

Date of Hearing: April 30, 2019

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

AB 253 (Mark Stone) – As Introduced January 23, 2019

SUBJECT: Postsecondary education: social security numbers: task force: reporting

SUMMARY: This bill would remove an obsolete provision in the Education Code which otherwise requires the College and University Social Security Number Task Force within the Office of Privacy Protection (OPP) to produce a specified report by July 1, 2010. Specifically, **this bill would:**

- 1) Repeal a statutory requirement that, on or before July 1, 2010, the task force submit a final report of its findings and recommendations to the OPP, and to the Assembly and Senate committees on Judiciary.
- 2) Repeal related provisions that provided: (1) that the final report must include a list of the existing uses of social security numbers (SSN) common among colleges and universities for routine operations and compliance with state and federal laws; and, (2) that the findings and recommendations of the task force are informational only and shall not be binding on any college or university.

EXISTING LAW:

- 1) Imposes, various restrictions on the use of SSNs and specifically prohibits a person or entity from doing any of the following:
 - Publicly posting or displaying an individual's SSN.
 - Printing an individual's SSN on any card that he or she must use to access products or services.
 - Requiring an individual to transmit his or her SSN over the internet, unless the connection is secure or the SSN is encrypted.
 - Requiring an individual to use his or her SSN to access an internet website, unless specified security measures are also required to access the website.
 - Printing an individual's SSN on any materials mailed to him or her unless required by state or federal law.
 - Selling, advertising for sale, or offering to sell an individual's SSN, as specified. (Civ. Code Sec. 1798.85(a).)
- 2) Provides that, unless required to do so by state or federal law, no person, entity, or government agency shall present for recording or filing with a county recorder a document that is required law to be open to the public if that record displays more than the last four digits of an SSN. (Civ. Code Sec. 1798.89(a).)

- 3) Establishes the Social Security Number Truncation Program (Truncation Program) in state government, which requires the county recorder of each county to establish a SSN truncation program in order to create a public record version of each official record, as specified, and generally requires that the public record version of an official record be used for responses to public records act requests, among other things. (Gov. Code Sec. 27300 et seq.)
- 4) Requires, as part of this Truncation Program, that the County Recorders Association of California, no later than January 1, 2009, and annually thereafter, shall submit to the chairpersons of the Assembly Committee on Judiciary and of the Senate Committee on Judiciary, and to the OPP, or any successor agency, a report on the progress each county recorder has made in complying with this article, to assist the Legislature in monitoring the progress of each county recorder's SSN truncation program. Provides, that this report shall no longer be required upon the OPP making a determination that all counties have completed the component of the program with respect to each official record recorded between January 1, 1980, and December 31, 2008. (Gov. Code Sec. 27305.)
- 5) Requires the OPP in the Department of Consumer Affairs to establish the "College and University Social Security Number Task Force," as specified, to conduct a review of the use by all colleges and universities of SSNs in order to recommend practices to minimize the collection, use, storage, and retention of SSNs in relation to academic and operational needs and applicable legal requirements. (Ed. Code Sec. 66018.55(a)-(c).)
- 6) Requires that the task force review and make recommendations to minimize the collection, use, storage, and retention of SSNs by California colleges and universities, which shall include, but not be limited to, all of the following:
 - A survey of best practices at colleges and universities and the costs of implementing those best practices.
 - The necessary use and protection of SSNs for all of the following: research purposes; academic purposes, as specified; operational uses by academic medical centers, including, but not limited to, patient identification, tracking, and care; business purposes, including, but not limited to, the provision of employee benefits, tax purposes, loan programs, and other requirements imposed by current state and federal statutes and regulations; another operational need of the college or university.
 - Current personal privacy protections provided to students, applicants, staff, and faculty of colleges and universities.
 - Existing state and federal legal requirements, including regulatory requirements, mandating the use of SSNs at colleges and universities.
 - The possible use of personal identifiers or other substitutes for SSNs that protect personal information and meet the operational needs of colleges and universities.
 - The cost of funding any recommendations presented by the task force, including those that are of minimal cost and can be implemented immediately and those that require additional funding or time to implement. (Ed. Code Sec. 66018.55(e).)

- 7) Requires that, on or before July 1, 2010, the task force submit a final report of its findings and recommendations to the OPP, and to the Assembly Committee on Judiciary and the Senate Committee on Judiciary. (Ed. Code Sec. 66018.55(g)(1).)
- 8) Requires that the final report also include a list of the existing uses of SSNs common among colleges and universities for routine operations and compliance with state and federal laws. (Ed. Code Sec. 66018.55(g)(2).)
- 9) Provides that the findings and recommendations of the task force are informational only and shall not be binding on any college or university. (Ed. Code Sec. 66018.55(g)(3).)

FISCAL EFFECT: None. This bill has been keyed nonfiscal by the Legislative Counsel.

