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2D SESSION

S. 2915

To require the Commissioner of Social Security to issue uniform standards for the method for truncation of Social Security account numbers in order to protect such numbers from being used in the perpetration of fraud or identity theft and to provide for a prohibition on the display to the general public on the Internet of Social Security account numbers by State and local governments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2008

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

A BILL

To require the Commissioner of Social Security to issue uniform standards for the method for truncation of Social Security account numbers in order to protect such numbers from being used in the perpetration of fraud or identity theft and to provide for a prohibition on the display to the general public on the Internet of Social Security account numbers by State and local governments, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Safeguarding Social
3 Security Numbers Act of 2008”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) The Federal Government requires virtually
7 every individual in the United States to obtain and
8 maintain a Social Security account number in order
9 to pay taxes or to qualify for old-age, survivors, and
10 disability insurance benefits under title II of the So-
11 cial Security Act.

12 (2) Many Government agencies and private en-
13 tities also use Social Security account numbers as
14 identifiers to track individual records or as informa-
15 tion that an individual must present to verify his or
16 her identity. Thus, Social Security account numbers
17 are routinely collected, recorded, and transferred by
18 public and private entities.

19 (3) As an unintended consequence of these
20 uses, Social Security account numbers have become
21 1 of the tools that can be used to facilitate crime,
22 fraud, and invasions of the privacy of the individuals
23 to whom the numbers are assigned.

24 (4) According to the Social Security Adminis-
25 tration’s Inspector General, 16 percent of the
26 99,000 fraud cases it investigated in the 1-year pe-

1 riod ending September 30, 2006, involved the misuse
2 of Social Security account numbers.

3 (5) The Social Security account number is also
4 a key piece of information used in the perpetration
5 of identity theft. In calendar year 2006, over
6 240,000 individuals reported to the Federal Trade
7 Commission that they had been the victims of an
8 identity theft. Identity theft is a serious crime that
9 can cause substantial financial losses and force vic-
10 tims to spend significant time restoring the accuracy
11 of their credit records.

12 (6) Social Security account numbers are pub-
13 licly displayed by some Government entities. In most
14 jurisdictions throughout the United States, State
15 and local law requires that certain documentary
16 records, such as business filings, property records,
17 and birth and marriage certificates, be made avail-
18 able to the general public. Some of these records
19 contain personally identifiable information of individ-
20 uals, including Social Security account numbers. In-
21 creasingly, State and local record keepers are dis-
22 playing public records on the Internet, where these
23 records are widely accessible at no cost or for a
24 minimal fee. There are known instances of criminals

1 using personally identifiable information from online
2 public records to commit identity theft.

3 (7) Private information resellers also routinely
4 record and transfer individuals' Social Security ac-
5 count numbers and other personally identifiable in-
6 formation. In a 2006 study, the Government Ac-
7 countability Office (GAO) was able to purchase
8 truncated or full Social Security account numbers
9 from 5 of 21 Internet information resellers that were
10 surveyed.

11 (8) The GAO has concluded, based on available
12 evidence, that unauthorized access to personal data
13 such as Social Security account numbers is a fre-
14 quent occurrence. A survey of 17 Federal agencies
15 by the Committee on Oversight and Government Re-
16 form of the House of Representatives found that
17 these agencies suffered more than 788 data breaches
18 from January 2003 through July 2006.

19 (9) In many instances, public and private enti-
20 ties seek to protect Social Security account numbers
21 from abuse by truncating a portion of each number.
22 However, because truncation methods are not uni-
23 form, it is possible to obtain a full Social Security
24 account number by reconstructing the number based

1 on partial information obtained from different
2 sources.

3 (10) In a report issued in June 2007, the GAO
4 found that truncated Social Security account num-
5 bers in Federal documents stored as public records
6 remain vulnerable to misuse, in part because dif-
7 ferent truncation methods used by the public and
8 private sectors permit the reconstruction of full So-
9 cial Security account numbers. Federal entities such
10 as the Department of Justice, the Internal Revenue
11 Service, and the Judicial Conference of the United
12 States truncate by displaying the last 4 digits of the
13 Social Security account number. In contrast, the
14 GAO found that information resellers sometimes sell
15 records containing Social Security account numbers
16 that are truncated to display the first 5 digits.

