SOCIAL SECURITY NUMBER PRIVACY ACT

Act 454 of 2004

AN ACT to establish the social security number privacy act in the state of Michigan; to prescribe penalties; and to provide remedies.

History: 2004, Act 454, Eff. Mar. 1, 2005

The People of the State of Michigan enact:

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445.81 Short title.

Sec. 1.

This act shall be known and may be cited as the "social security number privacy act".

History: 2004, Act 454, Eff. Mar. 1, 2005

445.82 Definitions.

Sec. 2.

As used in this act:

(a) "Child or spousal support" means support for a child or spouse, paid or provided pursuant to state or federal law under a court order or judgment. Support includes, but is not limited to, any of the following:

(i) Expenses for day-to-day care.

(ii) Medical, dental, or other health care.

(iii) Child care expenses.

(iv) Educational expenses.

(v) Expenses in connection with pregnancy or confinement under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(vi) Repayment of genetic testing expenses, under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(vii) A surcharge paid under section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a.

(b) "Computer", "computer network", or "computer system" mean those terms as defined in section 2 of 1979 PA 53, MCL 752.792.

(c) "Internet" means that term as defined in 47 U.S.C. 230.

(d) "Mailed" means delivered by United States mail or other delivery service that does not require the signature of recipient indicating actual receipt.

(e) "Person" means an individual, partnership, limited liability company, association, corporation, public or nonpublic elementary or secondary school, trade school, vocational school, community or junior college, college, university, state or local governmental agency or department, or other legal entity.

(d) "Publicly display" means to exhibit, hold up, post, or make visible or set out for open view, including, but not limited to, open view on a computer device, computer network, website, or other electronic medium or device, to members of the public or in a public manner. The term does not include conduct described in section 3(1)(b), (c), or (f).

(e) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

(f) "Vital record" means that term as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(g) "Website" means a collection of pages of the world wide web or internet, usually in HTML format, with clickable or hypertext links to enable navigation from 1 page or section to another, that often uses associated graphics files to provide illustration and may contain other clickable or hypertext links.

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Compiler's Notes: In subdivision (b), the phrase "mean those terms" evidently should read "means those terms."Following the first occurrence of subdivision (e), subdivision (d) should evidently be designated subdivision (f); subdivision (e) should evidently be designated subdivision (g); subdivision (f) should evidently be designated (h); and subdivision (g) should evidently be designated (i).

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445.83 Prohibited use of social security number of employee, student, or other individual; exceptions.

Sec. 3.

(1) Except as provided in subsection (2), a person shall not intentionally do any of the following with the social security number of an employee, student, or other individual:

(a) Publicly display all or more than 4 sequential digits of the social security number.

(b) Subject to subsection (3), use all or more than 4 sequential digits of the social security number as the primary account number for an individual. However, if the person is using the social security number under subdivision (c) and as the primary account number on the effective date of this act, this subdivision does not apply to that person until January 1, 2006.

(c) Visibly print all or more than 4 sequential digits of the social security number on any identification badge or card, membership card, or permit or license. However, if a person has implemented or implements a plan or schedule that establishes a specific date by which it will comply with this subdivision, this subdivision does not apply to that person until January 1, 2006, or the completion date specified in that plan or schedule, whichever is earlier.

(d) Require an individual to use or transmit all or more than 4 sequential digits of his or her social security number over the internet or a computer system or network unless the connection is secure or the transmission is encrypted.

(e) Require an individual to use or transmit all or more than 4 sequential digits of his or her social security number to gain access to an internet website or a computer system or network unless the connection is secure, the transmission is encrypted, or a password or other unique personal identification number or other authentication device is also required to gain access to the internet website or computer system or network.

(f) Include all or more than 4 sequential digits of the social security number in or on any document or information mailed or otherwise sent to an individual if it is visible on or, without manipulation, from outside of the envelope or packaging.

(g) Subject to subsection (3), beginning January 1, 2006, include all or more than 4 sequential digits of the social security number in any document or information mailed to a person, unless any of the following apply:

(i) State or federal law, rule, regulation, or court order or rule authorizes, permits, or requires that a social security number appear in the document.

(ii) The document is sent as part of an application or enrollment process initiated by the individual.

(iii) The document is sent to establish, confirm the status of, service, amend, or terminate an account, contract, policy, or employee or health insurance benefit or to confirm the accuracy of a social security number of an individual who has an account, contract, policy, or employee or health insurance benefit.

(iv) The document or information is mailed by a public body under any of the following circumstances:

(A) The document or information is a public record and is mailed in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(B) The document or information is a copy of a public record filed or recorded with a county clerk or register of deeds office and is mailed by that office to a person entitled to receive that record.

(C) The document or information is a copy of a vital record recorded as provided by law and is mailed to a person entitled to receive that record.

