

8375

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. DINOWITZ, MAISEL, REILLY, M. MILLER, HIKIND,
MILLMAN, ZEBROWSKI, P. RIVERA, GALEF, HOOPER -- Multi-Sponsored by --
M. of A. ABBATE, CRESPO, GABRYSZAK, GLICK, V. LOPEZ, McENENY, SCHIMEL,
SWEENEY, WEISENBERG -- read once and referred to the Committee on
Consumer Affairs and 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The general business law is amended by adding a new section
2 392-j to read as follows:
3 S 392-J. PROCESSING PERSONAL IDENTIFYING INFORMATION; PROHIBITIONS. 1.
4 DEFINITIONS. AS USED IN THIS SECTION:
5 (A) "INMATE" MEANS AN OFFENDER WHO IS COMMITTED UNDER SENTENCE TO OR
6 CONFINED IN A PENAL OR CORRECTIONAL INSTITUTION, INCLUDING BUT NOT
7 LIMITED TO A FACILITY FOR THE MENTALLY ILL OR MENTALLY DEFECTIVE.
8 (B) "DATA SUBJECT" SHALL MEAN A NATURAL PERSON RESIDING IN THIS STATE.
9 (C) "PERSONAL INFORMATION" SHALL MEAN ANY INFORMATION CONCERNING A
10 NATURAL PERSON WHICH, BECAUSE OF NAME, NUMBER, PERSONAL MARK, OR OTHER
11 IDENTIFIER, CAN BE USED TO IDENTIFY SUCH NATURAL PERSON.
12 (D) "PERSONAL IDENTIFYING INFORMATION" SHALL MEAN PERSONAL INFORMATION
13 CONSISTING OF ANY INFORMATION IN COMBINATION WITH ANY ONE OR MORE OF THE
14 FOLLOWING DATA ELEMENTS, WHEN EITHER THE PERSONAL INFORMATION OR THE
15 DATA ELEMENT IS NOT ENCRYPTED, OR ENCRYPTED WITH AN ENCRYPTION KEY THAT
16 IS INCLUDED IN THE SAME RECORD AS THE ENCRYPTED PERSONAL INFORMATION OR
17 DATA ELEMENT:
18 (1) SOCIAL SECURITY NUMBER;
19 (2) DRIVER'S REGISTRATION NUMBER OR NON-DRIVER IDENTIFICATION CARD
20 NUMBER; OR
21 (3) MOTHER'S MAIDEN NAME, FINANCIAL SERVICES ACCOUNT NUMBER OR CODE,
22 SAVINGS ACCOUNT NUMBER OR CODE, CHECKING ACCOUNT NUMBER OR CODE, DEBIT

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

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1 CARD NUMBER OR CODE, AUTOMATED TELLER MACHINE NUMBER OR CODE, ELECTRONIC
2 SERIAL NUMBER OR PERSONAL IDENTIFICATION NUMBER.

3 (E) "PERSONAL IDENTIFICATION NUMBER" SHALL MEAN ANY NUMBER OR CODE
4 WHICH MAY BE USED ALONE OR IN CONJUNCTION WITH ANY OTHER INFORMATION TO
5 ASSUME THE IDENTITY OF ANOTHER PERSON OR ACCESS FINANCIAL RESOURCES OR
6 CREDIT OF ANOTHER PERSON.

7 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PERSON, FIRM, PART-
8 NERSHIP, ASSOCIATION, OR CORPORATION SHALL KNOWINGLY USE THE LABOR OR
9 TIME OF ANY INMATE IN THIS STATE, OR IN ANY OTHER JURISDICTION, TO
10 ENGAGE IN WHOLE OR IN PART IN OBTAINING ACCESS TO, COLLECTING OR PROC-
11 ESSING PERSONAL IDENTIFYING INFORMATION PERTAINING TO A DATA SUBJECT IN
12 THIS STATE.

13 3. A VIOLATION OF THE PROVISIONS OF THIS SECTION SHALL BE PUNISHABLE
14 BY A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS
15 FOR THE FIRST VIOLATION AND NOT MORE THAN TWO THOUSAND FIVE HUNDRED
16 DOLLARS FOR A SECOND OR SUBSEQUENT VIOLATION.

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

20 1. The commissioner shall not, nor shall any other authority whatsoev-
21 er, make any contract by which the labor or time of any inmate in any
22 state or local correctional facility in this state, or the product or
23 profit of his work, shall be contracted, let, farmed out, given or sold
24 to any person, firm, association or corporation; except that the inmates
25 in said correctional institutions may work for, and the products of
26 their labor may be disposed of to, the state or any political subdivi-
27 sion thereof, any public institution owned or managed and controlled by
28 the state, or any political subdivision thereof, PROVIDED THAT NO INMATE
29 IN ANY STATE OR LOCAL CORRECTIONAL FACILITY SHALL ENGAGE IN WHOLE OR IN
30 PART IN OBTAINING ACCESS TO, COLLECTING OR PROCESSING PERSONAL IDENTIFY-
31 ING INFORMATION, AS DEFINED IN SECTION THREE HUNDRED NINETY-TWO-J OF THE
32 GENERAL BUSINESS LAW, PERTAINING TO A NATURAL PERSON RESIDING IN THIS
33 STATE.

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