

S T A T E O F N E W Y O R K

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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 -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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1 (a) Intentionally communicate to the general public or otherwise make
2 available to the general public in any manner an individual's social
3 security account number. This paragraph shall not apply to any individ-
4 ual intentionally communicating to the general public or otherwise
5 making available to the general public his or her social security
6 account number.

7 (b) Print an individual's social security account number on any card
8 or tag required for the individual to access products, services or bene-
9 fits provided by the person, firm, partnership, association or corpo-
10 ration.

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

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

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

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

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

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

43 4. Any person, firm, partnership, association or corporation having
44 possession of the social security account number of any individual
45 shall, to the extent that such number is maintained for the conduct of
46 business or trade, take reasonable measures to ensure that no officer or
47 employee has access to such number for any purpose other than for a
48 legitimate or necessary purpose related to the conduct of such business
49 or trade and provide safeguards necessary or appropriate to preclude
50 unauthorized access to the social security account number and to protect
51 the confidentiality of such number.

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

54 6. No person may file any document available for public inspection
55 with any state agency, political subdivision, or in any court of this
56 state that contains a social security account number of any other

1 person, unless such other person is a dependent child, or has consented
2 to such filing, except as required by federal or state law or regula-
3 tion, or by court rule.

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

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

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

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