(v) The document or information is mailed by or at the request of an individual whose social security number appears in the document or information or his or her parent or legal guardian.

(vi) The document or information is mailed in a manner or for a purpose consistent with subtitle A of title V of the Gramm-Leach-Bliley act, 15 USC 6801 to 6809; with the health insurance portability and accountability act of 1996, Public Law 104-191; or with section 537 or 539 of the insurance code of 1956, 1956 PA 218, MCL 500.537 and 500.539.

(2) Subsection (1) does not apply to any of the following:

(a) A use of all or more than 4 sequential digits of a social security number that is authorized or required by state or federal statute, rule, or regulation, by court order or rule, or pursuant to legal discovery or process.

(b) A use of all or more than 4 sequential digits of a social security number by a title IV-D agency, law enforcement agency, court, or prosecutor as part of a criminal investigation or prosecution, or providing all or more than 4 sequential digits of a social security number to a title IV-D agency, law enforcement agency, court, or prosecutor as part of a criminal investigation or prosecution.

(3) It is not a violation of subsection (1)(b) or (g) to use all or more than 4 sequential digits of a social security number if the use is any of the following:

(a) An administrative use of all or more than 4 sequential digits of the social security number in the ordinary course of business, by a person or a vendor or contractor of a person, to do any of the following:

(i) Verify an individual's identity, identify an individual, or do another similar administrative purpose related to an account, transaction, product, service, or employment or proposed account, transaction, product, service, or employment.

(ii) Investigate an individual's claim, credit, criminal, or driving history.

(iii) Detect, prevent, or deter identity theft or another crime.

(iv) Lawfully pursue or enforce a person's legal rights, including, but not limited to, an audit, collection, investigation, or transfer of a tax, employee benefit, debt, claim, receivable, or account or an interest in a receivable or account.

(v) Lawfully investigate, collect, or enforce a child or spousal support obligation or tax liability.

(vi) Provide or administer employee or health insurance or membership benefits, claims, or retirement programs or to administer the ownership of shares of stock or other investments.

(b) A use of all or more than 4 sequential digits of a social security number as a primary account number that meets both of the following:

(i) The use began before the effective date of this act.

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(ii) The use is ongoing, continuous, and in the ordinary course of business. If the use is stopped for any reason, this subdivision no longer applies.

History: 2004, Act 454, Eff. Mar. 1, 2005

445.84 Privacy policy.

Sec. 4.

(1) Beginning January 1, 2006, a person who obtains 1 or more social security numbers in the ordinary course of business shall create a privacy policy that does at least all of the following concerning the social security numbers the person possesses or obtains:

(a) Ensures to the extent practicable the confidentiality of the social security numbers.

(b) Prohibits unlawful disclosure of the social security numbers.

(c) Limits who has access to information or documents that contain the social security numbers.

(d) Describes how to properly dispose of documents that contain the social security numbers.

(e) Establishes penalties for violation of the privacy policy.

(2) A person that creates a privacy policy under subsection (1) shall publish the privacy policy in an employee handbook, in a procedures manual, or in 1 or more similar documents, which may be made available electronically.

(3) This section does not apply to a person who possesses social security numbers in the ordinary course of business and in compliance with the fair credit reporting act, 15 USC 1681 to 1681v, or subtitle A of title V of the Gramm-Leach-Bliley act, 15 USC 6801 to 6809.

History: 2004, Act 454, Eff. Mar. 1, 2005

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445.85 Exemption from disclosure.

Sec. 5.

All or more than 4 sequential digits of a social security number contained in a public record are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

History: 2004, Act 454, Eff. Mar. 1, 2005

445.86 Violation of MCL 445.83 as misdemeanor; penalty; recovery of damages in civil action.

Sec. 6.

(1) A person who violates section 3 with knowledge that the person's conduct violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(2) An individual may bring a civil action against a person who violates section 3 and may recover actual damages. If the person knowingly violates section 3, an individual may recover actual damages or $1,000.00, whichever is greater. If the person knowingly violates section 3, an individual may also recover reasonable attorney fees. Except for good cause, not later than 60 days before filing a civil action, an individual must make a written demand to the person

for a violation of section 3 for the amount of his or her actual damages with reasonable documentation of the violation and the actual damages caused by the violation. This subsection does not apply to a person for conduct by an employee or agent of the person in violation of a privacy policy created pursuant to section 4 or in compliance with the fair credit reporting act, 15 USC 1681 to 1681v, or subtitle A of title V of the Gramm-Leach-Bliley act, 15 USC 6801 to 6809, if the person has taken reasonable measures to enforce its policy and to correct and prevent the reoccurrence of any known violations.

History: 2004, Act 454, Eff. Mar. 1, 2005

445.87 Effective date.

Sec. 7.

This act takes effect March 1, 2005.

History: 2004, Act 454, Eff. Mar. 1, 2005

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