

110TH CONGRESS
1ST SESSION

S. 1208

To provide additional security and privacy protection for social security
account numbers.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2007

Mr. DORGAN introduced the following bill; which was read twice and referred
to the Committee on Finance

A BILL

To provide additional security and privacy protection for
social security account numbers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Ac-
5 count Number Protection Act”.

6 **SEC. 2. SOCIAL SECURITY NUMBER PROTECTION.**

7 (a) PROHIBITION OF UNNECESSARY SOLICITATION
8 OF SOCIAL SECURITY NUMBERS.—

9 (1) IN GENERAL.—Unless there is a specific
10 use of a social security account number for which no

1 other identifier reasonably can be used, a covered
2 entity may not solicit a social security account num-
3 ber from an individual except for the following pur-
4 poses:

5 (A) For use in an identification,
6 verification, accuracy, or identity proofing proc-
7 ess.

8 (B) For any purpose permitted under the
9 Fair Credit Reporting Act (15 U.S.C. 1681 et
10 seq.) or the Gramm-Leach-Bliley Act (15
11 U.S.C. 6802(e)).

12 (C) To comply with the requirement of
13 Federal, State, or local law.

14 (2) EXCEPTIONS.—Paragraph (1) does not
15 apply to the solicitation of a social security account
16 number—

17 (A) for the purpose of obtaining a con-
18 sumer report for any purpose permitted under
19 the Fair Credit Reporting Act (15 U.S.C. 1681
20 et seq.),

21 (B) by a consumer reporting agency for
22 the purpose of authenticating or obtaining ap-
23 propriate proof of a consumer's identity, as re-
24 quired under that Act;

1 (C) for any purpose permitted under sec-
2 tion 502(e) of the Gramm-Leach-Bliley Act (15
3 U.S.C. 6802(e)); or

4 (D) to the extent necessary for verifying
5 the accuracy of information submitted by an in-
6 dividual to a covered entity, its agents, contrac-
7 tors, or employees or for the purpose of authen-
8 ticating or obtaining appropriate proof of an in-
9 dividual's identity;

10 (E) to identity or locate missing or ab-
11 ducted children, witnesses, criminals, fugitives,
12 parties to lawsuits, parents delinquent in child
13 support payments, organ and bone marrow do-
14 nors, pension fund beneficiaries, and missing
15 heirs;

16 (F) to the extent necessary to prevent, de-
17 tect, or investigate fraud, unauthorized trans-
18 actions, or other financial liability or to facili-
19 tate the enforcement of an obligation of, or col-
20 lection of a debt from, a consumer, provided
21 that the person selling, providing, displaying, or
22 obtaining the social security account number
23 does not do so for marketing purposes.

1 (b) PROHIBITION OF THE DISPLAY OF SOCIAL SECUR-
 2 RITY NUMBERS ON EMPLOYEE IDENTIFICATION CARDS,
 3 ETC.—

4 (1) IN GENERAL.—A covered entity may not
 5 display an individual’s security account number (or
 6 any derivative of such number) on any card or tag
 7 that is commonly provided to employees (or to their
 8 family members), faculty, staff, or students for pur-
 9 poses of identification.

10 (2) DRIVER’S LICENSES.—A State may not dis-
 11 play the social security account number of an indi-
 12 vidual on driver’s licenses issued by that State.

13 (c) PROHIBITION OF PRISONER ACCESS TO SOCIAL
 14 SECURITY NUMBERS.—

15 (1) IN GENERAL.—Section 205(c)(2)(C) of the
 16 Social Security Act (42 U.S.C. 405(c)(2)(C)) is
 17 amended by adding at the end the following:

18 “(x) No executive, legislative, or judi-
 19 cial agency or instrumentality of the Fed-
 20 eral Government or of a State or political
 21 subdivision thereof (or person acting as an
 22 agent of such an agency or instrumen-
 23 tality) may employ, or enter into a con-
 24 tract for the use or employment of, pris-
 25 oners in any capacity that would allow

1 such prisoners access to the social security
 2 account numbers of other individuals. For
 3 purposes of this clause, the term ‘prisoner’
 4 means an individual who is confined in a
 5 jail, prison, or other penal institution or
 6 correctional facility, serving community
 7 service as a term of probation or parole, or
 8 serving a sentence through a work-fur-
 9 lough program.”.

