdivision 7 as renumbered by chapter 279 of  
4 the laws of 2008, is amended to read as follows:

5     S [399-dd] 399-DDD. Confidentiality of social security account number.  
6 Beginning on and after January first, two thousand eight:

7     1. (A) As used in this section "social security account number" shall  
8 include the number issued by the federal social security administration  
9 and any number derived from such number. Such term shall not include any  
10 number that has been encrypted.

11     (B) FOR PURPOSES OF THIS SECTION, THE TERM "INMATE" MEANS A PERSON  
12 CONFINED IN ANY LOCAL CORRECTIONAL FACILITY AS DEFINED IN SUBDIVISION  
13 SIXTEEN OF SECTION TWO OF THE CORRECTION LAW OR IN ANY CORRECTIONAL  
14 FACILITY AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION TWO  
15 OF THE CORRECTION LAW PURSUANT TO SUCH PERSON'S CONVICTION OF A CRIMINAL  
16 OFFENSE.

17     2. No person, firm, partnership, association or corporation, not  
18 including the state or its political subdivisions, shall do any of the  
19 following:

20     (a) Intentionally communicate to the general public or otherwise make  
21 available to the general public in any manner an individual's social  
22 security account number. This paragraph shall not apply to any individ-  
23 ual intentionally communicating to the general public or otherwise  
24 making available to the general public his or her social security  
25 account number.

26     (b) Print an individual's social security account number on any card  
27 or tag required for the individual to access products, services or bene-

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 fits provided by the person, firm, partnership, association or corpo-  
2 ration.

3 (c) Require an individual to transmit his or her social security  
4 account number over the internet, unless the connection is secure or the  
5 social security account number is encrypted.

6 (d) Require an individual to use his or her social security account  
7 number to access an internet web site, unless a password or unique  
8 personal identification number or other authentication device is also  
9 required to access the internet website.

10 (e) Print an individual's social security account number on any mate-  
11 rials that are mailed to the individual, unless state or federal law  
12 requires the social security account number to be on the document to be  
13 mailed. Notwithstanding this paragraph, social security account numbers  
14 may be included in applications and forms sent by mail, including docu-  
15 ments sent as part of an application or enrollment process, or to estab-  
16 lish, amend or terminate an account, contract or policy, or to confirm  
17 the accuracy of the social security account number. A social security  
18 account number that is permitted to be mailed under this section may not  
19 be printed, in whole or part, on a postcard or other mailer not requir-  
20 ing an envelope, or visible on the envelope or without the envelope  
21 having been opened.

22 (f) Encode or embed a social security number in or on a card or docu-  
23 ment, including, but not limited to, using a bar code, chip, magnetic  
24 strip, or other technology, in place of removing the social security  
25 number as required by this section.

26 (G) KNOWINGLY USE THE LABOR OR TIME OF OR EMPLOY ANY INMATE IN THIS  
27 STATE, OR IN ANY OTHER JURISDICTION, IN ANY CAPACITY THAT INVOLVES  
28 OBTAINING ACCESS TO, COLLECTING OR PROCESSING SOCIAL SECURITY ACCOUNT  
29 NUMBERS OF OTHER INDIVIDUALS.

30 3. This section does not prevent the collection, use, or release of a  
31 social security account number as required by state or federal law, the  
32 use of a social security account number for internal verification, fraud  
33 investigation or administrative purposes or for any business function  
34 specifically authorized by 15 U.S.C. 6802.

35 4. Any person, firm, partnership, association or corporation having  
36 possession of the social security account number of any individual  
37 shall, to the extent that such number is maintained for the conduct of  
38 business or trade, take reasonable measures to ensure that no officer or  
39 employee has access to such number for any purpose other than for a  
40 legitimate or necessary purpose related to the conduct of such business  
41 or trade and provide safeguards necessary or appropriate to preclude  
42 unauthorized access to the social security account number and to protect  
43 the confidentiality of such number.

44 5. Any waiver of the provisions of this section is contrary to public  
45 policy, and is void and unenforceable.

46 6. No person may file any document available for public inspection  
47 with any state agency, political subdivision, or in any court of this  
48 state that contains a social security account number of any other  
49 person, unless such other person is a dependent child, or has consented  
50 to such filing, except as required by federal or state law or regu-  
51 lation, or by court rule.

52 7. Whenever there shall be a violation of this section, application  
53 may be made by the attorney general in the name of the people of the  
54 state of New York to a court or justice having jurisdiction by a special  
55 proceeding to issue an injunction, and upon notice to the defendant of  
56 not less than five days, to enjoin and restrain the continuance of such

1 violations; and if it shall appear to the satisfaction of the court or  
2 justice that the defendant has, in fact, violated this section, an  
3 injunction may be issued by such court or justice, enjoining and  
4 restraining any further violation, without requiring proof that any  
5 person has, in fact, been injured or damaged thereby. In any such  
6 proceeding, the court may make allowances to the attorney general as  
7 provided in paragraph six of subdivision (a) of section eighty-three  
8 hundred three of the civil practice law and rules, and direct restitu-  
9 tion. In connection with any such proposed application, the attorney  
10 general is authorized to take proof and make a determination of the  
11 relevant facts and to issue subpoenas in accordance with the civil prac-  
12 tice law and rules. Whenever the court shall determine that a violation  
13 of subdivision two of this section has occurred, the court may impose a  
14 civil penalty of not more than one thousand dollars for a single  
15 violation and not more than one hundred thousand dollars for multiple  
16 violations resulting from a single act or incident. The second violation  
17 and any violation committed thereafter shall be punishable by a civil  
18 penalty of not more than five thousand dollars for a single violation  
19 and not more than two hundred fifty thousand dollars for multiple  
20 violations resulting from a single act or incident. No person, firm,  
21 partnership, association or corporation shall be deemed to have violated  
22 the provisions of this section if such person, firm, partnership, asso-  
23 ciation or corporation shows, by a preponderance of the evidence, that  
24 the violation was not intentional and resulted from a bona fide error  
25 made notwithstanding the maintenance of procedures reasonably adopted to  
26 avoid such error.

27 S 2. Subdivision 1 of section 170 of the correction law, as amended by  
28 section 23 of subpart A of part C of chapter 62 of the laws of 2011, is  
29 amended to read as follows:

30 1. The commissioner shall not, nor shall any other authority whatsoev-  
31 er, make any contract by which the labor or time of any inmate in any  
32 state or local correctional facility in this state, or the product or  
33 profit of his work, shall be contracted, let, farmed out, given or sold  
34 to any person, firm, association or corporation; except that the inmates  
35 in said correctional institutions may work for, and the products of  
36 their labor may be disposed of to, the state or any political subdivi-  
37 sion thereof, any public institution owned or managed and controlled by  
38 the state, or any political subdivision thereof, PROVIDED THAT NO INMATE  
39 SHALL BE EMPLOYED OR ASSIGNED TO ENGAGE IN ANY ACTIVITY THAT INVOLVES  
40 OBTAINING ACCESS TO, COLLECTING OR PROCESSING SOCIAL SECURITY ACCOUNT  
41 NUMBERS OF OTHER INDIVIDUALS.

42 S 3. This act shall take effect on the ninetieth day after it shall  
43 have become a law.