

## ASSEMBLY THIRD READING

AB 499 (Mayes)

As Amended January 15, 2020

Majority vote

**SUMMARY:**

This bill prohibits a state agency from sending any outgoing mail that contains an individual's full social security number (SSN), unless federal law requires inclusion of the full SSN, and would require each state agency to report to the Legislature when and why it mails documents that contain individuals' full SSNs.

**Major Provisions**

- 1) Beginning January 1, 2023, prohibits a state agency from sending any outgoing mail that contains an individual's full SSN unless, under particular circumstances, federal law requires the inclusion of the full SSN.
- 2) Requires each state agency, on or before September 1, 2021, to report to the Legislature when and why it mails documents that contain individuals' full SSNs.
- 3) Until January 1, 2024, requires a state agency that, in its estimation, is unable to comply with the prohibition on mailing full SSNs to submit an annual corrective action plan to the Legislature until it complies with the above provisions.
- 4) Requires a state agency that is not in compliance with the prohibition on mailing full SSNs to offer to provide appropriate identity theft prevention and mitigation services to any individual, at no cost to the individual, to whom it sent mail that contained the individual's full SSN, as specified.

**COMMENTS:**

According to the Social Security Administration, the use of the SSN has expanded significantly since its inception in 1936. Created merely to keep track of the earnings history of United States workers for Social Security entitlement and benefit computation purposes, it is now used as a nearly universal identifier.

For decades, California residents have benefited from laws protecting SSNs from disclosure by the private sector and government agencies. By way of example, SB 458 (Peace), Chapter 685, Statutes of 1997 prohibited state agencies from sending any correspondence to an individual that contains personal information about that individual (*e.g.*, social security number, driver's license number, telephone number, or credit card account number) unless the correspondence is sealed. Additionally, since 2002, California has restricted the use and display of SSNs by private actors (*see* SB 168 (Bowen), Chapter 720, Statutes of 2001) by prohibiting companies and persons from engaging in specified activities related to SSNs.

Yet despite these regulations, the use and disclosure of SSNs continues. For example, after widespread media coverage of California's Employment Development Department (EDD) printing full SSNs on correspondence to millions of Californians in 2015, EDD claimed it would begin to redact SSNs on 75% of all mailed documents. In a recent report regarding EDD's privacy protection practices when mailing documents to its customers, the State Auditor

concluded that "[a]lthough EDD has undertaken efforts since 2015 to reduce the amount of mail it sends to claimants that include full SSNs, its efforts have been insufficient." Specifically, the State Auditor found that "EDD likely sent more than 17 million pieces of mail containing full Social Security numbers (SSNs) to a total of more than a million people in fiscal year 2017–18 [and that] several of the security incidents [...] reviewed from 2015 through 2018 showed that EDD exposed nearly 300 claimants to the risk of identity theft when it inappropriately disclosed their personal information, including SSNs, to other mail recipients." (The full report (hereinafter "Report") may be found online at <<http://www.auditor.ca.gov/pdfs/reports/2018-129.pdf>> [as of Jan. 7, 2020].)

Ultimately, the State Auditor found that EDD should take near-term measures to protect its claimants better, and made several recommendations to that effect. This bill would codify a number of those recommendations for all state agencies.

**According to the Author:**

It goes without saying that an individual's Social Security Number is one of the most important pieces of information an individual should protect. This legislation follows a recommendation by the State Auditor after an investigation into the Employment Development Department (EDD) practice of sending out mail with full Social security numbers. EDD exposed nearly 300 claimants to the risk of identity theft when it inappropriately disclosed their personal information, including SSNs, to other mail recipients. EDD is currently undergoing a system modernization project, which will incorporate a unique identifier to replace SSNs. However, this will not be completed before 2024 and EDD will send approximately 70 million documents with SSNs during this period. It is also unclear that EDD needs to send SSNs through the mail as the State Auditor could not find any laws expressly requiring them to do so.

**Arguments in Support:**

None on file

**Arguments in Opposition:**

None on file

**FISCAL COMMENTS:**

According to the Assembly Appropriations Committee,

- 1) One-time costs (GF/special funds) possibly in the low millions of dollars to Employment Development Department (EDD) to revise forms and re-program systems responsible for issuing unemployment and disability insurance payments. According to the March 2019 State Auditor Report, EDD sent out more than 17 million pieces of mail, including disability and unemployment forms, containing full SSNs in fiscal year 2017-2018.
- 2) Costs (GF/special funds) to state agencies such as the Department of Motor Vehicles (DMV) in the millions of dollars annually in additional staff and infrastructure to provide appropriate identity theft prevention and mitigation services if it sends out a person's SSN.

**VOTES:**

**ASM RULES: 12-0-0**

**YES:** Cooley, Cunningham, Carrillo, Flora, Grayson, Kamlager, Maienschein, Mathis, Quirk-Silva, Ramos, Robert Rivas, Wicks

**ASM PRIVACY AND CONSUMER PROTECTION: 11-0-0**

**YES:** Chau, Kiley, Bauer-Kahan, Berman, Calderon, Kalra, Gallagher, Irwin, Obernolte, Smith, Wicks

**ASM APPROPRIATIONS: 18-0-0**

**YES:** Gonzalez, Bigelow, Bloom, Bonta, Brough, Calderon, Carrillo, Chau, Megan Dahle, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Maienschein, Petrie-Norris, Quirk, Robert Rivas

**UPDATED:**

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