17 (11) The first 5 digits of an individual's Social
18 Security account number are assigned based on the
19 location in which the account number was issued
20 and the order in which the account number was
21 issued. The last 4 digits of an individual's Social Se-
22 curity account number are randomly generated, cre-
23 ating a unique account number for each individual.
24 Many public and private entities ask consumers to
25 supply the last 4 digits of Social Security account

1 numbers as a way to verify consumers' identities,
2 providing an additional reason for identity thieves to
3 seek to acquire these digits.

4 (12) The GAO reported in 2006 that it had
5 been unable to identify any industry standards or
6 guidelines for truncating Social Security account
7 numbers. Moreover, the GAO could not identify any
8 consensus among Government officials about which
9 method for truncation better protects Social Security
10 account numbers from abuse.

11 (13) The GAO has stated that standardizing
12 the truncation of Social Security account numbers
13 would better protect these numbers from misuse.
14 Since 2005, the GAO has on multiple occasions rec-
15 ommended the establishment of uniform standards
16 for truncation of Social Security account numbers.

17 (14) Given the Social Security Administration's
18 role in assigning Social Security account numbers,
19 the Commissioner of Social Security may be in the
20 best position to determine whether and how trunca-
21 tion should be standardized.

22 (15) The truncation of Social Security account
23 numbers, even by Federal Government agencies, is
24 not comprehensively required or regulated. Cur-
25 rently, the Social Security Administration does not

1 have the legal authority to regulate the use of Social
2 Security account numbers by other entities.

3 (16) Because the Federal Government created
4 and maintains the system of required Social Security
5 account numbers, and because the Federal Govern-
6 ment does not permit individuals to exempt them-
7 selves from those requirements, it is appropriate for
8 the Federal Government to take steps to curb the
9 abuse of Social Security account numbers.

10 **SEC. 3. DEFINITION.**

11 In this Act, the term “Social Security account num-
12 ber” means the account number assigned to an individual
13 by the Commissioner of Social Security in the exercise of
14 the Commissioner’s authority under section 205(c)(2) of
15 the Social Security Act (42 U.S.C. 405(c)(2)) and includes
16 any derivative of such number.

17 **SEC. 4. REQUIREMENT TO ISSUE UNIFORM STANDARDS**

18 **FOR THE METHOD FOR TRUNCATION OF SO-**

19 **CIAL SECURITY ACCOUNT NUMBERS.**

20 (a) ESTABLISHMENT OF UNIFORM STANDARDS.—

21 (1) IN GENERAL.—The Commissioner of Social
22 Security shall issue uniform standards for the meth-
23 od for truncation of Social Security account numbers
24 in order to facilitate the protection of such numbers
25 from being used in the perpetration of fraud or iden-

1 tity theft. Such uniform standards shall not apply
2 with respect to a Social Security account number of
3 a deceased individual.

4 (2) APPLICATION.—

5 (A) FEDERAL GOVERNMENT.—On and
6 after the date that the Commissioner of Social
7 Security determines in regulations established
8 pursuant to subsection (b), the uniform stand-
9 ards issued under paragraph (1) shall apply to
10 the Federal Government—

11 (i) whenever the Federal Government
12 displays a Social Security account number;
13 and

14 (ii) to the extent practicable, whenever
15 the Federal Government transfers, records,
16 or otherwise utilizes a Social Security ac-
17 count number.

18 (B) STATE AND LOCAL GOVERNMENTS
19 AND PRIVATE ENTITIES.—If a State, local gov-
20 ernment, or private entity truncates Social Se-
21 curity account numbers, the State, local govern-
22 ment, or private entity shall comply with the
23 uniform standards issued under paragraph (1)
24 to the same extent that the Federal Govern-

1 ment is required to comply with such standards
2 under subparagraph (A).