10 (2) TREATMENT OF CURRENT ARRANGE-
 11 MENTS.—In the case of—

12 (A) prisoners employed as described in
 13 clause (x) of section 205(c)(2)(C) of the Social
 14 Security Act (42 U.S.C. 405(c)(2)(C)), as
 15 added by paragraph (1), on the date of enact-
 16 ment of this Act; and

17 (B) contracts described in such clause in
 18 effect on such date,

19 the amendment made by paragraph (1) shall take ef-
 20 fect 90 days after the date of enactment of this Act.

21 (d) PROHIBITION OF SALE AND DISPLAY OF SOCIAL
 22 SECURITY NUMBERS TO THE GENERAL PUBLIC.—

23 (1) IN GENERAL.—Except as provided in para-
 24 graph (2), it shall be unlawful for any person—

1 (A) to sell, purchase, or provide a social se-
2 curity account number, to the general public or
3 display to the general public social security ac-
4 count numbers; or

5 (B) to obtain or use any individual's social
6 security account number for the purpose of lo-
7 cating or identifying such individual with the
8 intent to physically injure or harm such indi-
9 vidual or using the identity of such individual
10 for any illegal purpose.

11 (2) EXCEPTIONS.—Notwithstanding paragraph
12 (1), and subject to paragraph (4), a social security
13 account number may be sold, provided, displayed, or
14 obtained by any person—

15 (A) to the extent necessary for law enforce-
16 ment or national security purposes;

17 (B) to the extent necessary for public
18 health purposes;

19 (C) to the extent necessary in emergency
20 situations to protect the health or safety of 1
21 or more individuals;

22 (D) to the extent that the sale or display
23 is required, authorized, or permitted under any
24 law of the United States or of any State (or po-
25 litical subdivision thereof);

1 (E) for any purposes allowed under the
2 Fair Credit Reporting Act (15 U.S.C. 1681 et
3 seq.) or the Gramm-Leach-Bliley Act (15
4 U.S.C. 6802(e));

5 (F) to the extent necessary for verifying
6 the accuracy of information submitted by an in-
7 dividual to a covered entity, its agents, contrac-
8 tors, or employees or for the purpose of authen-
9 ticating or obtaining appropriate proof of the
10 individual's identity;

11 (G) to the extent necessary to identify or
12 locate missing or abducted children, witnesses
13 to an ongoing or potential civil or criminal law-
14 suit, criminals, criminal suspects, parties to
15 lawsuits, parents delinquent in child support
16 payments, organ and bone marrow donors, pen-
17 sion fund beneficiaries, missing heirs, and for
18 similar legal, medical, or family related pur-
19 poses, if the person selling, providing, dis-
20 playing, or obtaining the social security account
21 number does not do so for marketing purposes;

22 (H) to the extent necessary to prevent, de-
23 tect, or investigate fraud, unauthorized trans-
24 actions, or other financial liability or to facili-
25 tate the enforcement of an obligation of, or col-

1 lection of a debt from, a consumer, if the per-
2 son selling, providing, displaying, or obtaining
3 the social security account number does not do
4 so for marketing purposes;

5 (I) to the extent the transmission of the
6 number is incidental to, and in the course of,
7 the sale, lease, franchising, or merger of all, or
8 a portion of, a business; or

9 (J) to the extent necessary for research
10 (other than market research) conducted by an
11 agency or instrumentality of the United States
12 or of a State or political subdivision thereof (or
13 an agent of such an agency or instrumentality)
14 for the purpose of advancing the public good,
15 on the condition that the researcher provides
16 adequate assurances that—

17 (i) the social security account num-
18 bers will not be used to harass, target, or
19 publicly reveal information concerning any
20 identifiable individuals;

21 (ii) information about identifiable in-
22 dividuals obtained from the research will
23 not be used to make decisions that directly
24 affect the rights, benefits, or privileges of
25 specific individuals; and

1 (iii) the researcher has in place appro-
2 priate safeguards to protect the privacy
3 and confidentiality of any information
4 about identifiable individuals, including
5 procedures to ensure that the social secu-
6 rity account numbers will be encrypted or
7 otherwise appropriately secured from unau-
8 thorized disclosure; or

9 (K) to the extent that the transmission of
10 the social security account number is incidental
11 to the sale or provision of a document lawfully
12 obtained from—

13 (i) the Federal Government or a State
14 or local government, that the document
15 has been made available to the general
16 public; or

17 (ii) the document has been made
18 available to the general public via widely
19 distributed media.

