

House Bill No. 7197

An act relating to a review under the Open Government Sunset Review Act regarding social security numbers and financial account numbers; amending s. 119.071, F.S., which provides a general exemption from inspection or copying of public records for social security numbers and bank account, debit, charge, and credit card numbers; reorganizing the exemption for social security numbers; providing definitions; revising reporting requirements; clarifying penalty provisions; making editorial changes; removing the scheduled repeal of the exemption under the Open Government Sunset Review Act; creating s. 119.0714, F.S., and renumbering and amending s. 119.07(6), F.S.; consolidating and revising current public records exemptions applicable to court files, court records, and official records; revising the date on which automatic redaction of social security numbers and financial account numbers by court clerks is required; amending s. 215.322, F.S.; eliminating a public records exemption for credit card account numbers in the possession of a state agency, a unit of local government, or the judicial branch; amending s. 119.07, F.S., to conform; providing an effective date.

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

Section 1. Paragraph (a) of subsection (4) and paragraphs (a) and (b) of subsection (5) of section 119.071, Florida Statutes, are amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4)

(a)1. The social security numbers of all current and former agency employees which numbers are contained in agency employment records are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. An agency that is the custodian of a social security number specified in subparagraph 1. and that is not the employing agency shall maintain the exempt status of the social security number only if the employee or the employing agency of the employee submits a written request for confidentiality to the custodial agency. However, upon a request by a commercial entity as provided in subparagraph ~~(5)(a)7.b.~~ ~~(5)(a)5-~~, the custodial agency shall release the last four digits of the exempt social security number, except that a social security number provided in a lien filed with the Department of State shall be released in its entirety. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2009, unless reviewed and saved from repeal through reenactment by the Legislature.

(5) OTHER PERSONAL INFORMATION.—

(a)1.a. 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.

b. The Legislature ~~recognizes~~ is also cognizant of the fact that the social security number can be used as a tool to perpetuate fraud against an individual 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.

c. The Legislature intends to monitor the ~~commercial~~ use of social security numbers held by state agencies in order to maintain a balanced public policy.

2.a. An agency may not collect an individual's social security number unless the agency has stated in writing the purpose for its collection and unless it is:

(I) Specifically authorized by law to do so; or

(II) ~~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 may not be collected until and unless the need for social security numbers has been clearly documented.~~

b. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written statement.

3. ~~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 an individual's 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 individual person with a copy of the written statement required in subparagraph 2. of the purpose or purposes for which the social security number is being collected and used. Social security numbers collected by an agency may not be used by that agency for any purpose other than the purpose stated.~~

4.a. ~~Each social security numbers collected by an agency before May 13, 2002, shall review whether its collection of social security numbers is in be reviewed for compliance with subparagraph 2. this subparagraph. If the agency determines that collection of a social security number before May 13, 2002, is not in compliance with subparagraph 2. found to be unwarranted, the agency shall immediately discontinue the collection of social security numbers for that purpose.~~

b. Each agency shall certify to the President of the Senate and the Speaker of the House of Representatives its compliance with this subparagraph no later than January 31, 2008.

~~5.3. Effective October 1, 2002, all Social security numbers held by an agency 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 before, on, or after the effective date of this exemption.~~

~~6.4. Social security numbers may be disclosed to another agency or governmental entity or its agents, employees, or contractors if disclosure is necessary for the receiving agency or 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 the numbers.~~

7.a. For purposes of this subsection, the term:

(I) "Commercial activity" means the provision of a lawful product or service by a commercial entity. Commercial activity includes verification of the accuracy of personal information received by a commercial entity in the normal course of its business; use for insurance purposes; use in identifying and preventing fraud; use in matching, verifying, or retrieving information; and use in research activities. It does not include the display or bulk sale of social security numbers to the public or the distribution of such numbers to any customer that is not identifiable by the commercial entity.

(II) "Commercial entity" means any corporation, partnership, limited partnership, proprietorship, sole proprietorship, firm, enterprise, franchise, or association that performs a commercial activity in this state.

~~b.5. An agency may not deny a commercial entity engaged in the performance of a commercial activity, which, for purposes of this paragraph, means an activity that provides a product or service that is available from a private source, or its agents, employees, or contractors access to social security numbers, provided the social security numbers will be used only in the performance of a commercial activity normal course of business for legitimate business purposes, and provided the commercial entity makes a written request for the social security numbers. The written request must;~~

(I) Be verified as provided in s. 92.525;

(II) Be legibly signed by an authorized officer, employee, or agent of the commercial entity;

(III) The verified written request must Contain the commercial entity's name, business mailing and location addresses, and business telephone number; and

(IV) Contain 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 performance of a commercial activity normal course of business for legitimate business purposes. The aggregate of these requests shall serve as the basis for the agency report required in subparagraph 9.8.