3 (3) REQUIREMENTS.—

4 (A) IN GENERAL.—In establishing the uni-
5 form standards required under paragraph (1),
6 the Commissioner of Social Security shall con-
7 sider the matters described in subparagraph
8 (B) and consult with, at a minimum, the heads
9 of the following Federal agencies:

10 (i) The Department of Justice.

11 (ii) The Federal Trade Commission.

12 (iii) The Department of the Treasury.

13 (B) SPECIFIC CONSIDERATIONS.—For pur-
14 poses of subparagraph (A), the matters de-
15 scribed in this subparagraph are the following:

16 (i) The extent to which various meth-
17 ods for truncation of Social Security ac-
18 count numbers will assist in the prevention
19 of fraud and identity theft, taking into ac-
20 count the following:

21 (I) The risk that a truncated So-
22 cial Security account number can be
23 combined with other personally identi-
24 fiable information to derive or acquire

1 a complete Social Security account
2 number.

3 (II) The risk that the numerical
4 digits not masked in the truncation
5 process will reveal personally identifi-
6 able information about an individual.

7 (III) The risk that a truncated
8 Social Security account number can
9 be used to derive or acquire from
10 other sources a full Social Security ac-
11 count number.

12 (ii) The methods in use for the trun-
13 cation of Social Security account numbers
14 by the Federal Government, State and
15 local governments, and private entities and
16 the extent of use of each method by the
17 Federal Government, State and local gov-
18 ernments, and private entities.

19 (iii) The reasons why Social Security
20 account numbers are collected and re-
21 corded by the Federal Government, State
22 and local governments, and private enti-
23 ties.

24 (iv) The effect of each proposed meth-
25 od for truncation on the uses for Social Se-

1 curity account numbers by the Federal
2 Government, State and local governments,
3 and private entities.

4 (v) Any comments regarding proposed
5 methods for truncation submitted to the
6 Commissioner from—

7 (I) experts on privacy and data
8 security, consumer advocacy groups,
9 and identity theft assistance organiza-
10 tions;

11 (II) the Federal Government or
12 State or local governments, including
13 State Attorneys General;

14 (III) representatives of private
15 entities that transfer, display, record,
16 or otherwise utilize Social Security ac-
17 count numbers on a regular basis;

18 (IV) the Comptroller General of
19 the United States; and

20 (V) any other appropriate enti-
21 ties.

22 (b) REGULATIONS.—Not later than the date that is
23 24 months after the date of enactment of this Act, the
24 Commissioner of Social Security shall promulgate regula-
25 tions to carry out this section.

1 (c) GAO REPORT.—Not later than 18 months after
2 the effective date of the regulations promulgated by the
3 Commissioner of Social Security under subsection (b) (or,
4 if more than 1 effective date applies to such regulations,
5 the latest such date), the Comptroller General of the
6 United States shall report to Congress on the extent to
7 which the uniform standards required under subsection
8 (a)(1) have resulted in the adoption of such standards by
9 private entities, and whether these standards are likely to
10 provide greater protection against fraud and identity theft
11 than the practices adhered to prior to such date. The re-
12 port shall include—

13 (1) a recommendation regarding—

14 (A) whether such standards should be
15 mandatory for State and local governments and
16 private entities, and if so, under what cir-
17 cumstances; and

18 (B) whether making such standards man-
19 datory for such entities (with respect to each
20 circumstance identified under subparagraph
21 (A)) would help prevent fraud, identity theft,
22 and unauthorized access to consumers' person-
23 ally identifiable information; and

24 (2) recommendations for such additional legisla-
25 tion or administrative action as the Comptroller

1 General determines appropriate to further reduce
 2 the risks of fraud, identity theft, and unauthorized
 3 access resulting from the transfer, sale, display, re-
 4 cording, or other utilization of Social Security ac-
 5 count numbers.

