

Council Substitute for House Bill No. 1673

An act relating to a public records exemption for social security numbers; creating s. 119.072, F.S.; creating an exemption from public records requirements for all social security numbers held by an agency or its agents, employees, or contractors; providing exceptions to the exemption; providing conditions under which social security numbers may be provided to a commercial entity; providing for civil and criminal penalties; providing requirements and restrictions with respect to collection and disclosure of social security numbers by an agency; providing for review of social security numbers collected prior to the effective date of the exemption; restricting the release of social security numbers contained in official records; providing certain notice requirements and requiring publication of notice by county recorders; requiring annual agency reports; providing for future review and repeal; providing retroactive application of the exemption; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 119.072, Florida Statutes, is created to read:

119.072 Social Security number exemption.—

(1) Effective October 1, 2002, all social security numbers held by an agency or its agents, employees, or contractors are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to all social security numbers held by an agency and its agents, employees, or contractors before, on, or after the effective date of this exemption.

(2) Social security numbers may be disclosed to another governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

(3) An agency shall not deny a commercial entity engaged in the performance of a commercial activity as defined in s. 14.203 or its agents, employees, or contractors access to social security numbers, provided the social security numbers will be used only in the normal course of business for legitimate business purposes, and provided the commercial entity makes a written request for social security numbers, verified as provided in s. 92.525, legibly signed by an authorized officer, employee, or agent of the commercial entity. The verified written request must contain the commercial entity's name, business mailing and location addresses, business telephone number, and a statement of the specific purposes for which it needs the social security numbers and how the social security numbers will be used in the normal course of business for legitimate business purposes. The aggregate of these

requests shall serve as the basis for the agency report required in subsection (7). An agency may request any other information as may be reasonably necessary to verify the identity of the entity requesting the social security numbers and the specific purposes for which such numbers will be used, however, an agency has no duty to inquire beyond the information contained in the verified written request. A legitimate business purpose includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use in a civil, criminal, or administrative proceeding; use for insurance purposes; use in law enforcement and investigation of crimes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. A legitimate business purpose does not include the display or bulk sale of social security numbers to the general public or the distribution of such numbers to any customer that is not identifiable by the distributor.

(4) Any person who makes a false representation in order to obtain a social security number pursuant to this section, or any person who willfully and knowingly violates the provisions of this section, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500. A commercial entity that provides access to public records containing social security numbers in accordance with this section, is not subject to the penalty provisions of this subsection.

(5) On or after October 1, 2002, if any final judgment, court order, or docket sheet contains a social security number, then that number shall be entered on a separate page from the rest of the judgment, order, or docket sheet and shall be maintained as a separate attachment, which shall not be filed with or recorded by the county recorder in the official records. The separate attachments containing social security numbers are available to other governmental entities and to commercial entities as provided for in this section. Except for final judgments, court orders, or docket sheets, if a social security number is or has been otherwise included in a court file before, on, or after October 1, 2002, such number may be included as part of the court record available for public inspection and copying unless redaction is requested by the holder of the social security number, or his or her attorney or legal guardian, in a legibly signed written request specifying the case name, case number, and the document heading and page number, and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the clerk of the court. The clerk of the court shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction. No fee will be charged for the redaction of a social security number pursuant to such request.

(6)(a) On or after October 1, 2002, no person preparing or filing a document to be recorded in the official records by the county recorder as provided for in chapter 28 may include any person's social security number in that document, unless otherwise expressly required by law. If a social security number is or has been included in a document presented to the county recorder for recording in the official records of the county before, on, or after

October 1, 2002, it may be made available as part of the official record available for public inspection and copying.

(b) Any person, or his or her attorney or legal guardian, has the right to request that a county recorder remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public by such recorder, his or her social security number contained in that official record. Such request must be made in writing, legibly signed by the requestor and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. The county recorder shall have no duty to inquire beyond the written request to verify the identity of a person requesting redaction. No fee will be charged for the redaction of a social security number pursuant to such request.