~~c. An agency may request any other information reasonably necessary to verify the identity of a commercial the entity requesting the social security numbers and the specific purposes for which the 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.~~

~~8.a.6. Any person who makes a false representation in order to obtain a social security number pursuant to this paragraph, or any person who willfully and knowingly violates this paragraph, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~b. Any public officer who violates this paragraph commits is guilty of a noncriminal infraction, punishable by a fine not exceeding \$500 per violation. A commercial entity that provides access to public records containing social security numbers in accordance with this paragraph is not subject to the penalty provisions of this subparagraph.~~

~~7.a.— On or after October 1, 2002, a person preparing or filing a document to be recorded in the official records by the county recorder as provided for in chapter 28 may not 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. The request must be made in writing, legibly signed by the requester 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 has no duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number pursuant to such request.~~

~~e.— A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing and shall immediately and conspicuously post, 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, a notice stating, in substantially similar form, the following:

(I) ~~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.~~

(II) ~~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. A fee may not be charged for the redaction of a social security number pursuant to such a request.~~

d. ~~Until January 1, 2008, if a social security number, made confidential and exempt pursuant to this paragraph, or a complete bank account, debit, charge, or credit card number made exempt pursuant to paragraph (b) is or has been included in a court file, 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 such number, or by the holder's attorney or legal guardian, in a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the circuit court. The clerk of the circuit court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request. The clerk of the circuit court has no liability for the inadvertent release of confidential and exempt social security numbers or exempt bank account, debit, charge, or credit card numbers, unknown to the clerk of the circuit court in court records filed with the clerk of the circuit court on or before January 1, 2008.~~

e. ~~Any person who prepares or files a document to be recorded in the official records by the county recorder as provided in chapter 28 may not include a person's social security number or complete bank account, debit, charge, or credit card number in that document unless otherwise expressly required by law. Until January 1, 2008, if a social security number or a complete bank account, debit, charge, or credit card number is or has been included in a document presented to the county recorder for recording in the official records of the county, such number may be made available as part of the official record available for public inspection and copying. Any person, or his or her attorney or legal guardian, may 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 outside the~~

office or otherwise made electronically available outside the county recorder's office to the general public, his or her social security number or complete account, debit, charge, or credit card number contained in that official record. Such request must be legibly written, signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the document that contains the number to be redacted. The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction. A fee may not be charged for redacting such numbers. If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and complete bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction shall be deemed the best effort and complies with the requirements of this sub-subparagraph. The county recorder is not liable for the inadvertent release of confidential and exempt social security numbers, or exempt bank account, debit, charge, or credit card numbers, filed with the county recorder on or before January 1, 2008.

~~f. Subparagraphs 5. and 6. do not apply to the clerks of the court or the county recorder with respect to circuit court records and official records.~~

~~g. On January 1, 2008, and thereafter, the clerk of the circuit court and the county recorder must keep complete bank account, debit, charge, and credit card numbers exempt as provided for in paragraph (b), and must keep social security numbers confidential and exempt as provided for in subparagraph 3., without any person having to request redaction.~~

~~9.a.8. Beginning January 31, 2004, and each January 31 thereafter, Every agency shall must file a report with the Executive Office of the Governor Secretary of State, the President of the Senate, and the Speaker of the House of Representatives by January 31 of each year.~~

b. The report required under sub-subparagraph a. shall list:

(I) listing The identity of all commercial entities that have requested social security numbers during the preceding calendar year; and

(II) The specific purpose or purposes stated by each commercial entity regarding its need for social security numbers.

c. If no disclosure requests were made, the agency shall so indicate.

10.9. Any affected person may petition the circuit court for an order directing compliance with this paragraph.

11.10. This paragraph does not supersede any other applicable public records exemptions existing prior to May 13, 2002, or created thereafter.

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

(b) Bank account numbers and debit, charge, and credit card numbers held by an agency are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to bank account numbers and debit, charge, and credit card numbers held by an agency before, on, or after the effective date of this exemption. ~~This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. Section 119.0714, Florida Statutes, is created, and subsection (6) of section 119.07, Florida Statutes, is renumbered as subsection (1) of that section and amended, to read:

119.0714 Court files; court records; official records.—

(1)(6) COURT FILES.—Nothing in this chapter shall be construed to exempt from s. 119.07(1) ~~subsection (1)~~ a public record that was made a part of a court file and that is not specifically closed by order of court, except:

(a) A public record that was prepared by an agency attorney or prepared at the attorney's express direction as provided in s. 119.071(1)(d).

(b) Data processing software as provided in s. 119.071(1)(f).