6 **SEC. 5. PROHIBITION ON THE DISPLAY TO THE GENERAL**
 7 **PUBLIC ON THE INTERNET OF SOCIAL SECU-**
 8 **RITY ACCOUNT NUMBERS BY STATE AND**
 9 **LOCAL GOVERNMENTS.**

10 (a) IN GENERAL.—Chapter 88 of title 18, United
 11 States Code, is amended by inserting at the end the fol-
 12 lowing:

13 **“§ 1802. Prohibition on the display to the general**
 14 **public on the Internet of Social Security**
 15 **account numbers by State and local gov-**
 16 **ernments**

17 “(a) PROHIBITION.—

18 “(1) IN GENERAL.—Subject to paragraph (2), a
 19 State, a political subdivision of a State, or any offi-
 20 cer, employee, or contractor of a State or a political
 21 subdivision of a State, shall not display to the gen-
 22 eral public on the Internet all or any portion of any
 23 Social Security account number.

24 “(2) EXCEPTION IF DISPLAY COMPLIES WITH
 25 UNIFORM STANDARDS.—A State, a political subdivi-

1 sion of a State, or any officer, employee, or con-
2 tractor of a State or a political subdivision of a
3 State, may display to the general public on the
4 Internet a portion of a Social Security account num-
5 ber if such display complies with the uniform stand-
6 ards for the method for truncation of such numbers
7 issued by the Commissioner of Social Security under
8 section 4 of the Safeguarding Social Security Num-
9 bers Act of 2008.

10 “(b) RULES OF CONSTRUCTION; DEEMED COMPLI-
11 ANCE.—

12 “(1) RULES OF CONSTRUCTION.—Nothing in
13 this section shall be construed to supersede, alter, or
14 affect any statute, regulation, or order of the Fed-
15 eral Government, a State, or a political subdivision
16 of a State relating to the submission of a Social Se-
17 curity account number to a State or a political sub-
18 division of a State.

19 “(2) DEEMED COMPLIANCE.—A State, a polit-
20 ical subdivision of a State, or any officer, employee,
21 or contractor of a State or a political subdivision of
22 a State, shall be deemed to be in compliance with
23 the requirements of subsection (a) if the State or po-
24 litical subdivision—

1 “(A) permits an individual to submit, in
2 addition to original material required to be sub-
3 mitted to the State or political subdivision that
4 contains all or any portion of the individual’s
5 Social Security account number, a duplicate of
6 the material that has all of the individual’s So-
7 cial Security account number redacted or trun-
8 cated in accordance with the uniform standards
9 for the method of truncation issued under sec-
10 tion 4 of the Safeguarding Social Security
11 Numbers Act of 2008;

12 “(B) displays such duplicate on the Inter-
13 net in place of the original material that con-
14 tains all or any portion of the individual’s So-
15 cial Security account number; and

16 “(C) prior to any display of such duplicate
17 on the Internet, obtains the individual’s in-
18 formed written consent to such display.

19 “(c) PENALTIES.—A State or a political subdivision
20 of a State that has a policy or practice of substantial non-
21 compliance with this section shall be subject to a civil pen-
22 alty imposed by the Attorney General of not more than
23 \$5,000 a day for each day of substantial noncompliance.

24 “(d) ENFORCEMENT.—The Attorney General may
25 bring a civil action against a State, a political subdivision

1 of a State, or any officer, employee, or contractor of a
2 State or a political subdivision of a State, in any appro-
3 priate United States district court for appropriate relief
4 with respect to a display to the general public on the Inter-
5 net of all or any portion of any Social Security account
6 number in violation of this section.

7 “(e) DEFINITIONS.—In this section:

8 “(1) DISPLAY TO THE GENERAL PUBLIC ON
9 THE INTERNET.—

10 “(A) IN GENERAL.—The term ‘display to
11 the general public on the Internet’ means, in
12 connection with all or any portion of a Social
13 Security account number, to place such number
14 or any portion of such number in violation of
15 this section, in a viewable manner on an Inter-
16 net site that is available to the general public,
17 including any Internet site that requires a fee
18 for access to information accessible on or
19 through the site.