COMMENTS:

- 1) **Purpose of this bill:** This bill seeks to repeal an outdated reporting deadline that passed nearly 10 years ago. This is an author-sponsored bill.
- 2) **Author's statement:** According to the author:

AB 253 eliminates an outdated reporting requirement that was created when the Office of Privacy Protection in the Department of Consumer Affairs was required by law to create a task force to review best practices for the use of social security numbers in college and universities in the state.

The report was due to the Office of Privacy Protection and to the Assembly Committee on Judiciary and the Senate Committee on Judiciary on or before July 1, 2010. Since the creation of this statute, the Office of Legislative Counsel began adding sunset dates to reporting requirements as a matter of practice. However, without legislative action, outdated reporting requirements such as the one in this statute will remain on the books.

- 3) **Background:** The underlying statute that this bill seeks to amend, was part of a larger legislative effort in 2007, AB 1168 (Jones, Ch. 627, Stats. 2007), to abate identity theft by restricting access to one of the most critical tools of identity theft: SSNs.

As noted in the Assembly Judiciary Committee analysis at the time, although identity thieves obtain the SSNs of other persons in a variety of ways, studies suggest that quite often these numbers are harvested from official records and legal documents accessible to the public. Accordingly, AB 1168 sought to require the truncation (meaning the redaction of the first five digits) of any SSNs accessible to public viewing. The bill, in particular, created additional truncation requirements in three particularly vulnerable areas, one of which is now the subject of this bill: colleges and universities that, for operational reasons, must retain substantial amounts of personal information on students and staff. Two other vulnerable areas identified by AB 1168 were local agencies that are required to make many records publicly accessible under the California Public Records Act, and the state Franchise Tax Board, which creates lien abstracts and other legal documents that become public records.

With respect to colleges and universities, specifically, the author of AB 1168 noted that in 2006, American universities and colleges reported 52 breaches of personal information. According to the Assembly policy committee's analysis at the time:

For a variety of reasons, institutions of higher education collect and maintain a great deal of personal information on students and employees. For example, colleges and universities must maintain student records for several years in order to respond to requests for grade transcripts. A social security number helps to ensure that transcripts are in fact those of the requesting student, since many students may have common names. However, this vast amount of personal information – whether it is maintained in on-campus computer databases or code-accessible websites – is subject to “hacking” or can otherwise fall into the hands of unauthorized persons. For example, in December of 2006 UCLA reported a security breach that resulted in unauthorized access to the personal information of 800,000 current and former students and employees, and even student applicants who had never attended the university.

UCLA was not alone. A list of security breaches maintained and frequently updated by the Privacy Rights Clearinghouse contains a disproportionate number of colleges and universities. Indeed, as this analysis was being drafted, the University of California at San Francisco announced a security breach that may have compromised the personal information, including social security numbers, of 46,000 students, faculty, and staff.

In light of the peculiar vulnerability of institutions of higher learning, this bill would require all colleges and universities located within the state to implement policies and procedures regarding the retention of social security numbers in electronic records that are accessible through the Internet. At a minimum, these policies and procedures must provide for the redaction of social security numbers unless it is necessary for operational reasons to have the full number. In addition, the bill would require that the college or university discard records and applications after a reasonable period of time if those records contain social security numbers along with other pieces of personally identifiable information.

Eventually, those requirements, as they pertained to colleges and universities, were removed and, in their place, was a requirement to establish the College and University Social Security Number Task Force. The task force was charged with: (1) making recommendations to minimize the collection, use, storage, and retention of SSNs by California colleges and universities; and, (2) providing a specified report to the Legislature, which is now the subject of this bill. (*See* amendments to AB 1168, June 1, 2007.)

- 4) **Additional reporting requirement:** AB 1168, the original bill enacting the reporting requirement that is the subject of this bill, actually contained two reporting requirements. In addition to the July 1, 2010 report mandated from the College and University Social Security Number Task Force in the Education Code, a second reporting requirement was added to the county recorders’ Truncation Program that AB 1168 established within the Government Code (commencing at Government Code Section 22301).

Specifically, AB 1168 established a reporting requirement in the Truncation Program that required the County Recorders Association of California, no later than January 1, 2009, and annually thereafter, to submit to the chairpersons of the Assembly and Senate committees on Judiciary, and to the Office of Privacy Protection, or any successor agency, a report on the progress that each county recorder has made in complying with this program, in order to assist the Legislature in monitoring the program’s progress. While this report is technically required annually, it was not envisioned to exist in perpetuity. The statute specifically states

that once the OPP makes a determination that all counties have completed the component of the program with respect to each official record recorded between January 1, 1980, and December 31, 2008, the report would no longer be required thereafter. (*See* Gov. Code Sec. 27305.) The author also has a bill that was heard and approved by this Committee earlier this year, which would require this particular report to, hereinafter, be submitted to this Committee (instead of the Assembly Judiciary Committee), since it does not appear that the need for that particular report is yet obsolete. (*See* AB 1472 (Stone). That bill is currently on the Assembly Floor.)

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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