(c) Any information revealing surveillance techniques or procedures or personnel as provided in s. 119.071(2)(d).

(d) Any comprehensive inventory of state and local law enforcement resources, and any comprehensive policies or plans compiled by a criminal justice agency, as provided in s. 119.071(2)(d).

(e) Any information revealing the substance of a confession of a person arrested as provided in s. 119.071(2)(e).

(f) Any information revealing the identity of a confidential informant or confidential source as provided in s. 119.071(2)(f).

(g) Any information revealing undercover personnel of any criminal justice agency as provided in s. 119.071(4)(c).

(h) and (f), (2)(d), (e), and (f), and (4)(c) and except Information or records that may reveal the identity of a person who is a victim of a sexual offense as provided in s. 119.071(2)(h).

(i) Social security numbers as provided in s. 119.071(5)(a).

(j) Bank account numbers and debit, charge, and credit card numbers as provided in s. 119.071(5)(b).

(2) COURT RECORDS.—

(a) Until January 1, 2011, if a social security number or a bank account, debit, charge, or credit card number is included in a court file, 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 such number or by the holder's attorney or legal guardian.

(b) A request for redaction must be a signed, legibly written request specifying the case name, case number, document heading, and page number. The request must be delivered by mail, facsimile, electronic transmission, or in person to the clerk of the court. The clerk of the court does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(c) A fee may not be charged for the redaction of a social security number or a bank account, debit, charge, or credit card number pursuant to such request.

(d) The clerk of the court has no liability for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, unknown to the clerk of the court in court records filed on or before January 1, 2011.

(e)1. On January 1, 2011, and thereafter, the clerk of the court must keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

2. Section 119.071(5)(a)7. and 8. does not apply to the clerks of the court with respect to court records.

(3) OFFICIAL RECORDS.—

(a) Any person who prepares or files a record for recording in the official records as provided in chapter 28 may not include in that record a social security number or a bank account, debit, charge, or credit card number unless otherwise expressly required by law.

(b)1. If a social security number or a bank account, debit, charge, or credit card number is included in an official record, such number may be made available as part of the official records available for public inspection and copying unless redaction is requested by the holder of such number or by the holder's attorney or legal guardian.

2. If such record is in electronic format, on January 1, 2011, and thereafter, the county recorder must use his or her best effort, as provided in paragraph (h), to keep social security numbers confidential and exempt as provided for in s. 119.071(5)(a), and to keep complete bank account, debit, charge, and credit card numbers exempt as provided for in s. 119.071(5)(b), without any person having to request redaction.

3. Section 119.071(5)(a)7. and 8. does not apply to the county recorder with respect to official records.

(c) The holder of a social security number or a bank account, debit, charge, or credit card number, or the holder's attorney or legal guardian,

may request that a county recorder redact 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 public, his or her social security number or bank account, debit, charge, or credit card number contained in that official record.

(d) A request for redaction must be a signed, legibly written request and must be delivered by mail, facsimile, electronic transmission, or in person to the county recorder. The request must specify the identification page number of the record that contains the number to be redacted.

(e) The county recorder does not have a duty to inquire beyond the written request to verify the identity of a person requesting redaction.

(f) A fee may not be charged for redacting a social security number or a bank account, debit, charge, or credit card number.

(g) A county recorder shall immediately and conspicuously post signs throughout his or her offices for public viewing, and shall immediately and conspicuously post 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, a notice stating, in substantially similar form, the following:

1. On or after October 1, 2002, any person preparing or filing a record for recordation in the official records may not include a social security number or a bank account, debit, charge, or credit card 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. A fee may not be charged for the redaction of a social security number pursuant to such a request.

(h) If the county recorder accepts or stores official records in an electronic format, the county recorder must use his or her best efforts to redact all social security numbers and bank account, debit, charge, or credit card numbers from electronic copies of the official record. The use of an automated program for redaction shall be deemed to be the best effort in performing the redaction and shall be deemed in compliance with the requirements of this subsection.

(i) The county recorder is not liable for the inadvertent release of social security numbers, or bank account, debit, charge, or credit card numbers, filed with the county recorder.

Section 3. Subsection (6) of section 215.322, Florida Statutes, is amended, and subsections (7) and (8) of that section are renumbered as subsections (6) and (7), respectively, to read:

215.322 Acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch.—

~~(6) Credit card account numbers in the possession of a state agency, a unit of local government, or the judicial branch are confidential and exempt from the provisions of s. 119.07(1).~~

Section 4. Subsections (7), (8), and (9) of section 119.07, Florida Statutes, are renumbered as subsections (6), (7), and (8), respectively.

Section 5. This act shall take effect October 1, 2007.

Approved by the Governor June 27, 2007.

Filed in Office Secretary of State June 27, 2007.