20 “(B) INCLUSION OF CERTAIN UNPRO-
21 TECTED TRANSMISSIONS.—In any case in which
22 a State, a political subdivision of a State, or
23 any officer, employee, or contractor of a State
24 or a political subdivision of a State, requires as
25 a condition of doing business transmittal of all,

1 or any part of, an individual's Social Security
2 account number by means of the Internet with-
3 out ensuring that such number is encrypted or
4 otherwise secured from disclosure, any such
5 transmittal of such number shall be treated as
6 a 'display to the general public on the Internet'
7 for purposes of this section.

8 "(C) NONAPPLICATION.—Such term does
9 not apply to a Social Security account number
10 of a deceased individual.

11 "(2) SOCIAL SECURITY ACCOUNT NUMBER.—
12 The term 'Social Security account number' means
13 the account number assigned to an individual by the
14 Commissioner of Social Security in the exercise of
15 the Commissioner's authority under section
16 205(c)(2) of the Social Security Act and includes
17 any derivative of such number."

18 (b) CLERICAL AMENDMENT.—The chapter analysis
19 for chapter 88 of title 18, United States Code, is amended
20 by adding at the end the following:

"1802. Prohibition on the display to the general public on the Internet of Social
Security account numbers by State and local governments."

21 (c) EFFECTIVE DATE.—The amendments made by
22 subsections (a) and (b) shall take effect on the date that
23 is 1 year after the date on which final regulations are

1 issued under section 4(b) and shall apply to violations oc-
2 ccurring on or after that date.

3 (d) NO RETROACTIVE APPLICATION.—Nothing in
4 section 1802 of title 18, United States Code, as added by
5 the amendments made by subsections (a) and (b), shall
6 be construed as applying to the placement of all or any
7 portion of a Social Security account number in a viewable
8 manner on an Internet site that is available to the general
9 public, including any Internet site that requires a fee for
10 access to information accessible on or through the site,
11 by a State, a political subdivision of a State, or any officer,
12 employee, or contractor of a State or a political subdivision
13 of a State, that is done prior to the effective date of such
14 amendments.

15 (e) GRANTS TO STATE AND LOCAL GOVERNMENTS
16 TO COME INTO COMPLIANCE WITH THE PROHIBITION ON
17 THE DISPLAY TO THE GENERAL PUBLIC ON THE INTER-
18 NET OF SOCIAL SECURITY ACCOUNT NUMBERS.—

19 (1) IN GENERAL.—The Attorney General shall
20 award grants to States and political subdivisions of
21 States to carry out activities to remove, redact, or
22 truncate, in accordance with the uniform standards
23 for the method of truncation issued under section 4,
24 all Social Security account numbers on forms and
25 records of executive, legislative, and judicial agencies

1 of States and political subdivisions of States that, as
2 of the date of enactment of this Act, have been dis-
3 played to the general public on the Internet and
4 would be a violation of section 1802 of title 18,
5 United States Code (as added by the amendments
6 made by subsections (a) and (b)), if that section had
7 been in effect at the time such numbers were first
8 displayed.

9 (2) APPLICATION.—A State or political subdivi-
10 sion of a State desiring a grant under this sub-
11 section shall submit an application to the Attorney
12 General at such time, in such manner, and con-
13 taining such information as the Attorney General
14 shall require.

15 (3) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to the Attor-
17 ney General to carry out this subsection,
18 \$10,000,000 for each of fiscal years 2009 and 2010.

19 (4) DEFINITION OF STATE.—In this subsection,
20 the term “State” means each of the 50 States, the
21 District of Columbia, the Commonwealth of Puerto
22 Rico, the United States Virgin Islands, Guam, and
23 the Commonwealth of the Northern Mariana Is-
24 lands.

1 **SEC. 6. PREEMPTION OF STATE LAW.**

2 This Act and the amendments made by this Act shall
3 supersede a provision of State law only if, and only to the
4 extent that, such provision conflicts with a requirement
5 of this Act or an amendment made by this Act.

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