20 (3) LIMITATION.—Paragraph (2)(K) does not
21 apply to information obtained from publicly available
22 sources or from Federal, State, or local government
23 records if that information is combined with infor-
24 mation obtained from non-public sources.

1 (4) CONSENSUAL SALE.—Notwithstanding
2 paragraph (1), a social security account number as-
3 signed to an individual may be sold, provided, or dis-
4 played to the general public by any person to the ex-
5 tent consistent with such individual’s voluntary and
6 affirmative written consent to the sale, provision, or
7 display of the social security account number only
8 if—

9 (A) the terms of the consent and the right
10 to refuse consent are presented to the individual
11 in a clear, conspicuous, and understandable
12 manner;

13 (B) the individual is placed under no obli-
14 gation to provide consent to any such sale or
15 display; and

16 (C) the terms of the consent authorize the
17 individual to limit the sale, provision, or display
18 to purposes directly associated with the trans-
19 action with respect to which the consent is
20 sought.

21 **SEC. 3. ENFORCEMENT.**

22 (a) ENFORCEMENT BY COMMISSION.—Except as pro-
23 vided in subsection (c), this Act shall be enforced by the
24 Commission.

1 (b) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR
2 PRACTICE.—The violation of any provision of this Act
3 shall be treated as an unfair or deceptive act or practice
4 proscribed under a rule issued under section 18(a)(1)(B)
5 of the Federal Trade Commission Act (15 U.S.C.
6 57a(a)(1)(B)).

7 (c) ENFORCEMENT BY CERTAIN OTHER AGEN-
8 CIES.—Compliance with this Act shall be enforced exclu-
9 sively under—

10 (1) section 8 of the Federal Deposit Insurance
11 Act (12 U.S.C. 1818), in the case of—

12 (A) national banks, and Federal branches
13 and Federal agencies of foreign banks by the
14 Office of the Comptroller of the Currency;

15 (B) member banks of the Federal Reserve
16 System (other than national banks), branches
17 and agencies of foreign banks (other than Fed-
18 eral branches, Federal agencies, and insured
19 State branches of foreign banks), commercial
20 lending companies owned or controlled by for-
21 eign banks, organizations operating under sec-
22 tion 25 or 25A of the Federal Reserve Act (12
23 U.S.C. 601 and 611) by the Board of Gov-
24 ernors of the Federal Reserve System;

1 (C) banks insured by the Federal Deposit
2 Insurance Corporation (other than members of
3 the Federal Reserve System), insured State
4 branches of foreign banks by the Board of Di-
5 rectors of the Federal Deposit Insurance Cor-
6 poration; and

7 (D) savings associations the deposits of
8 which are insured by the Federal Deposit In-
9 surance Corporation by the Director of the Of-
10 fice of Thrift Supervision;

11 (2) the Federal Credit Union Act (12 U.S.C.
12 1751 et seq.) by the Board of the National Credit
13 Union Administration Board with respect to any
14 Federal credit union;

15 (3) the Securities and Exchange Act of 1934
16 (15 U.S.C. 78a et seq.) by the Securities and Ex-
17 change Commission with respect to—

18 (A) a broker or dealer subject to that Act;

19 (B) an investment company subject to the
20 Investment Company Act of 1940 (15 U.S.C.
21 80a–1 et seq.); and

22 (C) an investment advisor subject to the
23 Investment Advisers Act of 1940 (15 U.S.C.
24 80b–1 et seq.); and

1 (4) State insurance law, in the case of any per-
2 son engaged in providing insurance, by the applica-
3 ble State insurance authority of the State in which
4 the person is domiciled.

5 (d) EXERCISE OF CERTAIN POWERS.—For the pur-
6 pose of the exercise by any agency referred to in sub-
7 section (c) of its powers under any Act referred to in that
8 subsection, a violation of this Act is deemed to be a viola-
9 tion of a requirement imposed under that Act. In addition
10 to its powers under any provision of law specifically re-
11 ferred to in subsection (c), each of the agencies referred
12 to in that subsection may exercise, for the purpose of en-
13 forcing compliance with any requirement imposed under
14 this Act, any other authority conferred on it by law.

15 (e) OTHER AUTHORITY NOT AFFECTED.—Nothing
16 in this Act shall be construed to limit or affect in any
17 way the Commission’s authority to bring enforcement ac-
18 tions or take any other measure under the Federal Trade
19 Commission Act (15 U.S.C. 41 et seq.) or any other provi-
20 sion of law.