(c) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing; shall immediately and conspicuously post a notice on any Internet website or remote electronic site made available by the county recorder and used for the ordering or display of official records or images or copies of official records; and shall, prior to October 1, 2002, publish on two separate dates in a newspaper of general circulation in the county where the county recorder's office is located as provided for in chapter 50, a notice, stating, in substantially similar form, the following:

1. On or after October 1, 2002, any person preparing or filing a document for recordation in the official records may not include a social security number in such document, unless required by law.

2. Any person has a right to request a county recorder to remove, from an image or copy of an official record placed on a county recorder's publicly available Internet website or on a publicly available Internet website used by a county recorder to display public records or otherwise made electronically available to the general public, any social security number contained in an official record. Such request must be made in writing and delivered by mail, facsimile, or electronic transmission, or delivered in person, to the county recorder. The request must specify the identification page number that contains the social security number to be redacted. No fee will be charged for the redaction of a social security number pursuant to such a request.

(7) Beginning January 31, 2004, and each January 31 thereafter, every agency must file a report with the Secretary of State, the President of the Senate, and the Speaker of the House of Representatives listing the identity of all commercial entities that have requested social security numbers during the preceding calendar year and the specific purpose or purposes stated by each commercial entity regarding its need for social security numbers. If no disclosure requests were made, the agency shall so indicate.

(8) The Legislature acknowledges that the social security number was never intended to be used for business purposes but was intended to be used solely for the administration of the federal Social Security System. The Legislature is further aware that over time this unique numeric identifier has been used extensively for identity verification purposes and other legitimate consensual purposes. The Legislature is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against a person and to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial or personal harm to an individual. The Legislature intends to monitor the commercial use of social security numbers held by state agencies in order to maintain a balanced public policy.

(9) An agency shall not collect an individual's social security number unless authorized by law to do so or unless the collection of the social security number is otherwise imperative for the performance of that agency's duties and responsibilities as prescribed by law. Social security numbers collected by an agency must be relevant to the purpose for which collected and shall not be collected until and unless the need for social security numbers has been clearly documented. An agency that collects social security numbers shall also segregate that number on a separate page from the rest of the record, or as otherwise appropriate, in order that the social security number be more easily redacted, if required, pursuant to a public records request. An agency collecting a person's social security number shall, upon that person's request, at the time of or prior to the actual collection of the social security number by that agency, provide that person with a statement of the purpose or purposes for which the social security number is being collected and used. Social security numbers collected by an agency shall not be used by that agency for any purpose other than the purpose stated. Social security numbers collected by an agency prior to the effective date of this act shall be reviewed for compliance with this subsection. If the collection of a social security number prior to the effective date of this act is found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose.

(10) Any affected person may petition the circuit court for an order directing compliance with this section.

(11) The provisions of this section do not supersede any other applicable public records exemptions existing prior to the effective date of this act or created thereafter.

(12) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that social security numbers held by an agency be made confidential and exempt from public disclosure because such numbers are of a sensitive personal nature and are often the link to an individual's personal, financial, medical, or familial records. The social security number is the only nationwide, unique

numeric form of identification in existence in the United States. Release of a social security number is of concern due to the amount of sensitive personal information which can be acquired by its use. The disclosure of such number can provide access to private information about a person which could be used to perpetrate fraud upon that person or otherwise cause great harm to that person and his or her family. Additionally, public disclosure of the social security number constitutes an unwarranted invasion into the life and personal privacy of a person. Thus, the harm from disclosing such number outweighs any public benefit that can be derived from widespread and unregulated public access to such number. However, responsible commercial use of the social security number does not result in personal or financial harm to a person but allows more complete identity verification, thereby enhancing the mutual benefits of the commercial relationship. Accordingly, the Legislature finds that an exception to the exemption for commercial entities is warranted.

Section 3. This act shall take effect upon becoming law. For purposes of codifying the Florida Statutes 2002, the Division of Statutory Revision of the Office of Legislative Services is directed to substitute the effective date of the Council Substitute for House Bill 1673, First Engrossed, for the language "the effective date of this act" as used in section 119.072(9) and (11), Florida Statutes, as created by section 1 of Council Substitute for House Bill 1673, First Engrossed.

Approved by the Governor May 13, 2002.

Filed in Office Secretary of State May 13, 2002.