21 (f) COMPLIANCE WITH GRAMM-LEACH-BLILEY
22 ACT.—

23 (1) NOTICE.—Any covered entity that is subject
24 to the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et.
25 seq.), and gives notice in compliance with the notifi-

1 cation requirements established for such covered en-
2 tities under title V of that Act is deemed to be in
3 compliance with section 3 of this Act.

4 (2) SAFEGUARDS.—Any covered entity that is
5 subject to the Gramm-Leach-Bliley Act (15 U.S.C.
6 6801 et. seq.), and fulfills the information protection
7 requirements established for such entities under title
8 V of the Act and under section 607(a) of the Fair
9 Credit Reporting Act (15 U.S.C. 1681e(a)) to pro-
10 tect sensitive personal information shall be deemed
11 to be in compliance with section 2 of this Act.

12 **SEC. 4. ENFORCEMENT BY STATE ATTORNEYS GENERAL.**

13 (a) IN GENERAL.—Except as provided in section
14 3(c), a State, as *parens patriae*, may bring a civil action
15 on behalf of its residents in an appropriate state or district
16 court of the United States to enforce the provisions of this
17 Act, to obtain damages, restitution, or other compensation
18 on behalf of such residents, or to obtain such further and
19 other relief as the court may deem appropriate, whenever
20 the attorney general of the State has reason to believe that
21 the interests of the residents of the State have been or
22 are being threatened or adversely affected by a covered
23 entity that violates this Act or a regulation under this Act.

24 (b) NOTICE.—The State shall serve written notice to
25 the Commission (or other appropriate Federal regulator

1 under section 3) of any civil action under subsection (a)
2 at least 60 days prior to initiating such civil action. The
3 notice shall include a copy of the complaint to be filed
4 to initiate such civil action, except that if it is not feasible
5 for the State to provide such prior notice, the State shall
6 provide such notice immediately upon instituting such civil
7 action.

8 (c) AUTHORITY TO INTERVENE.—Upon receiving the
9 notice required by subsection (b), the Commission (or
10 other appropriate Federal regulator under section 8) may
11 intervene in such civil action and upon intervening—

12 (1) be heard on all matters arising in such civil
13 action; and

14 (2) file petitions for appeal of a decision in such
15 civil action.

16 (d) CONSTRUCTION.—For purposes of bringing any
17 civil action under subsection (a), nothing in this section
18 shall prevent the attorney general of a State from exer-
19 cising the powers conferred on the attorney general by the
20 laws of such State to conduct investigations or to admin-
21 ister oaths or affirmations or to compel the attendance
22 of witnesses or the production of documentary and other
23 evidence.

24 (e) VENUE; SERVICE OF PROCESS.—In a civil action
25 brought under subsection (a)—

1 (1) the venue shall be a judicial district in
2 which—

3 (A) the covered entity operates; or

4 (B) the covered entity was authorized to do
5 business;

6 (2) process may be served without regard to the
7 territorial limits of the district or of the State in
8 which the civil action is instituted; and

9 (3) a person who participated with a covered
10 entity in an alleged violation that is being litigated
11 in the civil action may be joined in the civil action
12 without regard to the residence of the person.

13 (f) LIMITATION ON STATE ACTION WHILE FEDERAL
14 ACTION IS PENDING.—If the Commission (or other appro-
15 priate Federal agency under section 3) has instituted a
16 civil action or an administrative action for violation of this
17 Act, no State attorney general, or official or agency of a
18 State, may bring an action under this subsection during
19 the pendency of that action against any defendant named
20 in the complaint of the Commission or the other agency
21 for any violation of this Act alleged in the complaint.

22 **SEC. 5. DEFINITIONS.**

23 In this Act:

24 (1) COMMISSION.—The term “Commission”
25 means the Federal Trade Commission.

1 (2) SOCIAL SECURITY ACCOUNT NUMBER.—The
2 term “social security account number” means a so-
3 cial security account number that contains more
4 than 5 digits of the full 9-digit number assigned by
5 the Social Security Administration but does not in-
6 clude social security account numbers to the extent
7 that they are included in a publicly available infor-
8 mation source, such as news reports, books, periodi-
9 cals, or directories or Federal, State, or local govern-
10 ment records.

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